

ANNUAL TOWN MEETING
May 9, 2016

Pursuant to the foregoing warrant, the inhabitants of the Town of Sutton, qualified to vote in Town Elections and in Town affairs, met in the Middle/High School Auditorium, Boston Road, Monday the Ninth day of May, 2016 at 7:00 o'clock in the evening, then and there to act on the following articles:

There were 89 voters and 13 non-voters in attendance.

The Counters were:

Carl Licopoli, Robert Nunnemacher, Dennis Towle,

At the beginning of the meeting the Town voted unanimously to ratify the Town Moderator's appointment of John Greenlaw, 20 Newton Dr. as Deputy Moderator.

ARTICLE 1

SPONSOR: Board of Selectmen

Voted unanimously to receive the reports of the Town Officers and Committees.

The Finance and Warrant Advisory Committee voted 6-0 to recommended passage of this article as it is a customary article to accept the various reports from the Town Officers and Committees.

ARTICLE 2

SPONSOR: Board of Selectmen

Voted unanimously to authorize the Cemetery Commissioners to employ themselves in the work of the several cemeteries and to fix the compensation to be paid from appropriations for said department.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization allowing the Cemetery Commissioners to employ themselves in the work of their department.

ARTICLE 3

SPONSOR: Board of Selectmen

Voted unanimously to authorize the Board of Health to employ themselves in the performance of their work necessary to maintain health standards set by their department, and to fix the compensation to be paid from appropriations for said department.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization allowing the members of the Board of Health to employ themselves in the work of their department.

ARTICLE 4**SPONSOR: Board of Selectmen**

Voted unanimously to appropriate the following sums for the operation of the Sewer Department for fiscal year 2017:

Salary and Wages	\$212,214
Operation and Maintenance	<u>\$515,167</u>
For a total of	\$727,381

And as funding therefor, that the Town vote to raise the \$727,381 as follows:

User Fees and Connection Fees	\$ 727,381
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The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization of the Sewer Department budget.

ARTICLE 5**SPONSOR: Board of Selectmen**

Voted unanimously to appropriate the following sums for the operation of the Transfer Station for fiscal year 2017:

Salary and Wages	\$ 45,352
Operation and Maintenance	<u>\$ 98,275</u>
For a total of	\$143,627

And as funding therefor, that the Town raise the \$143,627 as follows:

User Fees	\$ 143,627
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The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization of the Transfer Station budget.

ARTICLE 6**SPONSOR: Board of Selectmen**

Voted unanimously to fund the operating budget for the fiscal year 2017 period in the following manner:

General Government:	\$ 1,473,754
Public Safety:	\$ 2,440,324
Education:	\$ 16,172,300
Public Works:	\$ 847,635
Health and Human Services:	\$ 318,809
Recreation and Culture:	\$ 232,203
Debt & Interest:	\$ 3,922,295
Insurance & Employee Benefits:	\$ 4,181,702
Transfer to Capital Stabilization Fund	\$ 593,210

For a Total of:	\$ 30,182,232
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And that the article be funded in the following manner:

Raise & Appropriate the amount	\$ 29,339,068
A Transfer from Free Cash	\$ 100,000
A Transfer From Capital Stabilization Fund	\$ 609,980
A Transfer from Other Reserves	\$ 21,445
A Transfer from Sewer Enterprise Fund	
For Indirect Cost	\$ 89,164
A Transfer from Transfer Station Enterprise	
For Indirect Cost	\$ 22,575

For a Total of: \$ 30,182,232

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization of the Fiscal 2017 budget. The budget reflects a continued emphasis on financial sustainability through the reduction in the use of one-time revenues.

ARTICLE 7

SPONSOR: Board of Selectmen

Voted unanimously to appropriate the sum of \$834,500 for the following purposes and in the respective amounts below relating to the fiscal 2017 Capital Plan:

<u>Department</u>	<u>Purpose</u>	<u>Amount</u>	<u>Source</u>
TRANSFER STA.	Container Replacements	\$ 20,000	Transfer Sta. Ret. Earnings
POLICE	Mobile Data Terminals	10,000	Free Cash
POLICE	Police Cruisers	75,000	Free Cash
SCHOOL	Building Security	30,000	Free Cash
SCHOOL	ES/ELC Driveway Repair	200,000	Borrowing
SCHOOL	Technology computers	66,000	Free Cash
SCHOOL	Wheelchair Lift-ELC Auditorium	22,000	Free Cash
SCHOOL	Replace ES Cafeteria Cooler	40,000	Free Cash
TOWN ADMN.	Rufus Putnam Roof	20,000	Free Cash
TOWN ADMN.	Computer Equipment	15,000	Free Cash
FIRE	Replace Forestry 1	90,000	Free Cash
HIGHWAY	Sander Body & Plow for Dump Truck #7	48,000	Free Cash
HIGHWAY	Dump Body Truck #16	18,500	Free Cash
ASSESSORS	Cyclical Revaluation	180,000	Free Cash

FOR A TOTAL OF \$ 834,500

And to meet this appropriation, transfer the sum of \$614,500 from Free Cash, transfer the sum of \$20,000 from Transfer Station Retained Earnings and borrow the sum of \$200,000 and authorize the Treasurer with the approval of the Board of Selectmen to issue bonds and notes therefor; that the Board of Selectmen are authorized to take any other action to carry out these projects; and that any

unspent items from this Capital Plan appropriated from Free Cash be returned to the Capital Stabilization Plan for future appropriation.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the Fiscal 2017 Capital Plan and an integral part of the Town's budget.

ARTICLE 8

SPONSOR: Board of Selectmen

Voted unanimously to transfer the sum of \$33,000 from free cash, \$20,000 from the fiscal 2016 Unemployment Account (01913-51700), and \$60,000 from the fiscal 2016 Gasoline Account (01138-54810) for a total of \$113,000, as follows:

\$75,000 to the fiscal 2016 Snow & Ice Account (01423-55300)

\$18,000 to the fiscal 2016 Veterans Benefits Account (01543-57700), and

\$20,000 to the fiscal 2016 Health Insurance Account (01900-51700).

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. This article allows for the transfer from available funds to cover deficits that arose during the fiscal year, i.e.: snow/ice.

ARTICLE 9

SPONSOR: Board of Selectmen

Voted unanimously to transfer \$75,000 from free cash to the General Stabilization Fund.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. The transfer of \$75,000 to the Stabilization Fund is in accordance with the goal of funding the Stabilization Fund at 8% of the operating budget (net of debt exclusion).

ARTICLE 10

SPONSOR: Board of Selectmen

Voted unanimously to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow in anticipation of reimbursement by the Commonwealth of Massachusetts for the Town's share of the state aid to Highways under Chapter 90, in accordance with M.G.L. c.44, §6A.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. Chapter 90 funds provide state aid road and highway projects. This article allows the Town to proceed with the expenditures while awaiting State reimbursement.

ARTICLE 11

SPONSOR: Board of Selectmen

Voted unanimously pursuant to G.L. c.40, §5B to create a special purpose stabilization fund to be known as Special Education Tuition Stabilization Fund for the purpose of setting aside funds for future special education costs; and further, to transfer from Free Cash the sum of \$200,000 to said fund.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. The Special Education Tuition Stabilization Fund is intended to provide funding for unanticipated and unbudgeted special education tuition costs that arise after the adoption of the School Department

budget. The town is obligated to pay these tuition expenses and the Fund will allow for the payment of these expenses while minimizing offsetting budget cuts in the School Department operating budget.

ARTICLE 12

SPONSOR: Board of Selectmen

Voted unanimously to re-authorize the following revolving fund accounts under M.G.L. Chapter 44 Section 53E ½ for the fiscal year beginning July 1, 2016 as printed in the warrant.

FUND	REVENUE SOURCE	AUTHORITY TO SPEND FUNDS	USE OF FUND	SPENDING LIMIT	DISPOSITION OF PRIOR FISCAL YEAR FUND BALANCE	RESTRICTION S/ COMMENTS
Planning Board	Applicant Receipts	Planning Board	Professional Services & Advertising	\$75,000	Encumber	None
Conservation Application Fees	Applicant Fees	Conservation Commission	Wetlands & Riverfront District Regulations Enforcement, including salaries & expenses.	\$15,000	Encumber	None
Fire Department Revolving	Hazmat incidents	Fire Department	Wages and expenses	\$ 50,000	Encumber	None
Public Shade Tree Revolving	Payments for Service, fines/penalties	Planning Department	Tree maintenance and/or replacement	\$ 50,000	Encumber	None
Board of Health	Intermunicipal Agreements	Administration	Public Health Nurse	\$50,000	Available for Expenditure	None
Cable Access	Cable access fees	Cable Department	Cable operations	\$100,000	Encumber	None

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article as it is the annual authorization of the Town's Section 53 E ½ revolving funds.

ARTICLE 13

SPONSOR: Board of Selectmen

Voted unanimously to authorize the following revolving fund account in accordance with M.G.L Chapter 44 Section 53 E ½ , for Board of Health Professional Services as printed in the warrant.

FUND	REVENUE SOURCE	AUTHORITY TO SPEND FUNDS	USE OF FUND	SPENDING LIMIT	DISPOSITION OF PRIOR FISCAL YEAR FUND BALANCE	RESTRICTION S/ COMMENTS
Board of Health	Inspection fees based upon square footage	Board of Health	Professional Services	\$50,000	Encumber	None

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. This is a new article specific to the Board of Health for their inspections of buildings over a certain size and requires a separate vote. Once approved it will be added to the annual authorization of the Town's Section 53 E ½ revolving funds.

ARTICLE 14

SPONSOR: Conservation Commission

Voted unanimously to amend the General Bylaws, Bylaw #12 Wetlands Protection, Section 12-12 Enforcement, deleting subparagraph F. in its entirety, amending subparagraph G, by deleting strike through text and adding bold text and re-lettering as appropriate, as printed in the warrant.

As printed in the warrant:

~~F. Any person who violates any provision of this Bylaw, regulation thereunder, or permits or administrative orders issued thereunder, may be punished by a fine of not more than \$300, beginning, at the Commission's discretion, on the Day of Discovery. Each day or portion thereof during which a violation continues, or unauthorized fill remains in place, shall constitute a separate offense, and each provision of the Bylaw, regulations, permit or order violated shall constitute a separate offense. Fines may end when a written plan to Restore the affected area has been presented or accepted by the Commission, or an application for Permit received.~~

~~G F. Non-criminal disposition- In addition to the procedures for enforcement as described above, tThe provisions of this Bylaw may also be enforced by non-criminal complaint pursuant to the provisions of MGL c.40, §21D and Section 19.2.2 of the Town General Bylaws. The enforcement agent shall be the conservation agent or designee (e.g. Conservation Commissioner or consultant to the Commission) or police officer. The penalty for violation of any provision of this Bylaw shall be \$300 for the Day of Discovery, and each day the violation continues pursuant to subsection F above.~~

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. The committee concurred with the Conservation Committee recommendation as this is a clean-up of the language voted in the last Town meeting.

ARTICLE 15

SPONSOR: Board of Selectmen

Voted unanimously to approve Article 15 as printed in the warrant and to appropriate the sum of \$306,521 for such purposes, which sum shall be added to \$100,000 provided to the Town by the Department of Conservation and Recreation for this project, to fund the total project cost of \$406,521, and, as funding therefor, to transfer the sum of \$127,818 from the Marion's Camp Maintenance Revolving Account (T1109) and the sum of \$28,703 from the Goddard Lodge appropriation voted under Article 7 of the May 12, 2014 Annual Town Meeting, and to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$150,000 in accordance with the provisions of G.L. c.44, §§7 or 8 or any other enabling authority and issue bonds and notes of the Town therefor; provided, however the amount to be borrowed hereunder shall be reduced by the amount of grants or reimbursements received for such purposes, including a state Land and Water Conservation Fund (LWCF) grant in the amount of \$150,000 and any other state or federal funds that may be received prior to such borrowing, and to authorize the Board of Selectmen to accept and expend such funds for the purposes of this article; and further, that the funds appropriated hereunder shall not be expended unless and until the Town receives, or is allocated for purposes of G.L. c.44, §6A, a LWCF Grant and/or appropriation in the state budget specifically for the purposes (As printed in the Warrant) of improving, renovating, preserving, rehabilitating and/or restoring the Town-owned parcel of land located at 30 Tuttle Road, known as Marion's Camp and described in a deed recorded with the Worcester South District Registry of Deeds in Book 12545, Page 291, and any buildings and/or

recreational facilities thereon, including, without limitation, renovating Goddard Lodge and the lakeside trail, establishing a new woodland trail system, and all other incidental and related expenses, and to transfer the care, custody and control of said property from the Board of Selectmen for the purposes for which it is held to the Board of Selectmen, acting in its capacity as the Board of Park Commissioners, for public park, active recreation and playground purposes in accordance with the provisions of G.L. c. 45, Section 3, as amended, and further to dedicate said property to public park, active recreation and playground purposes forever, and to authorize the Board of Park Commissioners and its designees to file on behalf of the Town any and all applications for grants and/or reimbursements from the Commonwealth of Massachusetts under the Land and Water Conservation Fund Act (P.L. 88-578, 78 Stat 897) and/or others in any way connected with the scope of this article and accept funds therefrom and any other gifts and/or grants therefor, and to enter into any and all agreements and execute any and all instruments as may be necessary or convenient to undertake the purposes of the article.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. The committee concurs with the recommendations of the Planning Board that this article be approved contingent upon receipt of the grant from the Water Conservation Fund.

ARTICLE 16

SPONSOR: Planning Board

Voted unanimously to accept as a public town way the roadway known as Virginia Avenue, as it has been heretofore laid out by the Board of Selectmen and shown on the plan entitled “ Cornerstone Estates Definitive Subdivision in Sutton, Mass.”, dated November 7, 1997, prepared by Lavallee Brothers, Inc., and recorded with the Worcester District Registry of Deeds in Plan Book 724, Plan 59, said plan and the legal description of said layout having been placed on file with the Town Clerk; and further to authorize the Board of Selectmen to acquire, by gift, purchase or eminent domain, such interests in land as are necessary to allow for the use and maintenance of said way for all purposes for which public ways are used in the Town of Sutton and any access drainage, utility or other easements related thereto.

The Finance and Warrant Advisory Committee voted 6-0 to recommend passage of this article. The committee concurs with the recommendations of the Planning Board.

ARTICLE 17

SPONSOR: Michael McGovern

Voted unanimously to indefinitely postpone action on this article to amend the General Bylaws be deleting in its entirety Bylaw 12. Wetlands Protection and replace it with a new Bylaw 12. Wetlands Protection as follows:

Bylaw 12. Wetlands Protection

SECTION 1: PURPOSE

The purpose of this Bylaw is to protect the floodplains, wetlands and related water resources, riverfront areas and adjoining land areas in the Town of Sutton by prior review and control of activities deemed to have a significant effect upon wetland or resource area values, including, but not limited to, the following: public or private water supply, ground water, water quality, flood control, sedimentation and erosion control, storm damage prevention and flowage, water pollution control, wildlife and wildlife habitats, fisheries, fish and shellfish habitats, rare plant and

animal species, agriculture, aquaculture and recreation values deemed important to the community (collectively, the "wetland values protected by the bylaw"). This bylaw is adopted under authority of Section 6, Article 89 of the Amendments to the Massachusetts Constitution, known as the Home Rule Amendment, and General Laws Chapter 40, Section 21.

All of the procedures and requirements set forth in the Wetlands Protection Regulations of 310 CMR 10.00 et. seq. are hereby incorporated and made a part of these regulations except where they differ from or depart from these regulations. Where these regulations differ from or depart from the state regulations, the more restrictive regulations shall apply. The applicant shall first address the regulations at 310 CMR 10.00 ET. seq. and then supplement them with the Sutton Wetlands Regulations.

Unless otherwise indicated in the bylaw or these regulations, definitions, timeframes, forms and procedures shall be the same as stated in the Massachusetts Wetlands Protection Act.

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

SECTION 2: JURISDICTION RESOURCE AREAS

Except as permitted by the Sutton Conservation Commission or as otherwise provided in this bylaw, no person shall commence to remove fill, dredge, degrade, discharge into, alter or build upon the following resource areas: freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds of any size, beaches, lands under water bodies, lands subject to flooding or inundation by ground water or surface water, any land bordering thereon. Bordering in this context shall mean either the greater of the following:

- 100 feet horizontally lateral from the bank of any freshwater wetlands, marshes, wet meadows, bogs, swamps, vernal pools, banks, reservoirs, lakes, ponds, and beaches
- 200 feet horizontally lateral from the mean annual high water elevation of any perennial stream or river

In addition, it is the policy of the Commission to advise applicants on these non-regulated wetland resource areas:

- A.** intermittent streams up gradient of wetland Resource Areas
- B.** isolated land subject to flooding below 310 CMR 10.57 size thresholds
- C.** isolated wetlands less than 5,000 sq. ft.

The Commission will make every effort to identify these areas at the site, will recommend locating them on the plans, will encourage applicants to avoid impacts to these areas, and will suggest possible measures to mitigate unavoidable impacts with respect to drainage and flood control.

Buffer Zone

Development proposed in the Buffer Zone can negatively impact the abutting Resource areas(s). Negative impacts, both from the "construction" and "use" phase of the project can include erosion, siltation, loss of pollution attenuation, loss of groundwater recharge, reduced water quality and loss of wildlife habitat. A 25 foot strip of continuous, undisturbed, indigenous vegetative cover along the Resource Area boundary within the 100 foot Buffer Zone shall be maintained, where practicable, in order to protect water quality, improve water recharge, reduce erosion and pollution to the adjacent wetland resource areas, and provide wildlife habitat. Nothing herein shall preclude the maintenance of an existing structure located within the buffer zone. The Conservation Commission may allow activities upon an express determination that the applicant has made a clear and convincing showing that the proposed work in the buffer zone and its natural and consequential impacts and effects will not adversely affect the wetland values.

SECTION 3: CONDITIONAL EXCEPTIONS

The Order of Conditions and application required by this bylaw shall not be required for maintaining, repairing or replacing, but not substantially changing or enlarging an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, telephone, telegraph, and other telecommunication services

provided that written notice has been given to the Commission prior to the commencement of any work, and provided that the work conforms to construction standards herein.

AGRICULTURAL WORK

Any agricultural activity as defined by the Farm Assessment Act, MGL Chapter 61A, exempt from the provisions of the Wetlands Protection Act, MGL c. 131, s. 40, MGL c. 128 s.1A and from the Wetlands Protection Regulations 310 CMR 10.00 (normal maintenance or improvement of land in agricultural use) will also be exempt under the Sutton Bylaws.

Additionally, any agricultural activity as defined by the Farm Assessment Act, MGL Chapter 61A and on land not under the jurisdiction of the Mass Wetlands Protection Act and implementing regulations (310 CMR 10.00) will be exempt from all local jurisdiction. The application and Order of Conditions required by this bylaw shall not be required for work performed for normal maintenance or improvement of land.

EMERGENCY WORK

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

WAIVERS FROM RULES AND REGULATIONS

Strict compliance with this bylaw may be waived when, in the judgment of the Commission, such action is in the public interest, and is consistent with the intent and purpose of the Bylaw. Any request for a waiver must be submitted to the Commission in writing stating why a waiver is desired or needed, is in the public benefit, and is consistent with the intent and purpose of the Wetlands Protection Act and this Bylaw. The Waiver(s) shall be presented at the time of filing.

SECTION 4: ADVICE FROM TOWN STAFF

Any advice, opinion, or information given to an Applicant by a Commission member, or by any agency, officer, or employee of the Town, shall be considered advisory only, and not binding on the Commission.

Any person who is proposing to undertake an activity and desires to know what is required of them may arrange a preliminary discussion by contacting the Conservation Office and arranging a time for consultation.

SECTION 5: FEES/ FEE SCHEDULE

In addition to the Wetlands Protection Act (General Laws Chapter 141, Section 40 and Regulations 310 CMR 10.00 et. seq.) filing fees, the applicant shall submit a Site Evaluation Fee of \$150.00 with submission of a Request for Determination of Applicability and/or a Notice of Intent. Fees are payable at the time of application and are non-refundable.

The Conservation Commission shall use such fees to implement this bylaw, the regulations promulgated hereunder, and any policies developed by the Conservation Commission, including but not limited to the employment of a Conservation Consultant. The responsibilities of the Conservation Consultant may include, but are not limited to: review of resource areas, performing site visits, briefing the Conservation Commission, serving as liaison between the Conservation Commission, applicants, abutters, consultants and other interested parties, drafting Determinations of Applicability and Orders of Conditions, verifying implementation of erosion control measures, facilitating Public

Hearings, reviewing requests for certificates of compliance and enforcing the provisions of this Article, the regulations promulgated hereunder, and the policies developed by the Conservation Commission.

The Conservation Commission may waive the filing fee for a Notice of Intent application or a Request for Determination of Applicability filed by a government agency.

Wetland Consultant Fees

In order to enforce the regulations promulgated hereunder, and the policies developed by the Conservation Commission to the extent consistent with Ch. 44, Section 53G of the M.G.L. and any other law pertaining thereto, or at any point during the review of an application until a Certificate of Compliance is issued, the Conservation Commission may find that the assistance of outside consultants is warranted due to the size, scale or complexity of a proposed project or because the project may have a significant effect upon the values the Conservation Commission is authorized to protect. The exercise of discretion by the Commission in making its determination to require the payment of a consultant fee shall be based upon its reasonable finding that additional information acquirable only through outside consultants would be necessary for the making of an objective decision.

In such instances where Consulting fees are required, the Commission shall notify the Applicant of this need and shall provide the opportunity for the application to be amended or withdrawn. Should an Applicant choose to proceed, the Commission shall require the Applicant to pay the fees for these consulting services. The consultant services may include, but shall not be limited to, ascertaining the extent of the Conservation Commission's jurisdiction, analyzing resource area functions and values, evaluating wildlife habitat, analyzing hydro geologic and drainage conditions, providing assistance during appeal or litigation, researching environmental or land use law, and inspecting work to insure compliance. The Commission shall return any unused portion of the consultant fee to the applicant unless the Commission decides at a public meeting that other action is necessary.

Outside consultants shall be chosen by the Commission. Any applicant aggrieved by the imposition of, or size of the consultant fee, or any act related thereto, may appeal to the Board of Selectmen, in accordance with the provisions of the MGL c.44 s.53G. The grounds for such an appeal shall be limited to claims that the consultant selected has a conflict of interest or does not possess the minimum required qualifications. The standard of qualification shall consist of Massachusetts certification or license in the field at issue or references mutually acceptable to the Commission and the applicant, showing expertise and experience in the field at issue. The required time limit for action upon an application by the Commission shall be extended by the duration of the administrative appeal.

SECTION 6: FILING REQUIREMENTS AND PROCEDURES

Timeframes for Submission of Documentation

In order to insure adequate and proper review by the Commission, staff and the public, all permit application documentation -- including forms, narrative descriptions, plans, maps, tables, charts, reports, etc. -- must be submitted to the Conservation Commission no later than fourteen calendar days prior to the scheduled Public Hearing, or its continuation. Documentation submitted by the Applicant thirteen calendar days or less before the public hearing may be excluded from said hearing or held for discussion at a subsequently scheduled hearing. Submission of material by the Applicant thirteen calendar days or less before the Public Hearing will constitute a constructive request by the Applicant for a continuation of the hearing if, in the opinion of the Commission, the Commission, staff or public has not had adequate or sufficient time to properly consider said material.

Request for Determination of Applicability Wetlands Protection Act Form 1

The Request for Determination of Applicability shall include sufficient information to enable the Commission or its consultant to find and view the area and to determine whether the proposed project will alter an Area Subject To Protection. The information shall include, at a minimum: Form 1 (Wetland Protection Act, M.G.L. Chapter 131, s. 40); Such Plans, prepared and stamped by a Registered Professional Engineer and Registered Professional Land Surveyor, as are needed to locate and inspect the area and to determine whether the proposed work may significantly alter an Area Subject To Protection. The requirement that Plans be stamped by a registered professional engineer and registered professional land surveyor may be waived by the Commission or its agent if it is deemed unnecessary. These Plans shall show:

- All Wetlands that are within 100 feet of the edge of Activity;
- Riverfront Areas
- Wetland Protection Setbacks
- The 100 foot Buffer Zone;
- Erosion and sedimentation control/prevention devices and method of maintenance;
- The edge of disturbance, if different from the erosion control/prevention devices;
- Location of stockpiled materials, if any.

The Request for Determination of Applicability shall be sent by certified mail or hand-delivered to the Sutton Conservation Commission. If necessary, the Commission and/or its agent may require that additional information be submitted to aid in the evaluation. If all data required by the Commission and/or its agent is not received, the filing shall not be considered complete, a

Public Meeting shall not be scheduled and the Applicant shall be notified.

It is the responsibility of the Conservation Commission to advertise the Public Meeting Notice in a newspaper of general circulation in the municipality no less than 7 calendar days prior to the Public Meeting.

At the Public Meeting, the Commission will determine:

- Positively: that the area or Activity is subject to the jurisdiction of the WPA and Commission and requires the filing of a Notice of Intent; or
- Negatively: that the area or Activity is not subject to the jurisdiction of the Commission, or that the interests protected by the WPA and Bylaw are fully protected by the project as proposed.

Notice of Intent Wetlands Protection Act Form 3

Written or typed Wetlands Protection Act Notice of Intent applications shall be filed with the Commission to perform Activities regulated by the Wetlands Protection Act or the Bylaw affecting Resource Areas. The application shall include such information and plans as are deemed necessary by the Commission to describe proposed Activities and their effects on Areas Subject to Protection. No Activities shall commence prior to issuance of a file number by the Massachusetts Department of Environmental Protection, receipt and recording of the Order of Conditions issued. When a person filing is other than the owner, the Applicant shall provide all forms, plans, and meeting notices to the owner by hand delivery or Certified Mail.

The filing shall at a minimum include:

- Two copies of the Wetlands Protection Act Form 3 (Notice of Intent);
- Such plans and specifications as are required of an Applicant under the Wetlands Protection Act as specified in the regulations including:
 - o all Wetlands within one hundred (100) feet of the edge of Activity shall be marked with flagging tape, which will correspond to the edge of Wetlands indicated on the plans
 - o placement of siltation control devices
 - o locations of fill storage and spoils area (if requested), subject to the approval of the Commission
- The applicant shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effect upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Commission supporting this burden shall be sufficient cause for the Commission to deny an Order of Conditions.
- List of Abutters certified by the Sutton Board of Assessors
- Signed green cards and Certified Mail Receipts for unclaimed/unreturned green cards, or certificates of mailing. If proof of said notification is not presented to the Commission, the Public Hearing shall not be opened.
- Detailed sequence of construction
- Detailed plan of Wetland Replication or restoration if the project proposes a Wetland Alteration
- Payment of State and Local fees

SECTION 7 – PUBLIC HEARINGS, PERMITS AND CONDITIONS

Public Hearing

The Commission shall have the authority to continue the Public Hearing to a date announced at the Hearing; for reasons stated at the Hearing, which may include receipt of additional information from the applicant or others, deemed necessary by the Commission in its discretion, or comments and recommendations of Town Board and Officials. In the event the applicant objects to a continuance or postponement, the hearing shall be closed and the Commission shall take action on such information as is available.

Orders of Conditions Wetlands Protection Act Form 5

If the Commission, after a Public Hearing, determines that the activities which are subject to the permit application or the land and water uses which will result are likely to have a significant individual or cumulative effect upon the resource area values, the Commission, within 21 days of the close of the hearing, shall issue or deny an Order of Conditions for the activities requested. If it issues an Order of Conditions, the Commission shall impose conditions which are deemed necessary or desirable to protect those values, and all activities shall be done in accordance with those conditions. The Commission shall take into account the cumulative adverse effects of loss, degradation, isolation, and replication of protected resource areas throughout the community and the watershed, resulting from past activities permitted and exempt, and foreseeable future activities.

To prevent wetlands loss, the Commission shall require applicants to avoid wetlands alteration wherever feasible, shall minimize wetlands alteration and where alteration is unavoidable, and shall require full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation, but only with adequate security, professional design, and monitoring to assure success, because of the high likelihood of failure of replication.

Posting of DEP file number, hay bales, silt fence and filings pit, as required by the Conservation Commission shall be in place prior to commencement of any work.

For good cause, the Commission may revoke or modify an Order of Conditions issued after Public Notice and Public Hearing, and written notice to the holder of the Order of Conditions.

An Order of Conditions shall expire three years from the date of issuance. Any Order of Conditions may be renewed twice for an additional one to three year period, provided that a request for a renewal is received in writing by the Commission prior to expiration. An Order of Conditions may contain requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all owners of the land.

EXTENSIONS Form 8 – Extension Permit for Order of Conditions

The Commission may extend an Order of Conditions twice for a period of one to three years for each extension. Written requests for an Extension shall be made not less than thirty days prior to the expiration of said Order of Conditions.

The Commission may deny a request for Extension under the following circumstances:

- Where no work has begun on the project, except where such failure is due to unavoidable delay, such as appeals in obtaining other necessary permits;
- Where new information, not available at the time of original permanent filing, has become available and indicates the Order of Conditions is insufficient to protect the Areas Subject to Protection;

CERTIFICATES OF COMPLIANCE

- A request for a Certificate of Compliance shall be made in writing on the appropriate form to the Commission (Form 8A).
- Prior to issuance of the Certificate of Compliance, a site inspection shall be made by the Commission and/or its agent.

- If the Commission determines after review and inspection that the work has not been done in compliance with the Order, it shall refuse to issue the Certificate of Compliance and specify the reasons for denial in writing to the Applicant.
- If the Certificate of Compliance does not apply to all work regulated by the Order of Conditions, it shall state to what portions of the Work it applies.
- The Certificate of Compliance, if issued, shall be recorded by the Applicant at the Registry of Deeds.

SECTION 8 – VIOLATIONS AND ENFORCEMENT

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

Identification of Violations

Violations are identified by three primary means: observations by the Conservation Commissioners, Conservation Consultant and citizens. Reports of violations are always confidential; Commissioners and staff may not reveal the source of any report of possible violations.

When possible violations are reported, a Commissioner or the Wetland Consultant will determine whether a violation exists and if an Enforcement Order is necessary. The Wetland Consultant may consult with the Commission Chairman and other members as necessary, but if time or other constraints exist, may proceed employing best judgment. Any Enforcement Order issued by any individual must be ratified by the Commission at a public meeting.

Violations

If a Commissioner or the Wetland Consultant confirms or strongly suspects a violation, an Enforcement Order will be issued. Enforcement Orders will direct the property owners and contractors to (1) stop work, (2) identify resource areas on the site, (3) install erosion controls, and (4) meet with the commission to discuss the violation.

If a wetland line has been previously approved by the Commission, its location will be the basis for evaluation of the Violation. If a wetland line has not been established or approved by the Commission, then the Commission or Enforcement Order may require the owner, developer, and contractor to employ a wetland scientist to identify wetland resource areas with flagging within a time frame not longer than two weeks from the date of the Enforcement Order. All Enforcement Orders will be maintained in the Conservation database and placed on file.

At the subsequent meeting, the Commission will consider the following aspects of the violation:

- Value of the area to the statutory interests
- Harm of the damage
- Immediacy of the harm
- Value of restoration
- Feasibility of restoration
- Potential legal outcomes
- Potential financial burden to the Town of Sutton

The Commission shall have authority to enforce its regulations and permits by the issuance of Enforcement Orders, administrative orders and the initiation of civil and criminal court actions. Any person who violates the provisions may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, fined, or both. The enforcing officers in the non-criminal disposition procedure shall be members of the Conservation Commission or its agents.

Upon request of the Commission, the Town Administrator and the Town Counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the Chief of Police shall take legal action for enforcement under criminal law.

Municipal boards and officers, including any police officer or other officer having police powers, shall have authority to assist the Commission in enforcement.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations under the non-criminal disposition procedures set forth in G.L. 40, s. 21D.

In addition to any other remedies available under any law or this bylaw, any person who violates any provision of this bylaw, regulation, permit or administrative order issued may be fined according to the fine schedule below.

- The fine for filling in a wetland or resource area shall be \$75.00 per square foot per day. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense with each provision of the bylaw, regulations, permits or administrative order(s) violated shall constitute a separate offense.
- For all other violations, each day or portion thereof during which a violation continues shall constitute a separate offense, and each provision of the bylaw, regulations, permits or administrative order(s) violated shall constitute a separate offense.

In a specific case, the Commission may issue the following penalties for wetland violations (not including filling of wetlands) after initial notification by the Sutton Conservation Commission or its agents:

After the first day of offense: \$100.00 fine

After the first day, it is a \$200.00 per week fine.

SECTION 9 - CONSTRUCTION STANDARDS AND RESTRICTIONS

Sequence of Construction

The Applicant shall provide a detailed sequence of construction to the Commission as part of the standard filing requirements, detailing in what order the project's construction will follow. Said sequence shall be followed by the Applicant, unless amended and approved by the Commission.

Wetland Setbacks

In order to protect and preserve the public interests and values of the wetlands and waterways of the Town of Sutton, activities in Wetland and Buffer Zone Resource Areas should be avoided to the full extent practicable. The following are the minimum distances (setbacks) of activity from the edge of Wetlands or Vernal Pools. These setbacks are the minimum and may be extended further if deemed necessary for the protection of the interests of the Bylaw by the Commission.

The setbacks shall be as follows:

- 0-foot setback for wetland-dependent structures (drain outfalls, weirs, etc.), fences, and structures necessary for upland access where reasonable alternative access is unavailable.
- 25-foot setback of undisturbed natural vegetation.
- 50-foot chemical free area, within which no fertilizers, herbicides, pesticides or other chemical maintenance substances shall be used.
- 100-foot setback for underground storage of gasoline, oil, or other fuels and hazardous materials.

Erosion Prevention

The purpose of installing a silt prevention barrier (wattles and silt fence) between the proposed limit of disturbance and the edge of Wetlands is to intercept sediment-laden runoff by reducing runoff velocity and allowing suspended sediments to "settle out" before entering the Wetlands Resource Area. Such sediments shall be removed and sediment barriers monitored and replaced when necessary by the Applicant, or when required by the Commission or its agent.

Proposed location of the silt prevention devices, silt fence and wattles, shall be shown on the Plan submitted in the Wetland filing furnished by the Applicant for Commission review and approval. Erosion prevention devices shall be installed prior to the commencement of Activities on the site.

Storage of Fill

If any Fill is to be stored on site, it shall be stored outside of the Buffer Zone and/or it shall be surrounded by wattles and silt fencing to prevent erosion. The location of said Fill shall appear on any Plans submitted to the Commission with the Notice of Intent. If the Commission determines that the proposed location of Fill threatens the Areas Subject to Protection, it may require the Applicant to store said Fill in a different location or to remove it completely from the site.

Construction Debris or Spoils Area

There shall be no disposal or burial of construction debris (i.e. scrap lumber, metals, concrete, asphalt, piping, logs, stumps, etc.) within 100' of a Wetland. Illegal disposal of said debris shall result in a stop work order, fine, required removal of said debris, or all of the above. The Commission may allow the creation of a spoils area, which would be required to be designated on the project PLANS, if it is proven that it will not harm Areas Subject to Protection.

Wetlands Replication

It is the policy of the Sutton Conservation Commission to follow the "No Net Loss" guidelines set forth by the Massachusetts Department of Environmental Protection. Therefore, applicants who propose to alter resource areas under the Commission's jurisdiction must:

- demonstrate that there is no practicable alternative,
- minimize impacts where they are unavoidable,
- mitigate losses of wetland resource area, where applicable or appropriate, on at least a 1:1.5 basis. "Limited projects" are included in this requirement.

Wetlands Replication Requirements

Projects involving Wetlands Filling and/or permanent Alterations shall meet the requirements of 310 CMR 10.60(3) and 10.55(4) and the following Requirements of the Commission:

- The proposed Replication area design must be submitted to the Commission for approval as part of the submittal of the project Notice of Intent. Applicants are advised to appear before the Commission for preliminary discussion, comments and review prior to submittal of the Replication Plan with the Notice of Intent.
- The Replication area must be shown to sufficiently duplicate the functions of the Wetland proposed to be Altered;
- The Replication area shall be constructed, to the extent possible, immediately after Alteration of the existing Wetland and during the same growing season;
- The proposed Replication area must be clearly flagged for Commission site inspection before the Notice of Intent filing shall be considered complete, and said flagging shall correspond to flagging shown on the Plans.
- The Notice of Intent submittal for a Replication area shall include a detailed of Replication showing:
 - o cross-section with indication of Groundwater level, soil profile and thickness of organic soil in the existing and proposed Wetlands;
 - o plant species detail, including species found in the area to be Altered, and number, types and locations of species to be introduced into the Replication area;
 - o detail of stabilization Plans for Replication area Banks;
- Construction of the Replication area shall follow all requirements as set forth by the Commission.

If, after three growing seasons, the Commission determines that the Replication area has not satisfactorily developed into a Wetland, the Applicant or owner may be required to submit new Plans to successfully replace the Wetland. No Certificate of Compliance shall be issued until the Commission has determined that a satisfactory Replication area has been completed at the end of the three year period.

SECTION 10 – APPEALS

A decision of the Commission shall be reviewable in the Superior Court in accordance with GL Ch. 249, Sec. 4.

SECTION 11 – SEVERABILITY

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

SECTION 12 – ADMINISTRATIVE

The Conservation Commission can make no changes or regulations to the Wetland Protection Bylaw Act without holding a town meeting.

SECTION 13 – DEFINITIONS

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

Alter shall include, without limitation, the following activities when under-taken to, upon, within or affecting resource areas protected by this bylaw:

- Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind

- Change of pre-existing drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- Drainage or other disturbance of water level or water table
- Dumping, discharging or filling with any material which may degrade water quality
- Placing of fill or removal of material, which would alter elevation
- Driving of piles, erection or repair of buildings, or structures of any kind
- Placing of obstructions or objects in water
- Destruction of plant life including cutting of trees
- Changing temperature, biochemical oxygen demand or other physical, biology, or chemical characteristics of any waters
- Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- Incremental activities, which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw

Abutter is any landowner, as determined by the most recent assessor's records, whose land immediately abuts the property which is the subject of notification, or whose land lies across a public or private traveled way or across any river, stream, pond or lake or downstream to a distance of 100 feet. In particular cases, the Sutton Conservation Commission can add persons to the list of abutters to be notified.

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

Except as otherwise provided in this bylaw or in regulations of the Commission, the definitions of terms in this bylaw shall be as set forth in the Wetlands Protection Act (GL Ch. 131, Sec. 40) and Regulations (310 CMR 10.00).

The Finance and Warrant Advisory Committee voted 6-0 to NOT recommend passage of this article. The committee concurs with the Conservation Committee's unanimous recommendation to not recommend passage of this article.

Meet adjourned at 7:28pm.

Respectfully submitted,
Laura J Caruso