

ANNUAL TOWN MEETING
October 17, 2022

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 Seventeenth day of October, 2022 at 7:00 o'clock in the evening, then and there to act on the following articles:

There were 211 voters and 20 non-voters in attendance.

ARTICLE 1

SPONSOR: Select Board

Voted unanimously to amend the vote taken on Article 6 of the May 9, 2022 Annual Town Meeting, by adjusting the line items as printed in the warrant.

As printed in the warrant:

Increase amount to be raised and appropriated revenue from state aid	\$ 37,033
Increase amount from local receipts	<u>\$ 138,644</u>

For a total of	\$ 175,677
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Increase Industrial Schools (S01301-52000)	\$ 125,000
Increase Public Buildings Repair & Maint. (01192-52400)	\$ 9,500
Increase Sealer of Weights & Measures (01210-52400)	\$ 5,097
Increase Police Repairs & Maint. (01210-52400)	\$ 8,368
Increase Assessor Clerical Wages (01141-51130)	\$ 4,107
Increase Head Assessor Wages (01141-51115)	\$ 8,727
Increase Town Manager Deferred Comp. Cont. (01123-51130)	\$ 11,378
Increase in Back-up Plumbing Inspector Wages (01243-51150)	<u>\$ 3,500</u>

For a total of	\$ 175,677
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Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is a budgetary line-item adjustment from the May 9, 2022 Town meeting.

ARTICLE 2

SPONSOR: Select Board

Voted unanimously to raise and appropriate the amount of \$1,000,000 and appropriate \$500,000 to the FY2023 OPEB expense account and \$500,000 to the Roadway Improvements account.

Finance and Warrant Advisory Committee voted 6-0-1 to approve this article. This article is to transfer funds to fund OPEB and roadway improvements. One member abstained due to a conflict with another committee.

ARTICLE 3

SPONSOR: Select Board

Voted unanimously to transfer \$350,000 from Free Cash to the FY2023 OPEB expense account.

Finance and Warrant Advisory Committee voted 6-0-1 to approve this article. This is to transfer funds to fund OPEB account. One member abstained due to a conflict with another committee.

ARTICLE 4

SPONSOR: Select Board

Voted unanimously to transfer \$150,000 from Free Cash to the Special Education Tuition Stabilization Fund.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is to the Special Education Stabilization Fund.

ARTICLE 5

SPONSOR: Select Board

Voted unanimously to transfer \$20,336 from the Compensated Absences Reserve Fund to the FY2023 Sick and Vacation Buyback budget line item.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is to fund vacation and sick pay buy-back for grandfathered retirees.

ARTICLE 6

SPONSOR: Select Board

Voted unanimously to transfer \$10,000 from Free Cash for the purpose of funding appraisals for the Depot Street Bridge reconstruction project including all incidental or related costs.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is for the Depot Street Bridge reconstruction project.

ARTICLE 7

SPONSOR: Select Board

Voted unanimously to transfer \$7,000 from Free Cash for a survey of the “Town of Sutton – c.45 §3 Restriction Area Plan – Hough Road” project, 23 Hough Road to confirm the area that is intended to be restricted for park purposes pursuant to the vote taken on Article 16 of the May 9, 2022 Annual Town Meeting, including all incidental or related costs.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is for the survey of the parcel on Hough Road. The soccer, baseball field and playground.

ARTICLE 8

SPONSOR: Select Board

Voted unanimously to transfer \$5,217.82 from free cash for payment of the following prior year invoices as follows:

Christopher Reidy	\$2,000.00
EDMS	\$2,234.20
Graves Engineering	\$ 983.62

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is for prior years' invoices.

ARTICLE 9

SPONSOR: Sewer Commission

Voted unanimously to transfer \$500,000 from Sewer Connection Fees to fund a portion of the costs of the Wilkinsonville Sewer Project, including all incidental or related costs.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is from the sewer Enterprise Fund for the Wilkinsonville Sewer Project.

ARTICLE 10

SPONSOR: Sewer Commission

Voted unanimously to transfer \$60,000 from Sewer Connection Fees for the purpose of acquiring a sewer pump station easement on property located at 60 Providence Road, including all incidental or related costs.

Finance and Warrant Advisory Committee voted 6-0-1 to approve this article. This is from the Sewer Enterprise Fund for the easement on 60 Providence Road.

ARTICLE 11

SPONSOR: Sewer Commission

Voted unanimously to approve Article 11, as printed in the warrant.

As printed in the warrant:

To waive the \$20,000 connection fee assessed pursuant to the Town of Sutton General Bylaws, Bylaw 10. Public Sewer, Sections 10.9.1 through 10.9.3 inclusive, for 4 units located at 60 Providence Road as part of the sewer easement acquisition, said fee

Finance and Warrant Advisory Committee voted 6-0-1 to approve this article. This is from the Sewer Enterprise Fund to waive connection fees which was part of the contractual agreement in obtaining the easement.

ARTICLE 12

SPONSOR: Sewer Commission

Voted unanimously to transfer \$110,000 from Sewer Retained Earnings to purchase and install a new generator, pump and transfer switch and any other incidental costs associated for the pump station at 40 Whitins Road, including all incidental and related costs.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. This is from the sewer Enterprise Fund to purchase a new generator and pay the rental fee for the one in use.

ARTICLE 13

SPONSOR: Planning Board

Voted by a majority vote to amend the General Bylaws by deleting Bylaw #5 – Earth Removal, in its entirety and replacing it, as printed in the warrant.

As printed in the warrant:

BYLAW 5. EARTH DISTURBANCE & REMOVAL

Purpose: The purpose of this bylaw is to provide a transparent process for both commercial and non-commercial earth removal whether or not earth is taken off the subject lot. Further it is the purpose of this bylaw to ensure the ability of town officials to take action and/or require action of an applicant to protect the public with respect to such operations.

Section 5.1 - Definitions

- a. Abutter: the owner of land abutting a lot including land on the directly opposite side of an abutting way or abutting an abutter within 300 feet of the lot property line.
- b. Board: Planning Board
- c. Earth: All forms of soil including, without limitation, sod, loam, sand, gravel, clay, peat, hardpan, rock, quarried stone, or mineral products.
- d. Earth Removal: Removing and/or disturbing earth via any number of means including but not limited to excavating, grading, digging, or blasting, whether or not the earth is removed from the subject lot.
- e. Earth Removal Class 1: Commercial and High Volume: Any earth removal which is more than 3,000 cubic yards within a 12-month period, that is not otherwise defined as Class 2 or Class 3.
- f. Earth Removal Class 2: Subdivision/Site Plan/Special Permit: Earth Removal which is entirely incidental, in the opinion of the Planning Board, to an approved subdivision, site plan, or special permit.

- g. Earth Removal Class 3: Residential, Agricultural, and Low Volume: Earth removal which is entirely incidental, in the opinion of the Building Commissioner, to construction that is subject to an approved building permit for a single family home or agricultural building/operation; or that which is 3,000 cubic yards or less within a 12-month period. Earth removal or the placement of fill associated with the installation of septic systems, which shall be governed by the Commonwealth of Massachusetts Environmental Code (Title 5, 310 CMR 15.00).
- h. Lot: An area of land on which earth is sought to be removed.
- i. Owner: The Person who holds the fee interest in the Lot.
- j. Person: Shall include but not be limited to an individual, corporation, society, association, partnership or other legal entity.
- k. Surety: a method of securing performance of a permit which shall take the form of (1) insurance bond, (2) cash deposit, or (3) tri-party agreement with a lender.

Section 5.2 – Applicability

This Bylaw shall be administered by the Board to apply to all Earth Removal operations in the Town of Sutton. It shall apply to all areas regardless of zoning district. Nothing in this Bylaw shall prevent the application of the Zoning Bylaws that may otherwise be applicable.

Class 1 Earth Removal: All Class 1 operations shall comply with this bylaw in its entirety following the Full Permit procedures, and may not apply for an Abbreviated Permit.

Class 2 Earth Removal: May apply for an Abbreviated Permit in accordance with Section 5.3 of this bylaw.

Class 3 Earth Removal:

- A. **Where 3,000 cubic yards or more is removed from a lot**, may apply for an Abbreviated Permit in accordance with Section 5.3 of this bylaw.
- B. **Where all earth remains on a lot or less than 3,000 cubic yards is removed from the lot**, is exempt from the requirement to file for an Abbreviated or Full Permit. However, these operations must still comply with the applicable provisions of Section 5.6b.

Municipal Earth Removal: Earth Removal operations for any municipal purpose by or on behalf of the Town of Sutton or any department or agency thereof shall be treated in the same manner as any other proposed earth removal operation of a similar type/size.

Section 5.3 - Abbreviated Permit

The applicant shall file an application and fee and meet with the Board in open meeting to discuss the request and present plans to support the request. The application and plans shall include: the boundaries of the subject Lot with metes and bounds and distances; the existing and proposed site elevations and a color/pattern coded indication of where cuts and fills will be occurring with the approximate volumes; erosion and stormwater control measures, the legal name and address of the owner; the legal name and address of the applicant, proposed hours of operation and overall duration of the project, trucking routes and approximate number of trips for any earth that is being moved off the lot. The Board shall decide on such requests for an abbreviated permit within forty-five days of receipt of the complete application. The Board may require the proposed earth removal to meet any or all of the standards set forth in sections 5.6 - 5.9 as determined to be necessary by the Board.

Section 5.4 – Full Permit

Hearing - Before issuing a new permit, the Board shall hold a public hearing after giving at least fourteen days' notice of the time and place thereof, such notice to be by advertisement in a newspaper of general circulation in the town and by certified mail, postage prepaid to all abutters within 300' as they appear upon the most recent tax list. Notice costs shall be borne by the applicant.

The Board shall distribute copies of the application to the Conservation Commission, Police Chief, Highway Superintendent, Fire Chief, Building Commissioner, Select Board and local utilities if proposed work is within their districts. Such officials may, within twenty-one days, provide such comments as they deem appropriate; provided, however, that failure to provide such comments within said period shall not prevent the Board from thereafter acting on the application.

Section 5.5 – Full Permit Application and Plan Requirements

Applications for Full Earth Removal Permits shall be made to the Board by filing an application with the Board on a form provided by the Board.

Each application shall include and be accompanied by the following information and supporting documentation:

- a. a filing or renewal fee in an amount established by the Board and contained in the Rules and Regulations.
- b. the legal address of the Lot together with a description by metes and bounds of the Lot proposed for excavation.
- c. legal name, address, and contact information of the Owner of the Lot
- d. legal name, address, and contact information of the petitioner, which address shall be used by the Board for all correspondence hereunder.
- e. names and both property and mailing addresses of Abutters within 300' as appearing on the most recent tax list as certified by the Assessors.

f. a current topographical plan\map of the Lot showing zoning classification and topography of surrounding areas within 100 feet of the property line.

g. a certified statement made by a registered engineer or land surveyor and plan showing the current and proposed elevations, color/pattern coded location and volume of excavation (cut) and fill (if proposed) and volume to be removed from the lot (if applicable). If earth is proposed to be removed from the site, the submittal shall include proposed truck routes, number of trips, and destination.

h. a separate plan of the land showing proposed contours of the site at the completion of the project as well as temporary and permanent methods of stabilization, restoration, stormwater and erosion control, and safety measures.

i. the form of the Surety proposed to be submitted in accordance with Section 5.7.

j. the applicant shall also pay, in addition to the filing or renewal fees set forth above, such other costs to cover the expense of a review engineer, attorney, or other professionals and expenses incurred by the Town relative to the review of the application, that are not otherwise covered by the filing or renewal fee. The Board may adopt and from time-to-time revise regulations for the imposition of reasonable fees for the employment of such outside consultants as set forth in M.G.L. c. 44 §53G.

Section 5.6 - Granting or Denying Abbreviated or Full Permits

a. In granting or denying a permit, in whole or in part, the Board shall take into consideration whether or not the granting of a permit would:

1. endanger the public health or safety, or existing or potential water supplies;
2. constitute a nuisance;
3. result in detriment to the normal use of adjacent property by reason of noise, dust or vibration, or undermining the property;

b. Permits issued by the Board shall comply at a minimum with the following provisions:

Class 1 Earth Removal:

1. Operations may not occur within 200 feet of a way open to the public use, whether public or private, or within 200 feet of a building or other structure unless the Board is reasonably satisfied that such operations will not undermine such way or building or other structure.
2. No removal below the natural grade shall be permitted within 200 feet of a residentially zoned property line unless safety and protection from nuisance factors is assured through additional

measures such as fencing or sloping as determined by the Board. In no case shall excavation take place within 100 feet of a residentially zoned property line unless the abutting land is subject to an Earth Removal permit granted under this Bylaw and the owner of such land has granted written approval of such removal. The buffer zones shall remain undisturbed with regard to vegetation unless approved by the Board. The applicant must stake the proposed zones for review by the Board or its agent(s) prior to any vegetation removal. At the discretion of the Board, planting or otherwise upgrading of existing vegetation may be required. The Board may waive portions of this requirement at its discretion with justification.

3. The lowest excavated point shall be no less than ten (10) feet above the existing groundwater table. To ensure this depth, the Owner shall, at its expense, install observation wells in accordance with the requirements of the Board's agent.
4. New permits shall be limited to an area of five acres. Subsequent permits shall be issued only upon reclamation of the original area. The Board may waive portions of this requirement at its discretion with justification.

Class 1, 2 & 3 Earth Removal:

1. No slope created by Earth Removal operations shall be finished at a grade in excess of 2 (horizontal) to 1 (vertical) unless specifically otherwise authorized in the permit.
2. The routes proposed for truck traffic shall be reviewed and accepted by the Police\Highway Departments to determine safety and road conditions.

- c. Applications for permits may be granted, denied, or granted in part and denied in part.

Section 5.7 - Operating Standards

All Full Permits and certain Abbreviated Permits issued by the Board shall be subject to the following conditions which shall be set forth in the permit.

- a. No area shall be excavated so as to allow the accumulation of freestanding water.
- b. Such other reasonable requirements consistent with the provisions of this Bylaw and such rules and regulations as the Board may adopt hereunder including, but not limited to, grading, constant sloping, seeding, and planting, fencing or screening necessary for public safety and/or visual aesthetics; methods of removal; location and use of buildings and other structures; hours of operation, routes of transportation of Earth Removal, control of dust, debris, drainage and disposition of waste incidental to the removal operations.

- c. Upon the conclusion of Earth Removal operations all areas upon which such operations have been conducted shall be covered with not less than four inches of topsoil capable of supporting vegetation brought to the finished grades and seeded with a cover crop, suitable to the Board, except where ledge rock is exposed and all large stones and boulders which protrude above finished grade shall be buried or removed. The Board shall require the applicant to guarantee growth of the crop cover on such areas within two years of seeding.
- d. If blasting is anticipated, the Board has the right to evaluations specific to potential effects of the blasting, and to require notifications, safeguards, and/or mitigation responsive to the specifics of the proposed operations.

Section 5.8 – Surety

- a. Prior to commencing Earth Removal operations, the applicant shall post with the treasurer of the Town of Sutton proper Surety in such form and amount and with such sureties as determined by the Board to be sufficient to guarantee compliance with the terms and conditions of the permit and any amendments thereto. The purpose of the Surety is to assure that funds are available to the Town to comply with this Bylaw and to complete restoration. The Board may waive this requirement at its discretion.
- b. The Surety shall not be released until (1) the owner's surveyor or engineer has filed with the Board an "as built" plan and has certified that the restoration has been completed in compliance with the permit and the plans, and (2) the final plans and site have been reviewed by the Board's Agent and signed off by the Board. Outstanding fees and or penalties owed to the Town shall be paid in full prior to the release of the Surety.

Section 5.9 – Permit Expiration and Renewals

Expiration - Any permit issued hereunder shall automatically expire upon completion of the Earth Removal project for which it was issued or at such other time as may be specified in said permit; provided however, that no such permit shall be valid for more than one year from the date of issuance.

Renewals - Upon application for renewal of a permit, the Board may in its discretion grant renewals for periods of up to one (1) additional year without a public hearing. The Board shall notify the town departments per section 5.4.b. Any renewal application shall meet the same requirements as a new permit.

Section 5.10 - Rules and Regulations

The Board may adopt and amend reasonable rules and regulations to carry out the purpose of this Bylaw. Said rule-making authority includes, but is not limited to, regulations regarding applications, site plan detail, engineering detail, criteria to be met to protect aquifers or wetlands, criteria for site restoration notices and enforcement. Said rules and regulations shall not be effective until reviewed and authorized by the Board of Selectmen and filed in the Office of the Town Clerk.

Section 5.11- General Provisions

- a. If the Board determines that any Person is violating any provision of this Bylaw, the Board may order such Person to cease and desist from such violation. The Board shall cause notice of the order to be served on such Person by mail or by having it delivered in hand by the Board's agent. If after receipt of such notices such Person continues such violation; such Person shall be subject to a penalty of \$300, as outlined in M.G.L. c.40, §21D and Town of Sutton General Bylaw Section 19.2. Each day for which any such violation continues after receipt of such notice shall be deemed to be a separate offense.
- b. For the purposes of ensuring compliance with this Bylaw, the Board shall appoint an agent who shall have such authority as is specifically delegated by vote of the Board. Said authority shall not exceed that authority granted to the Board under this Bylaw. The appointment of said agent shall not take effect until notice thereof is filed with the Town Clerk and the Board of Selectmen.

Section 5.12 – Pre-Existing Operations

Class 1 Earth Removal activities in lawful operation prior to 1987 may continue subject to the below listed conditions.

- a. Applications for renewal of permits for existing operations shall meet all the plan requirements as set forth in this Bylaw and the application shall include information on all contiguous open areas owned by the applicant.
- b. Any excavation shall be at least 10 feet above the water table. If excavation is already below that level, the area shall be filled to a level sufficient to protect the water supply as determined by the Board.
- c. Operations shall be exempt from the limitation on the number of acres open at one time. The Owner shall submit a reclamation plan acceptable to the Board on the recommendation of its engineering agent. This plan shall include the location and number of acres to be reclaimed within one year. A long-range plan may also be required at the discretion of the Board.
- d. Any area of excavation which is already within the required buffer shall be fenced and screened from abutting residences unless the Board determines that no nuisance or safety problems exist.
- e. New excavations, constituting an expansion of operations into areas of land not presently being mined, will require permits in accordance with the terms of this Bylaw.

Section 5.13 – Validity

The invalidity of any section or provision of this Bylaw shall not invalidate any other section or provision hereof.

Finance and Warrant Advisory Committee voted 7-0 to approve this article. The committee concurred with the vote of the Planning Board.

Planning Board voted to recommend that Town Meeting vote to approve this article. 5-0-0

Commentary: Over the last year, the Board has been frustrated by earth removal operations of significant scale that technically do not fall within the Towns existing regulations. As such there was no ability to require advance notifications and/or public meetings, review anything other than potential storm water impacts, or require mitigation.

What the Bylaw Changes **DO**:

- *Amend the definition of earth removal to include earth disturbance whether or not earth leaves a site*
- *Require a public hearing process for earth removal over 3,000 c.y. that doesn't fall within uses that require permits*
- *Exempt single family/agricultural uses where all earth stays on site or less than 3,000 c.y. is removed from the site from any permit process*
- *Require more complete information for full and abbreviated permit requests*
- *Increases the amount of earth a single family home/agricultural use may disturb or remove from a site without a permit*
- *Put applicants on notice that if their project requires blasting there may be additional requirements*

What the Bylaw Changes **DON'T**:

- *Require typical single family/agricultural uses to do additional permitting*
- *Change anything for pre-existing commercial operations, of which only one remains*
- *Change existing minimum permit provisions (conditions) or operating standards*

ARTICLE 14

SPONSOR: Christine Watkins

The Moderator declared this article defeated, 89 yea and 109 nay, to amend the General Bylaws, Bylaw #3 – Town Meeting/Town Elections, as printed in the warrant.

As printed in the warrant:

To amend the General Bylaws, Bylaw #3 – Town Meeting/Town Elections to include the requirement for a quorum of 1.5% of the registered voters, with a minimum of 100 registered voters, for all annual spring and fall town meetings adjusted annually on January 1 of each year.

Finance and Warrant Advisory Committee voted 7-0 to NOT approve this article.

Meeting adjourned at 8:41pm.

Respectfully submitted,
Laura J. Caruso
Town Clerk