

Memo

To: Town Council
From: Jeffrey Nutting, Town Administrator
Date: January 27, 2017
Re: Vote on Home Rule Petition



Attached is a Resolution to file a home rule petition for legislation to request the Commonwealth to transfer 4.71 acres of land adjacent to the current Recycling Center to the Town. The transfer of land will allow the Town to cap the portions of the old landfill that were never capped including refuse on state property and improve the Recycling Center.

This proposal has been reviewed by the Department of Conservation and Recreation and an Environmental Notification process has been completed. (See attached)

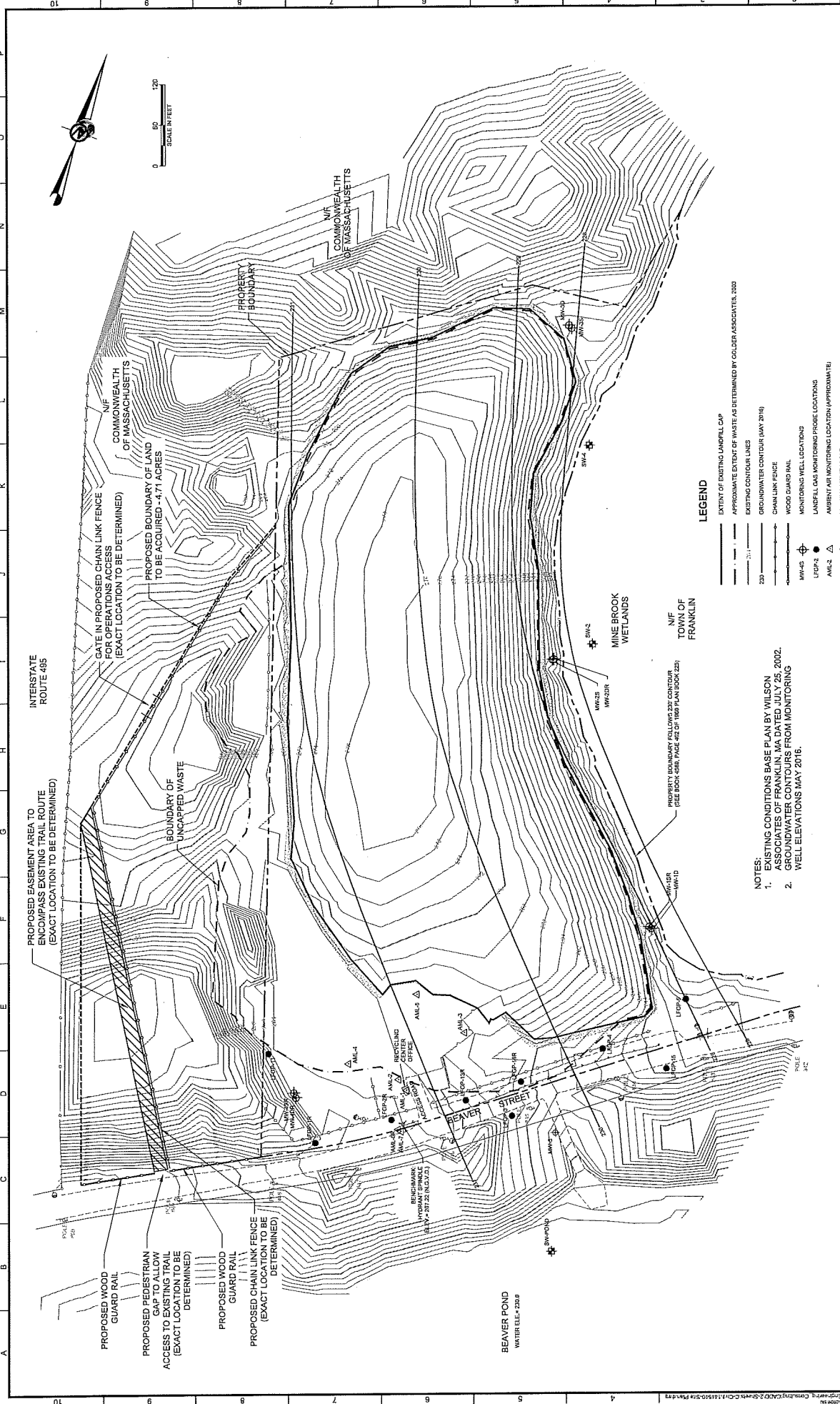
The Town will be transferring 29.3 acres of land that was acquired by Tax Title that abuts the State Forest generally in the area off Lorraine Metcalf Road for the property abutting the Recycling Center.

The process requires approval of the legislature and Governor as well as appraisals and surveys to complete the land swap.

Once Franklin takes ownership of the land, we will begin a process to cap the old landfill and then improve the Recycling Center. Early estimates suggest the cost of between \$2 and \$3 million dollars, but the actual cost will not be known until the project is designed, bid, and built.

If the legislation is approved this year, I would anticipate requesting funds for the design portion of the capping/Recycling Center.

I am happy to answer any questions you may have.



- LEGEND**
- EXTENT OF EXISTING LANDFILL CAP
 - APPROXIMATE EXTENT OF WASTE AS DETERMINED BY COLDER ASSOCIATES, 2000
 - EXISTING CONTOUR LINES
 - GROUNDWATER CONTOUR (MAY 2016)
 - CHAIN LINK FENCE
 - WOOD GUARD RAIL
 - MONITORING WELL LOCATIONS
 - LANDFILL GAS MONITORING PROBE LOCATIONS
 - △ AMBIENT AIR MONITORING LOCATION (APPROXIMATE)
 - β EXISTING UTILITY POLE

NOTES:

- EXISTING CONDITIONS BASE PLAN BY WILSON ASSOCIATES OF FRANKLIN, MA DATED JULY 25, 2002.
- GROUNDWATER MONITORING FROM MONITORING WELL ELEVATIONS MAY 2016.


| <p>Brown and Caldwell TOWN OF MASSACHUSETTS</p> | | <p>LANDFILL SITE PLAN TOWN OF FRANKLIN BEAVER STREET LANDFILL PREPARED FOR: TOWN OF FRANKLIN</p> | | | | | | | | | | | | | | | | | | | | | |
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| <p>DATE: 11/15/16 PROJECT NUMBER: 161516 DRAWN: JCS CHECKED: JCS APPROVED: BROWN/CALDWELL</p> | <p>DATE: 11/15/16 PROJECT NUMBER: 161516 DRAWN: JCS CHECKED: JCS APPROVED: BROWN/CALDWELL</p> | <p>DATE: 11/15/16 PROJECT NUMBER: 161516 DRAWN: JCS CHECKED: JCS APPROVED: BROWN/CALDWELL</p> | <p>DATE: 11/15/16 PROJECT NUMBER: 161516 DRAWN: JCS CHECKED: JCS APPROVED: BROWN/CALDWELL</p> | | | | | | | | | | | | | | | | | | | | |
| <p>LINE SIZE INCHES: 1/8" (IF NOT 2" - SCALE ACCORDINGLY) SCALE: 1" = 120' DESIGNED: JCS DRAWN: JCS CHECKED: JCS APPROVED: BROWN/CALDWELL</p> | <p>EXTERNAL REFERENCES:</p> <table border="1"> <tr> <th>ZONE REF.</th> <th>DESCRIPTION</th> <th>REV.</th> <th>DATE</th> <th>APP.</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> | ZONE REF. | DESCRIPTION | REV. | DATE | APP. | | | | | | <p>REVISIONS:</p> <table border="1"> <tr> <th>ZONE REF.</th> <th>DESCRIPTION</th> <th>REV.</th> <th>DATE</th> <th>APP.</th> </tr> <tr> <td> </td> <td> </td> <td> </td> <td> </td> <td> </td> </tr> </table> | ZONE REF. | DESCRIPTION | REV. | DATE | APP. | | | | | | <p>CLIENT PROJECT NUMBER: 161516 DRAWING NUMBER: 6 SHEET NUMBER: 6 OF 6</p> |
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LAND TRANSFER

 Project Location
 Parcel Line



0 125 250 500
Feet

Town of Franklin 



COMMONWEALTH OF MASSACHUSETTS
(Division of State Parks & Rec)
21 acres
Parcel #288-008-000

TOWN OF FRANKLIN
32 acres
Parcel #277-007-000

TOWN OF FRANKLIN
19 acres
Parcel #277-006-000

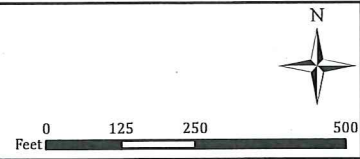
Recycling Center

BEAVER ST

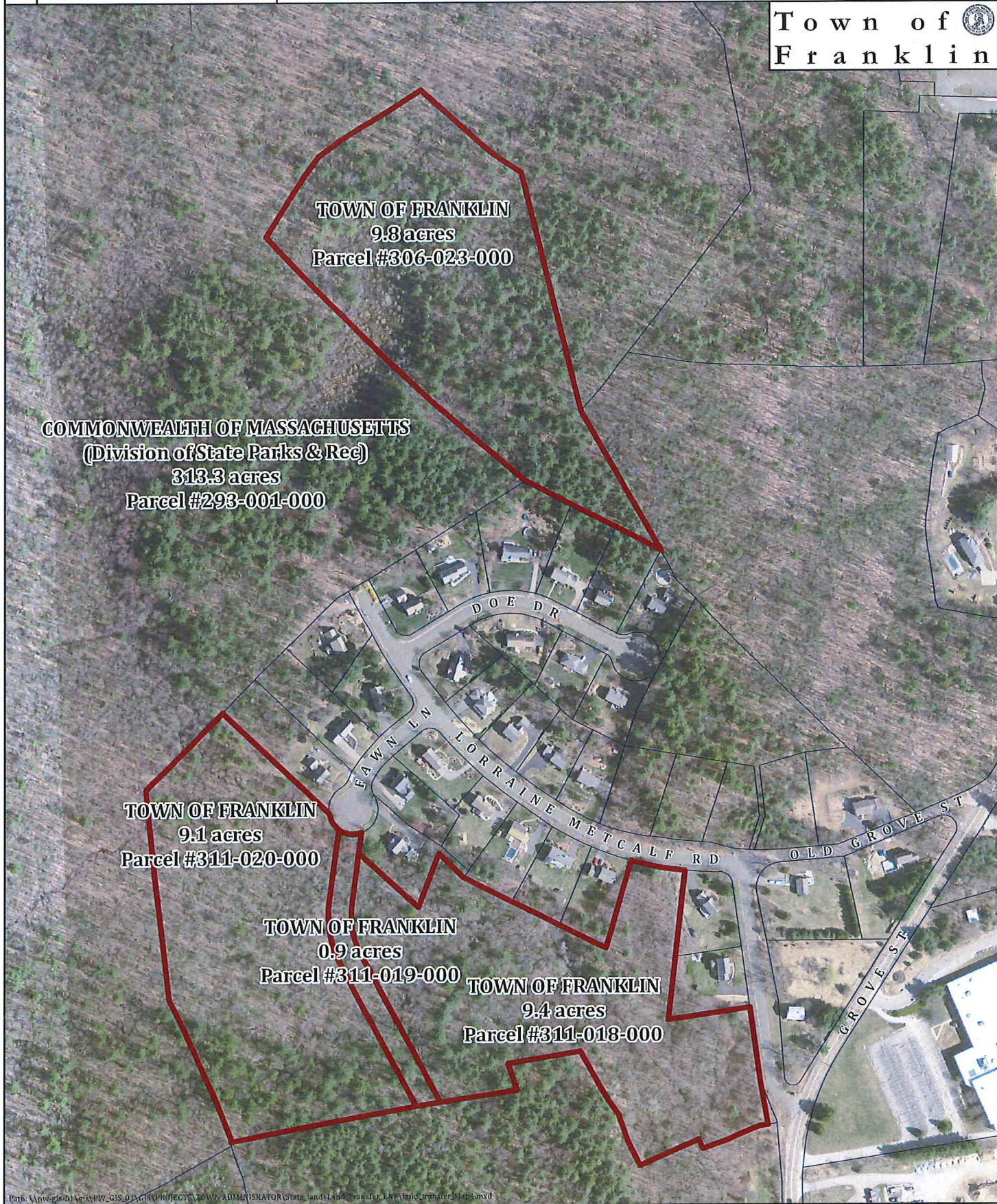
GROVE ST

LAND TRANSFER

Land to be Released to DCR
Parcel Line



Town of Franklin



TOWN OF FRANKLIN
9.8 acres
Parcel #306-023-000

COMMONWEALTH OF MASSACHUSETTS
(Division of State Parks & Rec)
313.3 acres
Parcel #293-001-000

TOWN OF FRANKLIN
9.1 acres
Parcel #311-020-000

TOWN OF FRANKLIN
0.9 acres
Parcel #311-019-000

TOWN OF FRANKLIN
9.4 acres
Parcel #311-018-000



The Commonwealth of Massachusetts
Executive Office of Energy and Environmental Affairs
100 Cambridge Street, Suite 900
Boston, MA 02114

Charles D. Baker
GOVERNOR

Karyn E. Polito
LIEUTENANT GOVERNOR

Matthew A. Beaton
SECRETARY

Tel: (617) 626-1000
Fax: (617) 626-1181
<http://www.mass.gov/envir>

January 6, 2017

CERTIFICATE OF THE SECRETARY OF ENERGY AND ENVIRONMENTAL AFFAIRS
ON THE
ENVIRONMENTAL NOTIFICATION FORM

PROJECT NAME : Article 97 Land Disposition
PROJECT MUNICIPALITY : Franklin
PROJECT WATERSHED : Charles River
EEA NUMBER : 15619
PROJECT PROPONENT : Town of Franklin
DATE NOTICED IN MONITOR : December 7, 2016

Pursuant to the Massachusetts Environmental Policy Act (MEPA) (M.G. L. c. 30, ss. 61-62I) and Section 11.06 of the MEPA regulations (301 CMR 11.00), I hereby determine that this project does not require an Environmental Impact Report (EIR).

Project Description

As described in the Environmental Notification Form (ENF)¹, the project entails a Land Transfer from the Department of Conservation and Recreation (DCR) to the Town of Franklin. The purpose of the Land Transfer is to facilitate the final closure of the Beaver Street Landfill. Specifically, it will enable the Town to extend the capping and closure over a 2.8-acre area of uncapped waste on a parcel adjacent to the Landfill. The Town of Franklin will acquire approximately 4.71 acres of land adjacent to the Town's Recycling Center and Beaver Street Landfill. The Town is proposing to relocate the Recycling Center and leaf/yard waste composting operation onto the capped area including approximately 1 acre of land being transferred from DCR.

¹ Supplemental information was received on 12/19/2016. Reference to the ENF shall mean the ENF and supplemental information.

Project Site

The 4.71-acre parcel is located on Beaver Street in Franklin. It is bounded by Mine Brook to the north, Beaver Street to the south, the Town's Recycling Center and Beaver Street Landfill to the east and Interstate 495 (I-495) to the west. It is located within the Franklin State Forest on a 21.24-acre lot which is isolated from the remaining forest by I-495.

The Beaver Street Landfill was used by the Town of Franklin as a solid waste disposal site between the early 1970's and 1981. Town-generated construction and demolition debris was accepted between from 1994 until 1997 when it was capped for a second time. A Comprehensive Site Assessment (CSA) performed in 2003 identified approximately 2.8 acres of uncapped waste. The waste is located on .9 acres (40,800 sf) of DCR property and 1.9 acres of Town land including within the Recycling Center site.

Jurisdiction and Permitting

The project is undergoing MEPA review and requires the preparation of an ENF pursuant to 301 CMR 11.03 (1)(b)(3) and 11.03 (1)(b)(5) because it involves a Land Transfer and consists of conversion of land held for natural resource purposes in accordance with Article 97 of the Amendments to the Constitution of the Commonwealth to any purpose not in accordance with Article 97 and involves the release of an interest in land held for conservation, preservation, agricultural or watershed purposes. The project may require a Construction and Access Permit from DCR. Construction and operation of the Recycling Center on the capped landfill will require a Post-Closure-Use Permit from the Massachusetts Department of Environmental Protection (MassDEP).

Work associated with the landfill closure may require an Order of Conditions from the Franklin Conservation Commission and in the case of an appeal, a Superseding Order of Conditions from MassDEP.

Because the project involves a Land Transfer from DCR, MEPA jurisdiction is broad in scope and extends to all aspects of the project that may cause Damage to the Environment, as defined in the MEPA regulations.

Environmental Impacts and Mitigation

The Land Transfer is necessary to address an outstanding public health and safety issue by facilitating the final closure of the unlined landfill. The Town of Franklin will provide compensatory open space to DCR (at a 6:1 ratio) as mitigation for the transfer of 4.71 acres of Article 97 land. The compensatory open space consists of four parcels of undisturbed, forested land totaling 29.3 acres which will be protected pursuant to Article 97. Three of the parcels (19.5 acres) are contiguous and border the Franklin State Forest for approximately 1,000 feet. The remaining 9.8-acre parcel is generally bounded by the Franklin State Forest. The compensatory open space contains wetland resources including a perennial stream that serves as a headwater to Mine Brook.

In addition, the Town has committed to grant permanent access easements to DCR. These consist of an easement across the western edge of the 4.71 acre parcel to maintain public access for the remaining 16.53 acres of Franklin State Forest located to the east of I-495 and an easement through the Town Recycling Center for DCR operations. The Town has agreed to construct a chain-link fence enclosing the recycling center as well as a wooden guardrail along the north side of Beaver Street to deter the unauthorized use of Off-Highway Vehicles on the property. The Town will work with DCR to close a number of unauthorized trails and trails that have been severely eroded by Off-Highway Vehicle use.

Wetland resource areas within the Landfill and 4.71 acre parcel will be delineated upon completion of the Land Transfer. Direct impacts on wetland resource areas are not anticipated; however work within the buffer zone may require an Order of Conditions from the Franklin Conservation Commission.

Review of the ENF

The ENF provides a description of existing and proposed conditions, a discussion of project alternatives, preliminary project plans, and identifies measures to avoid, minimize, and mitigate project impacts. The Proponent also provided supplemental information to address the potential future use of the parcel including the relocation of the Town's Recycling Center and necessary State Agency Actions. The ENF included an alternative to the Land Transfer and subsequent capping of the waste involving the off-site disposal of the waste at a permitted solid waste facility. This alternative was dismissed because it is cost prohibitive and would require excavation, truck transportation and restoration of the waste footprint.

Article 97

A transfer of Article 97 land requires legislative approval and compliance with the Executive Office of Energy and Environmental Affairs (EEA) Article 97 Land Disposition Policy (the Policy). A primary goal of the Policy is to ensure no net loss of Article 97 lands under the ownership and control of the Commonwealth. Allowances are made within the Policy for exceptional dispositions. The ENF provides a sufficient alternatives analysis, information regarding impacts to Article 97 land, and associated mitigation to support a finding by DCR that exceptional circumstances exist such that a disposition of Article 97 land may be appropriate. Comments from DCR are supportive of the Land Transfer and indicate that the proposed mitigation land, as well installation of guard rails, chain-link fence and unauthorized trail closures will provide greater value than the isolated 4.71-acre parcel. The compensatory open space will result in a significant expansion of the main portion of the Franklin State Forest and will enhance public access. DCR will not act on the Land Transfer until legislation is issued.

Solid Waste

The capping of the landfill will require a Corrective Action Design approval and a Landfill Closure Completion certification. Relocation of the Recycling Center and leaf/yard waste composting program will require a Landfill Post-Closure Use permit (BWP SW 36).

MassDEP has encouraged the Town to finalize the Land Transfer before advancing closure activities. MassDEP will not issue any permits until the Land Transfer is completed.

Conclusion

The ENF has sufficiently defined the nature and general elements of the project for the purposes of MEPA review and demonstrated that the project's environmental impacts will be avoided, minimized and/or mitigated to the extent practicable. Based on review of the ENF and comments received, and in consultation with State Agencies, I have determined that no further MEPA review is required.

January 6, 2017

Date



Matthew A. Beaton

Comments Received:

12/27/2016 Department of Conservation and Recreation (DCR)
12/27/2016 Department of Environmental Protection – Central Regional Office (DEP – CERO)

MAB/EFF/eff



TOWN OF FRANKLIN

RESOLUTION 17-05

REQUEST FOR SPECIAL LEGISLATION, RE: AUTHORIZATION FOR STATE TO CONVEY ARTICLE 97 LAND TO TOWN

WHEREAS, Town desires to acquire a portion of State-owned land abutting Town’s former landfill, which land is currently designated conservation land and subject to the protections contained in Article 97 of the Massachusetts Constitution.

WHEREAS, The so-called Home Rule Amendment to the Massachusetts Constitution provides a mechanism for a municipality to petition the General Court to enact legislation applicable only to that municipality, including the proposed legislation.

NOW, THEREFORE, the Town of Franklin acting by and through its Town Council hereby petitions the General Court to enact the legislation captioned “Authorization to Convey Article 97 Land to Town of Franklin”, a copy of which is attached hereto as “Exhibit 1” for Franklin’s benefit, in substantially the form attached, and directs the Town Administrator to transmit said legislation to State Representative Jeffrey N. Roy for filing.

This Resolution shall become effective according to the rules and regulations of the Town of Franklin Home Rule Charter.

DATED: February ____, 2017

VOTED:
UNANIMOUS _____

A True Record Attest:

YES _____ **NO** _____

ABSTAIN _____

Teresa M. Burr
Town Clerk

ABSENT _____

Judith Pond Pfeffer, Clerk
Franklin Town Council

**AUTHORIZATION TO CONVEY ARTICLE 97 LAND
TO TOWN OF FRANKLIN**

SECTION 1. Notwithstanding the provisions of sections 34 to 37 of Chapter 7C of the General Laws, the commissioner of capital asset management and maintenance, in consultation with the commissioner of conservation and recreation, may convey the fee interest in a certain parcel of land, currently under the care and control of the department of conservation and recreation and held for conservation and recreation purposes to Town of Franklin, to be used for the purposes of landfill capping, solid waste transfer station and recycling center, subject to the requirements of sections 2 through 5 and to such additional terms and conditions consistent with this act as the commissioner of capital asset management and maintenance may prescribe in consultation with the commissioner of conservation and recreation. The parcel of land contains 4.71 acres, more or less, and is shown on a plan of land entitled "Landfill Site Plan" to be filed with Norfolk County Registry of Deeds. Prior to finalizing the transaction or making the conveyance authorized herein, the division of capital asset management and maintenance may make minor modifications to the area and plan in order to carry out the purposes of this act.

SECTION 2. An independent appraisal of the fair market value and value in use of the parcel described in section 1 shall be prepared in accordance with the usual and customary professional appraisal practices by a qualified appraiser commissioned by the commissioner of capital asset management and maintenance. Consideration for the grant of the above-described interest shall be the full and fair market value or the value in proposed use, whichever is greater, as determined by the commissioner of capital asset management, and calculated with regard to its full development potential as assembled with other lands owned or otherwise controlled by the grantee. The commissioner of capital asset management and maintenance shall submit the appraisal or appraisals to the inspector general for his or her review and comment. The inspector general shall review and approve the appraisal or appraisals, and the review shall include an examination of the methodology utilized for the appraisal or appraisals. The inspector general shall prepare a report of his or her review and file the report with the commissioner of capital asset management and maintenance for submission by said commissioner to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight. Said commissioner shall submit copies of the appraisals, and the inspector general's review and approval and comments, if any, to the house and senate committees on ways and means and the joint committee on state administration and regulatory oversight at least 15 days prior to the execution of documents effecting the transfers described in section 1.

SECTION 3. To ensure a no-net-loss of lands protected for natural resource purposes, the grantee shall compensate the commonwealth for the interest in land described in section 1 through the transfer to the department of conservation and recreation of land, an interest of land or funding for the acquisition of land or an interest therein equal to or greater than the resource

value of the land described in section 1 and the highest appraised value as determined under section 2. The fair market value of any land or interest in land proposed to be conveyed by the grantee to the department shall be included within the appraisal prepared under section 2. The land, interest in land, or funding must be acceptable to the department of conservation and recreation; and any land or interest in land, whether conveyed by the grantee or acquired by the department, shall be permanently held and managed for conservation and recreation purposes by the department. Should the appraised value of any land or interests in land be determined to be greater than the appraised value of the interests in land described in section 1, the commonwealth shall have no obligation to pay the difference to the grantee. All payments paid to the commonwealth as a result of the conveyances or grants authorized by this act shall be deposited in the Conservation Trust established in section 1 of chapter 132A of the General Laws.

SECTION 4. The grantee shall assume all costs associated with engineering, surveys, appraisals, deed preparation and other expenses deemed necessary by the commissioner of capital asset management and maintenance to execute the conveyances authorized by this act.

SECTION 5. No instrument executed pursuant to this act shall be valid unless it provides that the area conveyed shall be used solely for the purposes described in section 1. The instrument authorized in section 1 shall include a reversionary clause that stipulates the property shall revert to the commonwealth and be assigned to the care, custody and control of the department of conservation and recreation, upon such terms and conditions as the commissioner of capital asset management and maintenance may determine, if the property ceases to be used for the express purposes authorized in this act. If any interest reverts to the commonwealth, any further disposition shall be subject to sections 34 to 37, inclusive, of chapter 7C of the General Laws and the prior approval of the General Court.