

TOWN OF HOLLISTON
SPECIAL TOWN MEETING
OCTOBER 27, 2014
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ARTICLE 1	PASSED	Raise & appropriate \$14,202.89 and appropriate \$2,157.64 from Water Surplus to pay invoices from FY14.
ARTICLE 2	PASSED	Make changes to the FY15 Omnibus Budget
ARTICLE 3	PASSED	Retitle Highway and Water Budget accounts to DPW
ARTICLE 4	PASSED	Transfer to Stabilization Fund.
ARTICLE 5	INDEF POSTPONED	Transfer to Stabilization Fund.
ARTICLE 6	INDEF POSTPONED	Transfer from the Capital Expenditure Fund.
ARTICLE 7	PASSED	To dispose of surplus property
ARTICLE 8	PASSED	Capital Expenditure
ARTICLE 9	PASSED	Community Preservation
ARTICLE 10	PASSED	Engineering services at the Marshall Street recycling area
ARTICLE 11	INDEF POSTPONED	Traffic analysis for downtown
ARTICLE 12	PASSED	Conservation Restriction on a portion of the Rail Trail
ARTICLE 13	PASSED	To Purchase 34 Rogers Road
ARTICLE 14	PASSED	Amend Gen By-Laws Article XXX Wetlands Protection

TOWN OF HOLLISTON
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The Special Town Meeting of October 27, 2014 was held at the High School Auditorium and brought to order by Moderator Kevin Clancy at 7:35 with a quorum of 133, and growing.

The moderator read the warrant and went over the preliminary rules for Town Meeting and then read the following motion as required by the Town By-Laws.

PRIOR TO ARTICLE 1

MOTION: Moved that the following non-resident Town officials, consultants to committees and petitioners be allowed to speak during the course of this Special Town Meeting:

Health Director/Agent	Scott Moles
Leslie McDonnell	Library Director
Mary Bousquet	Treasurer/Collector
Kathryn Peirce	Principal Assessor
Peter Tartakoff	Building Inspector
Brad Jackson	Superintendent of Schools
Sara Ahern	Assistant Superintendent of Schools
Sean Reese	DPW Director
Tom Smith	Highway Superintendent
Karen Sherman	Town Planner
John Moore	Police Chief
Cheryl Rudolph	Animal Control Officer
Charles Corman	Technology Director
Charles Katuska	Conservation Agent
Maureen Chlebek	McMahon Associates (Article 11)

SECONDED

DISCUSSION: Our Town By-Laws require that the Town Meeting vote to allow non-residents and non-voters to address the Town Meeting.

VOTE: Passed by unanimous voice vote.

Prior to Article 1, Ken Szajda, Finance Committee Chairperson, gave an update on the status of the Town's budget.

The quorum had grown to 248.

ARTICLE 1. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for unpaid bills from prior years; or take any action relative thereto. **(Board of Selectmen)**

MOTION Moved that the Town raise and appropriate the sum of \$14,202.89 and appropriate the sum of \$2,157.64 from Water Surplus for invoices from fiscal year 2014.

SECONDED

DISCUSSION: Liz Theiler, 17 Norland St. asked why there is Water Surplus, if there are pipes that need replacing. Ken Szajda, Finance Comm., explained that only Water Dept. bills can be paid from the Water Surplus Acct. and that the Water Surplus Acct. is conceptually the same as the General Fund. She also asked why Bill Dowd opposed this appropriation. Bill Dowd, Finance Comm., responded that he opposes poor planning.

VOTE: Passed by unanimous voice vote to accept Article 1 as stated in the motion.

ARTICLE 2. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the purpose of supplementing various accounts of the Town's fiscal year 2015 annual budget, previously voted by the Town under Article 14 of the Warrant for the 2014 Annual Town Meeting; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town vote to make the following changes in the fiscal year 2015 Omnibus Budget:

1. raise and appropriate \$8,000 for Fire Department Account 53000; and
2. reduce the Library Account 51000 by \$1,878; and
3. increase the Library Account 54000 by \$1,878.

SECONDED

DISCUSSION: Bill Dowd, 95 Shaw Farm Rd., would like to see these accounts and figures be more scrutinized than they currently are.

VOTE: Passed by voice vote to accept Article 2 as stated in the motion.

ARTICLE 3. To see if the Town will vote to amend the fiscal year 2015 Omnibus Budget, previously voted under Article 14 of the Warrant for the 2014 Annual Town Meeting, to reflect the creation of a Department of Public Works and a water enterprise fund; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town retitle the Highway, Snow & Ice, Motor Vehicle Fuels and Water Department budgets to DPW – Highway, DPW – Snow & Ice, DPW – Motor Vehicle Fuels and DPW – Water, and designate a water enterprise budget as follows:

DEPARTMENT	CURRENT FY15 BUDGET	RECOMMENDED CHANGE	NEW FY15 BUDGET
DPW – WATER 51000	735,681	0	735,681
DPW – WATER 52000	379,000	0	379,000
DPW – WATER 53000	72,000	0	72,000
DPW – WATER 54000	228,000	0	228,000
DPW – WATER 56000	3,600	0	3,600
DPW – WATER 57000	853,656	0	853,656
DPW – WATER 58000	6,000	0	6,000
DPW – WATER INDIRECT EXPENSE	0	103,195	103,195
DPW – WATER RECEIPTS	0	2,381,132	2,381,132
DPW – WATER RETAINED EARNINGS	0	170,000	170,000

SECONDED

DISCUSSION: Carl Damigella, 448 Underwood St., feels that a reference to the original budget item from the Annual Town Meeting, would be helpful in making this decision. Liz Theiler, 17 Norland St., asked why this is only Water and not Highway. Paul LeBeau, 147 Karen Cir., Town Administrator, explained that they are asking to retitle these accounts. We are also establishing the Water Dept. on an Enterprise Fund basis. The operating budgets are unchanged from the vote in May.

VOTE: Passed by unanimous voice vote to accept Article 3 as stated in the motion.

ARTICLE 4. To see if the Town will vote to transfer from available funds a sum of money for the purpose of reducing the amount of money to be raised through property taxes for fiscal year 2015; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town appropriate the sum of \$474,000 from the Stabilization Fund for the purpose of resolving any deficits and reducing the amount of money to be raised through property taxes for fiscal year 2015.

SECONDED

DISCUSSION: None

VOTE: Passed by unanimous voice vote to accept Article 4 as stated in the motion.

ARTICLE 5. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the Stabilization Fund; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town indefinitely postpone this Article.

SECONDED

DISCUSSION: None

VOTE: Passed by unanimous voice vote to indefinitely postpone Article 5.

ARTICLE 6. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the Capital Expenditure Fund; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town indefinitely postpone this Article.

SECONDED

DISCUSSION: None

VOTE: Passed by unanimous voice vote to indefinitely postpone Article 6.

ARTICLE 7. To see if the Town will vote to authorize the Board of Selectmen to hold a public auction for the purpose of disposing of surplus departmental equipment; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Board of Selectmen be authorized to dispose of the following surplus property reported by the Highway and Fire Departments: a 2000 Freightliner Ambulance, a 1998 GMC bucket truck and a 2000 Chevrolet one ton dump truck.

SECONDED

DISCUSSION: John Cronin, 40 Holly Ln, asked where the funds go from the sale of the vehicles. Ken Szajda, 676 Fiske St., said they will eventually go into the General Fund, after the State certifies that it is free cash.

VOTE: Passed by unanimous voice vote to accept Article 7 as stated in the motion.

ARTICLE 8. To see if the Town will vote to raise and appropriate, transfer from

available funds, or borrow a sum of money for the purpose of capital expenditures, including replacement and new vehicles and equipment, for the Public Works, Police, Fire, School, Library, Public Buildings, Technology and Council on Aging departments, and authorize the Board of Selectmen to trade or sell used equipment toward part of the purchase price; or take any action relative thereto. **(Board of Selectmen)**

MOTION: Moved that the Town appropriate \$175,000 from the Capital Expenditure Fund for a Fire Department pumper engine and rescind the borrowing authorization for this purpose previously voted under Article 7 of the Warrant for the October 28, 2013 Special Town Meeting; appropriate \$23,000 from the Capital Expenditure Fund for Fire Department pagers; appropriate \$3,000 from the Capital Expenditure Fund for repairs to the handicap accessible ramp at the Senior Center; appropriate \$79,332 from the Capital Expenditure Fund for two Police cruisers; appropriate \$91,000 from the Capital Expenditure Fund for a backhoe for the Department of Public Works; appropriate \$214,337 from the Capital Expenditure Fund for Chromebooks for the Adams Middle School; appropriate \$15,000 from the Capital Expenditure Fund for exterior painting at the Public Library; appropriate \$50,000 from the Capital Expenditure Fund for a one ton dump truck for the Department of Public Works; appropriate \$54,130 from the Capital Expenditure Fund for computers for the Police Department; appropriate \$54,000 from the Capital Expenditure Fund for wireless access for the School Department; appropriate \$50,000 from the Capital Expenditure Fund for a vehicle for the Fire Department; and appropriate \$27,665 from the Capital Expenditure Fund for a vehicle for the Police Department.

SECONDED

DISCUSSION: None

VOTE: Passed by unanimous voice vote to accept Article 8 as stated in the Motion.

ARTICLE 9. To see if the Town will vote to act on the report of the Community Preservation Committee on the fiscal year 2015 Community Preservation budget and to appropriate or reserve for later appropriation monies from the Community Preservation Fund annual revenues or available funds for the administrative expenses of the Community Preservation Committee, the payment of debt service, the undertaking of community preservation projects and all other necessary and proper expenses for the year; or take any action relative thereto. **(Community Preservation Committee)**

MOVE: To rescind the appropriation in the amount of \$300,000 for fiscal 2014 from the Community Preservation Undesignated Reserve approved at the October, 2013 town meeting as the town portion of the cost for acquisition of a Conservation Restriction on 111 acres of the property known as Bullard Farm not used for the purpose intended, and to return these funds to the Community Preservation Fund Undesignated Reserve to be made available for other community preservation purposes.

SECONDED

DISCUSSION: Frank Chamberlain, 333 Hollis St., gave an overview of what is being proposed tonight and wants to thank the residents for their support of the CPC. Pam Zicko, 180 Fiske St., asked what the State match is. Frank Chamberlain responded that it varies and is now at 27%.

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

MOVE: To appropriate the sum of \$488,000 for fiscal 2015 to assist with the purchase of 33.2 acres of open space located at 32 Rogers Road (the Serocki Property); funds to be drawn to the extent available from the Community Preservation Open Space Reserve, with the balance from the Community Preservation Undesignated Reserve; the vote to be contingent upon a favorable vote with regard to Article 13 of the October, 2014 town meeting warrant with all funds to be expended within one year of the October 2014 town meeting.

SECONDED

DISCUSSION: Peter Barbieri, 47 Juniper Rd, speaking on behalf of a potential buyer of the property. Asked for a point of clarification, that the article on purchasing the property is later in this Warrant. The Moderator responded in the affirmative.

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

MOVE: To appropriate the sum of \$690,000 for fiscal 2015 from the Community Preservation Undesignated Reserve for the purchase from CSX Corporation of a 2 mile section of railroad right-of-way from Cross Street to Hopping Brook Road for inclusion in the Upper Charles Rail Trail. Funds may be used for land acquisition and related costs, including but not limited to title search, land appraisals, environmental review, legal fees and the costs associated with any required deed restrictions and related endowments. All funds are to be expended within 18 months of the October, 2014 town meeting.

SECONDED

DISCUSSION: None

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

MOVE: To amend the appropriation for the Rail Trail Committee approved by the October 2013 town meeting in the amount of \$79,260 for fiscal 2014 from the Community Preservation Undesignated Reserve for professional services to include safety improvements for town-owned sections of the trail as acceptable uses; safety improvements include, but are not limited to crossing signals and signage, handrails and bridge surfaces, and drainage and landscape improvements. All funds are to be expended within two years of the October, 2013 town meeting.

SECONDED

DISCUSSION: Frank Chamberlain, explained that 2013 is correct in the Motion.

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

MOVE: To appropriate \$100,000 for fiscal 2015 from the Community Housing Reserve to support the Holliston Housing Trust's programs to provide affordable housing in Holliston and for the

administrative and contract support of thereof. Of the total amount, \$50,000 is to be available to the Holliston Housing Trust immediately, with the remaining \$50,000 to be distributed subject to approval by vote of the Community Preservation Committee based on demonstrated need by the Housing Trust to support current projects. Any undistributed funds will expire as of the date of the May, 2015 town meeting.

SECONDED

DISCUSSION: Carl Damigella, 448 Underwood St., Chair of the Holliston Housing Development Corp. did a project on Burnap Road with the Holliston Housing Trust. He and his fellow members of the Holliston Housing Development Corp.; Sylvia Stickney, Walter Robbins, Bill Mayer, and Karl Magnussen, want to dissolve their committee if the Town has no further use for them. If so, they have a sizeable treasury that could be transferred over to the Housing Trust. He then made a motion to indefinitely postpone this motion.

MOTION: To indefinitely postpone.

SECONDED

DISCUSSION: None

VOTE: Passed by voice call vote to indefinitely postpone this motion under Article 9.

MOVE: To appropriate the sum of up to \$2,000 for fiscal 2015 from the Community Preservation Undesignated Reserve to assist the Upper Charles Conservation Trust with the purchase of "Beaver Deceiver" water level lowering devices on conservation land known as Wenekeening Woods, for the purpose of preserving town-owned recreational space (the Mission Springs little league baseball field), the Upper Charles Conservation Trust to be responsible for the engineering and installation expenses associated with the project. All funds are to be expended within one year of the October 2014 town meeting.

SECONDED

DISCUSSION: None

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

MOVE: To extend the appropriation in the amount of \$1,200 from the Open Space Reserve approved at the May 7, 2012 town meeting to provide the materials for the construction of four kiosks at the entrances to Wenekeening Woods and amend the appropriation to allow the use of remaining funds for the printing of maps and signage for five kiosks actually constructed. All funds are to be expended within 12 months of the October 2014 town meeting

SECONDED

DISCUSSION: None

VOTE: Unanimously passed by voice call vote to accept this motion under Article 9.

ARTICLE 10. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the purpose of engineering, consulting and testing services for the preparation of and submittal to the Massachusetts Department of Environmental Protection of a Beneficial Use Determination covering materials at the Marshall Street recycling area; or take any action relative thereto. **(Board of Health)**

MOTION: Moved that the Town raise and appropriate \$25,000 for the purpose stated in the Article.

SECONDED

DISCUSSION: None

VOTE: Unanimously passed by voice vote to accept Article 10 as stated in the motion.

ARTICLE 11. To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money for the purpose of completing a traffic analysis design, for downtown Holliston; or take any action relative thereto. **(Board of Selectmen and Planning Board)**

MOTION: Moved that the Town vote to indefinitely postpone Article 11.

SECONDED

DISCUSSION: Kevin Conley, 44 Cranberry Lane, introduced Maureen Chlebek from McMahon Associates and he would like her to give a presentation.

Maureen Chlebek explained that they looked at existing conditions, previous studies then proposed alternatives to the *Review Team* consisting of Paul LeBeau, Town Administrator; Karen Sherman, Town Planner; Matt Waugh, Police Dept.; Michael Cassidy, Fire Chief; and Tom Smith, Highway Supt.

Pam Zicko 180 Fiske St., asked how they determined the 1% traffic increase per year. Ms. Chlebek responded that it was based on information from the Town and the Regional Planning Commission. Parashar Patel, 3 Metcalf Circle, summarized the study for Town Meeting. Gary Zegel, 511 Washington St., asked if there was a reason the crossing light couldn't be red instead of yellow.

Ms. Chlebek said there is a component for a pedestrian signal to be red, however it does not coincide with the side streets. Dave Ullenbruch, 180 Fiske St stated that eliminating parking spaces will hurt local businesses. Ken Szajda, 676 Fiske St., speaking for the Finance Committee said their position is that they don't like to operate on a "make a decision, then find the money later" basis. He is opposed to spending \$275,000 on an analysis for a \$2.4 million project that is

yet to be determined. Their decision to indefinitely postpone is not based on the need for a project, because they agree something needs to be done, it is based on the lack of a definitive plan for what is going to be done. Kevin Conley would have liked the scope of the study expanded, and would like us to prioritize by Pedestrian Safety, Economic Viability, then Traffic Flow through town. He is not in favor of cutting sidewalks or taking parking spots, at this time, but would like to look at it again with an economic viability portion. Mark Shultz, 21 Wedgewood Dr., is in favor of Indefinite Postponement, due to not having a complete plan. Mary Greendale, 57 Roy Ave., asked if it was possible to just put up the traffic light. Ms. Chlebek responded in the negative, because without the added capacity on Washington Street, the traffic cues would be too congested and traffic delays would increase. Beth Greely, 1038 Washington St, is in favor of indefinite postponement because of the uncertainty of the potential sale of the Superette building, and the change that could bring. Mr. John D. Leary, Sr, 79 Richard Rd., made a motion to move the question, which passed by voice vote.

VOTE: Passed by voice vote to Indefinitely Postpone Article 11 as stated in the motion.

ARTICLE 12. To see if the Town will vote to raise, borrow and/or appropriate the sum of \$720,000 for the acquisition by gift, negotiated purchase or eminent domain of a parcel of land of approximately 1.9 miles in length and approximately 15.5 acres owned by CSX Transportation, shown as lands of the abandoned sections of the former railroad right of way and easements on the Holliston Assessor's maps, shown as parcels 001.0-0001- 0050.3, 0050.6 and 0050.7 to be managed and controlled in accordance with Chapter 45, Section 3 for active recreation purposes, and to meet said appropriate with funds transferred and/or borrowed in accordance with M.G.L. Chapter 293, the Community Preservation Act and to authorize the Treasurer, with the approval of the Board of Selectmen, to issue any bonds or notes that may be necessary for that purpose, as authorized by M.G.L. Chapter 44, or any other enabling authority, and that the Board of Selectmen be authorized to file on behalf of the Town of Holliston any and all applications deemed necessary under the PARC Act (301 CMR 5.00) or any other applications for funds in any way connected with the scope of this acquisition, and the Board of Selectmen be authorized, as they deem appropriate, to enter into all agreements and execute any and all instruments including conveyance of a perpetual conservation restriction in accordance with M.G.L. Chapter 184 as required by Section 12(a) of Chapter 44B or Chapter 293 Section 10 of the Acts of 1998 as amended, as may be necessary on behalf of the Town of Holliston to affect said purchase, or take any action relative thereto. **(Holliston Trails Committee)**

MOTION: Moved that the Town vote to authorize the Board of Selectmen to grant a permanent conservation restriction pursuant to section 12 of Chapter 44B and sections 31 through 33 of Chapter 184 of the General Laws on the property shown as Lots 50.3, 50.6 and 50.7 of Block 1 on Assessors' Map 1.

SECONDED

DISCUSSION: Mark Shultz, 21 Westfield Dr., spoke the praises of the Rail Trail Committee and how fortunate we are to have this trail in our town.

VOTE: Passed by unanimous voice vote to accept Article 12 as stated in the motion.

ARTICLE 13. To see if the Town will vote to acquire two parcels of land for open space purposes, pursuant to section 14 of Chapter 61A of the General Laws, shown as Lots 17 and 18 of Block 4 on Assessors' Map 12, located at 34 Rogers Road; to determine whether such acquisition shall be by borrowing, by transfer of available funds, by appropriation of Community Preservation funds or by some combination thereof; or take any action relative thereto. (**Open Space Committee**)

MOTION: Moved that the Town vote to authorize the Board of Selectmen to acquire for open space and farming purposes that property shown as Lots 17 and 18 of Block 4 on Assessors' Map 12, located at 34 Rogers Road, appropriate \$100,000 from the Open Space Fund for said acquisition, and authorize the Board of Selectmen to grant a permanent conservation restriction on said property pursuant to section 12 of Chapter 44B and sections 31 through 33 of Chapter 184 of the General Laws.

SECONDED

DISCUSSION: Rachel Kane, 175 Winthrop St., gave a presentation from the Open Space Committee, and the benefits this property would have for the Town. Peter Barbieri, 47 Juniper Rd., is representing 34 Rogers Road LLC, a potential buyer of this property. Mr. Barbieri showed an aerial photo of the approximate 30 acre property depicting half that his client would develop which is currently zoned industrial and the remaining 15 acres that would be transferred to the Town as a gift from his client. His client would also work with the Town on developing the farm land and assist with the education portion for the residents. Ken Szajda, 676 Fiske St., recognizes the loss of industrial tax base on this parcel, but also recognizes that there is plenty of industrial space in town yet to be developed, and purchasing this for open space is a onetime opportunity. Mr. Szajda also suggested that Mr. Barbieri's client move his interest to another industrial parcel in town and we acquire more open space for the benefit of the residents. Carl Damigella, 448 Underwood St., recognizes that if we purchase this property there will be a Conservation Restriction put on it. He knows from his past experience as a Selectman that this parcel tested positive for a waste water treatment plant. He is concerned that if we ever do get sewers we would be "shooting ourselves in the foot", by putting a restriction on. Mr. Damigella proposed a Motion to reserve a portion of this property to use for future sewer purposes. However, William Mayer, Town Council, stated that this would be out of order, due to the means of which we would be purchasing the property. Because it is Community Preservation money it is statutorily required to have a Conservation Restriction placed on it. Joan Souza, 31 Old Cart Path, asked how the development of the land would be funded. Tony Lulek, 35 Dalton Rd., responded that they would be starting small then apply for grants, and build it up over time.

VOTE: Passed by voice vote to accept Article 13 as stated in the Motion.

ARTICLE 14. To see if the Town will vote to rescind the borrowing authorization previously voted under Article 9 of the Warrant for the October 28, 2013 Special Town Meeting regarding property acquisition; or take any action relative thereto. **(Treasurer/Collector)**

MOTION: Moved that the Town vote to rescind the borrowing authorization previously voted under Article 9 of the Warrant for the October 28, 2013.

SECONDED

DISCUSSION: None

VOTE: Passed by unanimous voice vote to accept Article 14 as stated in the motion.

ARTICLE 15. To see if the Town will vote to delete Article XXX, Conservation Commission, from the Town of Holliston General By-laws and insert the following new Article XXX, Wetlands Protection, in place thereof:

**ARTICLE XXX
WETLANDS PROTECTION**

***I. Membership.** The Town shall have a Conservation Commission consisting of seven (7) members appointed by the Board of Selectmen for a term of three years each and so appointed that no more than three (3) nor less than two (2) shall expire in any one year*

II. Purpose

The purpose of this bylaw is to protect the wetlands, water resources, flood prone areas, and adjoining upland areas in the Town of Holliston by controlling activities deemed by the Holliston Conservation Commission likely to have a significant or cumulative effect on resource area values, including but not limited to the following: public or private water supply, groundwater supply, flood control, erosion and sedimentation control, storm damage prevention, water quality, prevention and control of pollution, fisheries, wildlife, wildlife habitat, rare species habitat including rare plant and animal species, agriculture, aquaculture, and recreation values, deemed important to the community (collectively, the "resource area values protected by this bylaw").

This bylaw is intended to utilize the Home Rule authority of the Town so as to protect the resource areas under the Wetlands Protection Act (G.L. Ch.131 §40; the "Act") to a greater degree, to protect additional resource areas beyond the Act recognized by the Town as significant, to protect all resource areas for their additional values beyond those recognized in the Act, and to impose in local regulations and permits additional standards and procedures stricter than those of the Act and regulations thereunder (310

CMR 10.00), subject, however, to the rights and benefits accorded to agricultural uses and structures of all kinds under the laws of the Commonwealth and other relevant bylaws of the Town of Holliston.

III. Jurisdiction

Except as permitted by the Conservation Commission no person shall commence to remove, fill, dredge, build upon, discharge into, or otherwise alter the following resource areas:

- A. Any wetlands, marshes, wet meadows, bogs, swamps, vernal pools, springs, banks, reservoirs, lakes, ponds of any size, beaches, and any lands under water bodies and/or intermittent or perennial streams, brooks and creeks;
- B. lands adjoining the resource areas specified in Section II.A out to a distance of 100 feet, known as the buffer zone;
- C. perennial rivers, streams, brooks and creeks;
- D. lands adjoining the resource areas specified in Section II.C out to a distance of 200 feet, known as the riverfront area;
- E. any lands subject to flooding or inundation by groundwater or surface water;

Collectively the areas specified in Sections II.A-E, constitute the "resource areas protected by this bylaw". Said resource areas shall be protected whether or not they border surface waters.

IV. Exemptions and Exceptions

The applications and permits required by this bylaw shall not be required for work performed for normal maintenance or improvement of land in agricultural and aquacultural use as defined by the Wetlands Protection Act regulations at 310 CMR 10.04.

The applications and permits required by this bylaw shall not be required for maintaining, repairing, or replacing, but not substantially changing or enlarging, an existing and lawfully located structure or facility used in the service of the public to provide electric, gas, water, sewer, drainage, telephone, telegraph, or other telecommunication services, provided that written notice has been given to the Conservation Commission prior to commencement of work, and provided that the work conforms to any performance standards and design specifications in regulations adopted by the Commission.

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

Other than stated in this bylaw, the exceptions provided in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) shall not apply under this bylaw.

V. Applications, Application Fees and Consultant Fees

A. Applications and Application Fees

Written application shall be filed with the Conservation Commission to perform activities affecting resource areas protected by this bylaw. No activities shall commence without receiving and complying with a permit issued pursuant to this bylaw.

The application may be in the form of a Notice of Intent, Abbreviated Notice of Intent, Abbreviated Notice of Resource Area Delineation, or Request for Determination of Applicability, or other form as the Commission specifies in its regulations. The permit application shall include such information and plans as are deemed necessary by the Commission to describe proposed activities and their effects on the resource areas protected by this bylaw.

The Commission may accept as the application and plans under this bylaw any application and plans filed under the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00), but the Commission is not obliged to do so.

Any person desiring to know whether or not a proposed activity or an area is subject to this bylaw may in writing request a determination from the Commission. Such a Request for Determination of Applicability ("RDA") or Abbreviated Notice of Resource Area Delineation ("ANRAD") shall include information and plans as are deemed necessary by the Commission.

At the time of an application, the applicant shall pay a filing fee specified in regulations of the Commission. The fee shall be deposited into a dedicated account for use only for wetlands protection activities, including but not limited to administration of this Bylaw. The filing fee is in addition to that required by the Wetlands Protection Act and Department of Environmental Protection ("DEP") wetland regulations (310 CMR 10.00). The Commission may waive the filing fee for a government agency.

B. Consultant Fees

Pursuant to G.L. Ch. 44 §53G and regulations promulgated by the Commission, the Commission may impose reasonable fees upon an applicant for the purpose of securing outside consultants including but not limited to engineers, wetlands scientists, wildlife biologists, attorneys, or other experts in order to aid in the review of a proposed project(s). Such funds shall be deposited with the town treasurer, who shall create an account specifically for this purpose. Additional consultant fees may be requested where the requisite review is more expensive than originally calculated or where new information requires additional consultant services.

Only costs relating to consultant work done in connection with a project for which a consultant fee has been collected shall be paid from this account, and expenditures may be made at the sole discretion of the Commission. Any consultant hired under this provision shall be selected by, and report exclusively to, the Commission. The Commission shall provide an applicant with written notice of the selection of a consultant, identifying the consultant, the amount of the fee to be charged to the applicant, and a request for payment of that fee. Notice shall be deemed to have been given on the date it is mailed or delivered. The applicant may withdraw the application or request within five (5) business days of the date notice is given without incurring any costs or

expenses.

The entire fee must be received before the initiation of consulting services. Failure by the applicant to pay the requested consultant fee within ten (10) business days of the request for payment shall be cause for the Commission to declare the application administratively incomplete and deny the permit without prejudice, except in the case of an appeal. The Commission shall inform the applicant and DEP of such a decision in writing.

The applicant may appeal the selection of an outside consultant to the Board of Selectmen, who may disqualify the consultant only on the grounds that the consultant has a conflict of interest or is not properly qualified. The minimum qualifications shall consist of either an educational degree or three or more years of practice in the field at issue, or a related field. The applicant shall make such an appeal in writing, and must be received within ten (10) business days of the date that request for consultant fees was made by the Commission. Such appeal shall extend the applicable time limits for action upon the application.

VI. Notice and Hearings

Any person filing a permit application with the Conservation Commission at the same time shall give written notice thereof, by certified mail (return receipt requested) or hand delivered, to all abutters at their mailing addresses shown on the most recent applicable tax list of the assessors, including owners of land directly opposite on any public or private street or way, and abutters to the abutters within 100 feet of the property line of the applicant, including any in another municipality or across a body of water. The notice shall state a brief description of the project or other proposal and the date of any Commission hearing or meeting date if known. The notice to abutters also shall include a copy of the application or request, with plans, or shall state where copies may be examined and obtained by abutters. An affidavit of the person providing such notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. When a person requesting a Determination of Applicability is other than the owner, the request, the notice of the hearing and the determination itself shall be sent by the Commission to the owner as well as to the person making the request.

The Commission shall conduct a public hearing on any permit application provided that written notice is given at the expense of the applicant, at least five business days prior to the hearing, in a newspaper of general circulation in the Town of Holliston. The Commission shall commence the public hearing within 21 days from receipt of a completed permit application unless an extension is authorized in writing by the applicant. The Commission shall have authority to continue the hearing to a specific date announced at the hearing, for reasons stated at the hearing, which may include the need for additional information from the applicant or others as deemed necessary by the Commission in its discretion, based on comments and recommendations of the boards and officials listed in §VI.

The Commission shall issue its permit, other order or determination in writing within 21 days of the close of the public hearing thereon unless an extension is authorized in writing by the applicant.

The Commission may combine its hearing under this bylaw with the hearing conducted under the Wetlands Protection Act (G.L. Ch.131 §40) and regulations (310 CMR 10.00).

VII. Coordination with Other Boards

Any person filing a permit application with the Conservation Commission shall provide at the same time, by certified mail (return receipt requested) or hand delivery, notice of such filing to the Board of Selectmen, Planning Board, Board of Appeals, Board of Health, Building Inspector, and other Town of Holliston officials or boards as designated by the Commission in its regulations. Notice shall be provided in the same manner to the Conservation Commission of an adjoining municipality if the permit application pertains to property within 300 feet of that municipality. An affidavit of the person providing notice, with a copy of the notice mailed or delivered, shall be filed with the Commission. The Commission shall not take final action until the above boards and officials have had 14 days from receipt of notice to file written comments and recommendations with the Commission, which the Commission shall take into account but which shall not be binding on the Commission. The applicant shall have the right to receive any comments and recommendations, and to respond to them at a hearing of the Commission, prior to final action.

VIII. Permits and Conditions

The Conservation Commission, after a public hearing, shall determine whether the activities which are subject to the permit application, or the land and water uses which will result therefrom, are likely to have a significant individual or cumulative effect on the resource area values protected by this bylaw. The Commission shall take into account the extent to which the applicant has avoided, minimized, and mitigated any such effect. The Commission also shall take into account any loss, degradation, isolation, and replacement or replication of such protected resource areas elsewhere in the community and the watershed, resulting from past activities, whether permitted, unpermitted or exempt, and foreseeable future activities. Due consideration shall be given to any demonstrated hardship on the applicant by reason of denial, as presented at the public hearing.

The Commission shall issue a permit approving the activities which are subject to the permit application, or the land and water uses which will result therefrom, after it determines that said activities, or uses which will result therefrom, will not have a significant individual or cumulative effect on the resource area values protected by this bylaw and comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission. If it issues a permit, the Commission shall impose conditions which the Commission deems necessary or desirable to protect said resource area values, and all activities shall be conducted in accordance with those conditions. Where no conditions are adequate to protect said resource area values, the Commission is empowered to deny a permit for failure to meet the requirements of this bylaw. It may also deny a permit: for failure to submit necessary information and plans requested by the Commission; for failure to comply with the procedures, design specifications, performance standards, and other requirements in regulations of the Commission; or for failure to avoid, minimize or mitigate unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. The Commission may issue a Determination of Applicability that no further permit application need be filed with the Commission for a proposed activity within jurisdiction of this bylaw as long as the activity complies with conditions that the Commission imposes in said determination.

The Commission within 21 days of the close of the public hearing shall issue or deny a permit for the activities requested.

The Commission may waive specifically identified and requested procedures, design specifications, performance standards, or other requirements set forth in its regulations, provided that: the Commission finds in writing after said public hearing that there are no reasonable conditions or alternatives that would allow the proposed activity to proceed in compliance with said regulations; that avoidance, minimization and mitigation have been employed to the maximum extent feasible; and that the waiver is necessary to accommodate an overriding public interest or to avoid a decision that so restricts the use of the property as to constitute an unconstitutional taking without compensation.

In reviewing activities within the buffer zone, the Commission shall presume such areas are important to the protection of other resource areas because activities undertaken in close proximity have a high likelihood of adverse impact, either immediately, as a consequence of construction, or over time, as a consequence of daily operation or existence of the activities. This presumption is rebuttable and may be overcome by credible evidence from a competent source that such buffer zones are not important to protection of other resource areas. These adverse impacts from construction and use can include, without limitation, erosion, siltation, loss of groundwater recharge, poor water quality, and loss or degradation of wildlife and wildlife habitat. The Commission may establish, in its regulations, design specifications, performance standards, and other measures and safeguards, including setbacks, no-disturb areas, no-build areas, and other work limits for protection of buffer zones, including without limitation, area strips of continuous, undisturbed vegetative cover. Such design specifications, performance standards, and other measures and safeguards shall apply unless the applicant convinces the Commission that the buffer zone area or part of it may be disturbed without harm to the values protected by the bylaw.

In reviewing activities within the riverfront area, the Commission shall presume the riverfront area is important to all the resource area values unless demonstrated otherwise, and no permit issued hereunder shall permit any activities unless the applicant, in addition to meeting the otherwise applicable requirements of this bylaw, has proved by a preponderance of the credible evidence that (1) there is no practicable alternative to the proposed project with less adverse effects, and that (2) such activities, including proposed mitigation measures, will have no significant adverse impact on the areas or values protected by this bylaw. The Commission shall regard as practicable an alternative which is reasonably available and capable of being done after taking into consideration the proposed property use, overall project purpose (e.g., residential, institutional, commercial, or industrial), logistics, existing technology, costs of the alternatives, and overall project costs.

To prevent resource area loss, the Commission shall require applicants to avoid alteration wherever feasible; to minimize alteration; and, where alteration is unavoidable and has been minimized, to provide full mitigation. The Commission may authorize or require replication of wetlands as a form of mitigation but, because of the high likelihood of failure of replication, only with specific plans, professional design, proper safeguards, adequate security, and professional monitoring and reporting to assure success.

The Commission may require a wildlife habitat study of the project area, to be paid for by the applicant, whenever it deems appropriate, regardless of the type of resource area or the amount or type of alteration proposed. The decision to require a wildlife habitat study shall be based upon the

Commission's estimation of the importance of the habitat area considering (but not limited to) such factors as proximity to other areas suitable for wildlife, importance of wildlife "corridors" in the area, or actual or possible presence of rare plant or animal species in the area. The work shall be performed by an individual who meets or exceeds the minimum qualifications set out in the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60) and, when required by the Commission, has direct professional experience with the wildlife species or wildlife habitat at issue.

The Commission shall presume that all areas meeting the definition of "vernal pools" under §IX of this bylaw, including the adjacent buffer zone area, perform essential habitat functions. This presumption may be overcome only by the presentation of credible evidence which, in the judgment of the Commission, demonstrates that the basin or depression does not provide essential vernal pool habitat functions. Any formal evaluation should be performed by an individual who meets or exceeds the minimum qualifications under the wildlife habitat section of the Wetlands Protection Act regulations (310 CMR 10.60) and, when required by the Commission, has direct professional experience with the wildlife species or wildlife habitat at issue.

A permit, Order of Conditions ("OOC"), Determination of Applicability ("DOA"), or Order of Resource Area Delineation ("ORAD") shall expire three years from the date of issuance. Notwithstanding the above, the Commission in its discretion may issue a permit expiring five years from the date of issuance for recurring or continuous maintenance work, provided that annual notification of time and location of work is given to the Commission. Any permit may be renewed for one or more additional one-year periods, provided that a request for a renewal is received in writing by the Commission thirty (30) days prior to expiration. Notwithstanding the above, a permit may identify requirements which shall be enforceable for a stated number of years, indefinitely, or until permanent protection is in place, and shall apply to all present and future owners of the land.

For good cause the Commission may revoke any permit, OOC, DOA, or ORAD or any other order, determination or other decision issued under this bylaw after notice to the holder, the public, abutters, and town boards, pursuant to §V and §VI, and after a public hearing.

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

The Commission may combine the decision issued under this bylaw with the OOC, DOA, ORAD, or Certificate of Compliance ("COC") issued under the Wetlands Protection Act and regulations.

No work proposed in any application shall be undertaken until the permit, or ORAD issued by the Commission with respect to such work has been recorded in the registry of deeds or, if the land affected is registered land, in the registry section of the land court for the district wherein the land lies, and until the holder of the permit certifies in writing to the Commission that the document has been recorded. If the applicant fails to perform such recording, the Commission may record the documents itself and require the Applicant to furnish the recording fee therefore, either at the time of recording or as a condition precedent to the issuance of a COC.

IX. Regulations

After public notice and public hearing, the Conservation Commission shall promulgate and amend rules and regulations to effectuate the purposes of this bylaw, effective when voted and filed with the town clerk. Failure by the Commission to promulgate such rules and regulations or a legal declaration of their invalidity by a court of law shall not act to suspend or invalidate the effect of this bylaw. At a minimum these regulations shall reiterate the terms defined in this bylaw, define additional terms not inconsistent with the bylaw, and impose filing and consultant fees.

X. Definitions

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

The term "**agriculture**" shall refer to the definition as provided by G.L. Ch. 128, § IA.

The term "**alter**" shall include, without limitation, the following activities when undertaken to, upon, within or affecting resource areas protected by this bylaw:

- A. Removal, excavation, or dredging of soil, sand, gravel, or aggregate materials of any kind
- B. Changing of preexisting drainage characteristics, flushing characteristics, salinity distribution, sedimentation patterns, flow patterns, or flood retention characteristics
- C. Drainage, or other disturbance of water level or water table
- D. Dumping, discharging, or filling with any material which may degrade water quality
- E. Placing of fill, or removal of material, which would alter elevation
- F. Driving of piles, erection, expansion or repair of buildings, or structures of any kind
- G. Placing of obstructions or objects in water
- H. Destruction of plant life including cutting or trimming of trees, shrubs, or undergrowth
- I. Changing temperature, biochemical oxygen demand, or other physical, biological, or chemical characteristics of any waters
- J. Any activities, changes, or work which may cause or tend to contribute to pollution of any body of water or groundwater
- K. Incremental activities which have, or may have, a cumulative adverse impact on the resource areas protected by this bylaw.

The term "**bank**" shall include the land area which normally abuts and confines a water body; the lower boundary being the mean annual low flow level, and the upper boundary being the first observable break in the slope or the mean annual flood level, whichever is higher.

The term "buffer zone", as defined in Section II.B above, is that resource area which extends one hundred feet (100') from the edge of those wetland resource areas identified in Section II.A.

- a. **50-Foot No-Disturbance Zone is that portion of the Buffer Zone which extends fifty (50) feet from the edge of those wetland resource areas identified in Section II.A; however, it is possible that these resource areas will overlap in some instances (e.g., Riverfront Area and Land Subject to Flooding). Disturbance of any kind is prohibited within this Zone including but not limited to grading, landscaping, vegetation removal, pruning, cutting, filling, excavation, roadway construction and /or driveway construction.**

b. **100-Foot No-Disturbance Zone** is that buffer zone area that extends one hundred (100) feet from the edge of any Vernal Pool that is located in an upland area or, in the case of a larger wetland resource area that

encompasses the pool, within one hundred (100) feet from the edge of the said larger wetland resource area. Disturbance of any kind is prohibited within this Zone including but not limited to grading, landscaping, vegetation removal, pruning, cutting, filling, excavating, roadway construction and/or driveway construction. The extent and location of this No-Disturbance Zone is subject to change based on the results of a biological and/or habitat evaluation, which may be required to determine the migratory pathways and other important habitat usage of Vernal Pool breeders.

The term "**build upon**" shall mean construction of any kind of structure, whether on land or in water; and/or placing of obstructions or objects in water (other than fish or shellfish traps, pens or trays used in conjunction with aquaculture, or aids to navigation).

The term "**cumulative adverse effect**" shall mean an effect on a resource area(s) that is significant when considered in combination with other activities that have occurred, are occurring simultaneously or that are reasonably likely to occur within that resource area(s), whether such other activities have occurred or are contemplated as a separate phase of the same project or activities, or as a result of unrelated projects or activities.

The term "**discharge into**" means, without limitation, any outfall of water that empties into a resource area or buffer zone, including infiltration.

The term "**erosion control**" means the prevention of the detachment or movement of soil or rock fragments by water, wind, ice, or gravity.

The term "**groundwater**" shall mean all subsurface water contained in natural geologic formations or artificial fill including soil water in the zone of aeration. Activities within 100 feet of resource areas shall not significantly alter the existing quality or elevation of naturally occurring groundwater.

The term "**permits**" shall collectively refer to Orders of Conditions, Notice(s) of Non-Significance, Enforcement Order(s), Determinations of Applicability, and/or Orders of Resource Area Delineation.

The term "**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.

The term "**pond**" shall follow the definition of 310 CMR 10.04 except that the size threshold of 10,000 square feet shall not apply.

The term "**private water supply**" shall mean any source or volume of surface or groundwater demonstrated to be in any private use or shown to have potential for private use for domestic purposes.

The term "**public water supply**" shall mean any source or volume of surface water or groundwater demonstrated to be in public use or approved for water supply pursuant to M.G.L. c. 111, Section 160 by the Division of Water Supply of the Department of Environmental Protection or shown to have a potential for public use.

The term "**rare species**" shall include, without limitation, all vertebrate and invertebrate animal and plant species listed as endangered, threatened, or of special concern by the Massachusetts Division of Fisheries and Wildlife, regardless whether the site in which they occur has been previously identified by the Division.

The term "**recreation**" shall mean any leisure activity or sport taking place in, on, or within 100 feet of a resource area which is dependent on the resource area and its values directly or indirectly for its conduct and enjoyment. Recreational activities include, but are not limited to, the following: noncommercial fishing and hunting, boating, swimming, walking, painting, birdwatching and aesthetic enjoyment. Structures and activities in or within 100 feet of a resource area shall not have a significant effect on public recreational values. Notwithstanding this definition, new or expanded recreational activities shall not have a significant effect on other wetlands values identified in §I of this chapter.

The term "**spring**" shall mean any point in the natural environment where water discharges to the surface of the earth from underground.

The term "**vernal pool**" shall include, in addition to scientific definitions found in the regulations under the Wetlands Protection Act, any confined basin or depression not occurring in existing lawns, gardens, landscaped areas or driveways which, at least in most years, holds water for a minimum of two continuous months during the spring and/or summer, is free of adult predatory fish populations, and provides essential breeding and rearing habitat functions for amphibian, reptile or other vernal pool community species, regardless of whether the site has been certified by the Massachusetts Division of Fisheries and Wildlife. The boundary of the resource area for vernal pools shall be the mean annual high-water line defining the depression.

The term "**wildlife**" shall mean all non-domesticated mammals, birds, reptiles, amphibians, fishes or invertebrates. Special consideration shall only be given to members of the class Insecta if they are rare or endangered as defined by the Massachusetts Natural Heritage Program or its successor, or if they are a major food source of other wildlife, but not if the insect species is determined by the Commission and the Board of Health to constitute a pest whose protection under the By-law would be a risk to man at the proposed project site.

The term "**wildlife habitat**" shall mean areas having plant community composition and structure, hydrologic regime, or other characteristics sufficient to provide shelter, nutrient

sourcing, growing conditions, nesting or breeding sites conducive to the propagation and preservation of wildlife.

Except as otherwise provided in this bylaw or in associated regulations of the Conservation Commission, the definitions of terms and the procedures in this bylaw shall be as set forth in the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00).

XI. Security

As part of a permit issued under this bylaw, in addition to any security required by any other municipal or state board, agency, or official, the Conservation Commission may require that the performance and observance of the conditions imposed thereunder (including conditions requiring mitigation work) be secured wholly or in part by one or both of the methods described below:

A. By a proper bond, deposit of money or negotiable securities under a written third-party escrow arrangement, or other undertaking of financial responsibility sufficient in the opinion of the Commission, to be released in whole or in part upon issuance of a COC for work performed pursuant to the permit.

B. By accepting a conservation restriction, easement, or other covenant enforceable in a court of law, executed and duly recorded by the owner of record, running with the land to the benefit of this municipality whereby the permit conditions shall be performed and observed before any lot may be conveyed other than by mortgage deed. This method shall be used only with the consent of the applicant, shall not impose on the Commission any monitoring, reporting, or maintenance duties or obligations, and a charitable corporation or trust must be a grantee in addition to the Commission.

XII. Enforcement

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

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

The Commission shall have authority to enforce this bylaw, its regulations, and permits issued thereunder by letters, phone calls, electronic communication and other informal methods, violation notices, non-criminal citations under G.L. Ch. 40 §21D, and civil and criminal court actions.

Any person who violates provisions of this bylaw may be ordered to restore the property to its original condition and take other action deemed necessary to remedy such violations, or may be fined, or both.

Upon request of the Commission, the Board of Selectmen and town counsel shall take legal action for enforcement under civil law. Upon request of the Commission, the chief of police shall take legal action for enforcement under criminal law.

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

Any person who violates any provision of this bylaw, or regulations, permits, or administrative orders issued thereunder, shall be punished by a fine of not more than \$300. Each day or portion thereof during which a violation continues, or unauthorized fill or other alteration remains in place, shall constitute a separate offense, and each provision of the bylaw, regulations, permits, or administrative orders violated shall constitute a separate offense.

As an alternative to criminal prosecution in a specific case, the Commission may issue citations with specific penalties pursuant to the non-criminal disposition procedure set forth in G.L. Ch. 40 §21D, which has been adopted by the Town in Article XXIV §9 of the general bylaws. The penalty shall be \$100 for the first violation, \$200 for the second violation, and \$300 for each and all successive violations.

XIII. Burden of Proof

The applicant for a permit shall have the burden of proving by a preponderance of the credible evidence that the work proposed in the permit application will not have unacceptable significant or cumulative effects upon the resource area values protected by this bylaw. Failure to provide adequate evidence to the Conservation Commission supporting this burden shall be sufficient cause for the Commission to deny a permit or grant a permit with conditions.

XIV. Appeals A decision of the Conservation Commission shall be reviewable in the superior court in accordance with G.L. Ch. 249 §4.

XV. Relation to the Wetlands Protection Act

This bylaw is adopted under the Home Rule Amendment of the Massachusetts Constitution and the Home Rule statutes, independent of the Wetlands Protection Act (G.L. Ch. 131 §40) and regulations (310 CMR 10.00) thereunder. It is the intention of this bylaw that the purposes, jurisdiction, authority, exemptions, regulations, specifications, standards, and other requirements shall be interpreted and administered as stricter than those under the Wetlands Protection Act and regulations.

XVI. Severability

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

MOTION: Moved that the Town vote to delete Article XXX, Conservation Commission, from the Town of Holliston General By-laws and insert a new Article XXX, Wetlands Protection, as stated in the Article.

SECONDED

DISCUSSION: Henry Dellicker, 24 Skyview Terrace, the new Wetlands Protection By-Law does not include A Conservation Commission, so who will be in charge. Allen Rutberg, 284 South St., said the Conservation Commission is in the State Statute, so there will be a Commission and they will have the authority. Mr Dellicker, made a motion to add Section 1 from the existing by-law to this new one.

MOTION: To add the existing Section 1 from the Conservation Commission By-Law, inserted before *Purpose* and renumber accordingly.

SECONDED

DISCUSSION: Kip Fenton, 655 Marshall St., asked Town Counsel if the Conservation Commission could still function without this amendment, Mr. Mayer responded in the affirmative.

VOTE: Motion to amend Article 15 passed by hand count.
91-Yes 65-No

DISCUSSION CONTINUED: Charles Katuska, Conservation Agent, made a motion to amend the new Section 1 to delete the words "in May".

MOTION: Move to delete the words "in May" from Section 1.

SECONDED

DISCUSSION: None

VOTE: Unanimously passed by voice vote to amend Section 1 as noted above.

DISCUSSION CONTINUED: Frank Chamberlain, 333 Hollis St., asked if there was a provision for existing uses. Mr. Rutberg, replied that there is no change as far as jurisdictions and buffer zones. Mr. Katuska stated that under the new by-law, existing lawn and landscaping are exempt from the Wetland Protection Act. Marty Lamb, 57 Wingate Rd., asked if the proposed by-law is stricter than the existing one. Mr. Katuska said that in order for a new by-law to be proposed it must go above and beyond State Regulations.

VOTE: Passed by voice vote to accept Article 15 as amended above in italics.

A true record, ATTEST:

