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July 2, 2018

Interim Town Manager
Board of Selectmen
Board of Health
CC: Town Departments

RE: 161 Nashua Road Reclamation Project

Dear Board of Selectmen, Board of Health and Interim Town Manager,

This letter will identify some initial various steps and actions to aide in protection of the Town and all Town Boards, the Town Residents, the Nashua River and the Property Owner (proponent).

1. The Town, Board of Health, Conservation Commission and all Pepperell Town boards/commissions immediately request Intervenor status from MA DEP on the 161 Nashua Road project. (**NOTE: there is usually a very short time period to do this**).
2. The Town will create a Noise By-Law. Reference **Appendix A**
3. Require the proponent, and whatever parties they deem necessary, to have 2-4 informational sessions about the project
4. Require the proponent to publish a quarter-page ad in the Lowell Sun and Nashoba Valley Voice regarding the project, length of project and project details.
5. Request from the proponent's environmental firm the pre-gravel removal/ initial topography from the Proponents property identified for reclamation. Information provided by the proponents environmental firm will be confirmed/verified with the Pepperell Town Engineer partnering with Pepperell Conservation.
 - 5.1 Reclamation must only be the amount of gravel/sand/soil that was initially removed. Any amount greater than removed would be categorized as illegal dumping.
6. Request from the proponent's environmental firm the approximate amount of historical gravel/dirt removal and dates (approximate) from the identified property. This information should include size of truck, volume of dirt/gravel in truck and approximate dates (such as month and year). This information will be confirmed/verified with the Pepperell Town Engineer and Town Historian along with historical newspaper articles.

7. The proponent MUST provide to the Town the number of daily trucks expected, hours of delivery, volume of truck loads, minutes/hours of unload time (i.e. how long to unload a truck), minutes of truck idle time (i.e. how long will the trucks idle).
 - 7.1 The Town will provide regulated Operating Hours, such as 8 a.m. to 6 p.m. Monday through Friday. No dumping on Weekends or Holidays. Violations of regulated hours items will be subject to Significant Fines set by the Town.
8. The proponent MUST provide a detailed list of possible materials, material components/composition, material coatings, debris, any/all items that will be dumped in the reclamation area defined.
 - 8.1 MA DEP must provide the Town a weekly, but no less than bi-weekly report on materials, quantities/volumes, etc that were loaded into the trucks.
 - 8.2 MA DEP must provide the Truck Driver with the validated paperwork of materials and that will be offloaded in/into the Reclamation area. Driver's without validated paperwork will **not** be allowed to transfer material(s) from the truck dumpster to Reclamation area. The driver's paperwork will have a "MA DEP stamp" and record of the materials.
 - 8.3 The proponent MUST provide funding for Town independent environmental agency that will monitor and conduct monthly testing of dumped materials/items. The proponent will fund removal and remediation for any unregulated, unknown, and/or hazardous materials found in the Reclamation area.
 - 8.4 The Town will review the list of materials/items that will be dumped regarding the Reclamation project with Fire Chief and require the proponent to supply or fund the needed, extra equipment or training. The proponent must partner with the Town to create a fund for ongoing training which would include refresher training and training for new fire personnel.
9. The proponent MUST provide a 24x7 phone number where residents, police or fire will have immediate response for any issues and remediation.
10. The proponent MUST provide Air Quality and Noise Modeling. Baseline and predictive modeling must be supplied. The Air Quality modeling must have the particulate matter identified and impact.
 - 10.1 The proponent MUST provide Cumulative Health impacts based on the predictive Air Modeling
 - 10.2 The Town will partner with the Police Chief and will review the Noise modeling. The Town and Police Chief will determine what equipment and training will be needed for resident calls/complaints (i.e. as a Noise Monitor). The Town will require the proponent to supply, or fund, the needed, extra equipment or training. The proponent must partner with the Town to create a fund for ongoing training which would include refresher training and training for new police personnel.
 - 10.3 NOTE: The Pepperell Senior Center is approximately 1.5 miles and the various particulates emitted should be of concern with the elderly and young. The wind direction is predominantly a southern wind and the Pepperell Senior Center may need to address the change in particulate matter with new/updated air filters.
11. The proponent MUST provide the Visual Impacts and mail this information to those residents in the visual line. (i.e. Dear Resident, you will see XX number of trucks arriving at)

12. The proponent MUST provide the Town the Safety Plan for the property identified for Reclamation. (i.e. 24x7 Security guard, 10 foot high chain link locked fence, etc)
13. The proponent MUST provide the Town, the Town of Dunstable and the Town of Hollis the traffic study and traffic impact.
14. The proponent MUST provide ground water flow and impact.
15. The proponent MUST provide impact to wetlands, bordering wetlands and detailed remediation/correction plan.
16. The proponent MUST provide details for storm water management.
17. Any illegal dumping, hazardous materials dumping or other non-identified materials/items will be subject to Significant Fines set by the Town.
18. The Town should partner with connecting towns and keep them apprised of the Project Details and any information they may require. This would include, but not limited to: Littleton, MA, Groton, MA, Dunstable, MA and Hollis, NH.
19. The Town should partner and inform the Nashua River Watershed Association and the local contact for Wild and Scenic River designation.

Sincerely,

Caroline D Ahdab

cc:

Pepperell Town Clerk
Pepperell Conservation Commission
Pepperell Fire Chief
Pepperell Police Chief
Pepperell Town Engineer
Representative Sheila Harrington
Nashua River Watershed Association
Town of Groton, MA
Town of Littleton, MA
Town of Dunstable, MA
Town of Hollis, NH

Appendix A - Noise By-Law

The Noise By-Law below is taken from the Town of Billerica.

Please Note, the Pepperell Noise By-Law would need to include Exceptions for Pepperell SkyDiving Planes/Helicopters, Section 23.11 could be modified for this exception. Also note, to modify Section 23.11.G.

Billerica's Section 23.7 could be modified to include "Dumping/Offloading of Materials"

Reference:

<https://www.town.billerica.ma.us/DocumentCenter/View/5929/Gen-By-Laws-thru-October-2017>

BILLERICA NOISE BY-LAW

23.1

Declaration of Policy:

In order to control unnecessary, excessive and annoying noise in the Town of Billerica, it is hereby declared to be the policy of the Town to prohibit such noise generated from or by all sources as specified in this By-Law.

It shall be unlawful for any person to make, continue to make, permit or cause to be made or continued, any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities. Furthermore, it shall be unlawful for any person who has custody and control of the premises to allow or permit another person to make, continue or permit to be made or continued any loud, excessive, unnecessary or unusually loud noise or any noise which either annoys, disturbs, injures or endangers the comfort, repose, health, peace or safety of reasonable persons of normal sensitivities within the limits of the Town of Billerica.

23.2

Definitions

Except as may be specified herein, acoustical terminology used throughout this By-Law is that approved as American National Standard Acoustical Terminology [ANSI S1.1-1994] by the American National Standards Institute (ANSI).

The following words, phrases and terms as used in this By-Law shall have the meanings as indicated below:

A.

BACKGROUND SOUND LEVEL

shall mean the sound level associated with a given environment, being a composite of sounds from all sources excluding the alleged offensive noise, at the location and approximate time at which a comparison with the alleged offensive noise is to be made.

B.

CONSTRUCTION

shall mean those activities requiring a building permit, and shall also include any site preparation, cemetery burial and caretaking operations, seismic surveys, grading, assembly, erection, substantial repair, alteration, or similar action, including demolition, for or of public or private rights-of-way, structures, utilities or similar property.

C.

The abbreviation dBA

shall mean the A-weighted sound pressure level expressed in decibels and

referenced to 20 micropascals.

The abbreviation dBC shall mean the C-weighted sound pressure level expressed in decibels and referenced to 20 micropascals.

D.

EMERGENCY VEHICLE:

shall mean any vehicle operated in an effort to protect, provide or restore public safety, including, but not limited to, ambulances, police vehicles and fire vehicles.

E.

EMERGENCY WORK:

shall mean any work performed in an effort to protect, provide or restore public safety, or work by private or public utilities when restoring utility service or any work performed for the purpose of preventing or alleviating the physical trauma or physical damage threatened or caused by an emergence—an occurrence or set of circumstances involving actual or imminent physical trauma or property damage.

F.

ENFORCING PERSON:

shall mean any police officer, building official or public health official of the Town or any other Town employee designated by the Town Manager for this purpose.

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IMPACT DEVICE:

shall mean a construction device in which or by which a hammer, meaning a moving mass of hard solid material, is mechanically by means of a working fluid or compressed air caused to repetitively impact upon and transmit kinetic energy to a tool. The tool may be included as a part of the device, as in the case of amoil on a paving breaker or the drill steel of a jackhammer, or it may be a mass to which the impact device is temporarily connected as in the case of a pile and pile driver.

Examples of impact devices are pile drivers, paving breakers, power impact hammers, impact wrenches, riveters and stud drivers.

H.

INTRUDING NOISE:

shall mean the total sound level created, caused, maintained by, or originating from an alleged offensive source at a specified location while the alleged offensive source is in operation.

I.

PERSON:

shall mean a person, firm, association, co-partnership, joint venture, corporation or any entity recognized by applicable law, public or private in nature.

J.

SOUND LEVEL:

shall mean the instantaneous A-weighted sound pressure level, in decibels, as measured with a sound level meter set to the "A" weighting scale, slow response.

K.

SOUND LEVEL

METER:

shall mean an instrument meeting American National Standard Institute's Standard S1.4-1983 for Type 1 or Type 2 sound level meters or an instrument and the associated recording and analyzing equipment which will provide equivalent data

23.3

Designated Noise Zones.

The properties hereinafter described are hereby assigned to the following noise zones:

NOISE ZONE I:

All properties utilized as residential uses in accordance with the Town of Billerica Zoning By-Laws and the grounds of any school, hospital or similar health care institution, house of worship or library while the same is in use, and any Cemetery or Open Space.

NOISE ZONE II:

All other property used in accordance with the Town’s Zoning By-Law.

23.4 Exterior Noise Standards:

It shall be unlawful for any person at any location within the area of the Town to create any loud noise, or to allow the creation of any noise, on property owned, leased, occupied or otherwise controlled by such person, which causes the sound level when measured on complainant's property to exceed the greater of:

- A. The maximum allowable exterior sound level outlined in Table I; or
- B. Five dB over the background sound level.

Table 1. Maximum Allowable Exterior Sound Level

Table 1. Maximum Allowable Exterior Sound Level		
Noise Level	Daytime level 7:00AM to 10:00 PM	Nighttime level 10:00PM to 7:00AM
I	60 dBA	50 dBA
II	70 dBA	65 dBA

intruding noise source is continuous and cannot reasonably be discontinued or stopped for a time period whereby the background sound level can be determined, the measured sound level obtained while the source is in operation shall be compared directly to the maximum allowable exterior sound level outlined in Table I.

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23.5 Construction Noise Standards

A.

Noise associated with construction is permitted between 7:00 AM and 6:00 PM on weekdays and Saturdays provided the sound level from:

1. Non-impact devices does not exceed 70 dBA as measured over a time interval of 1 minute with the sound meter set to slow located on any other property, but at least 50 feet from the construction activity;
2. Impact devices does not exceed 90 dBA as measured with a sound level meter set to slow response located on any other property, but at least 50 feet from the construction activity.

B.

Between the hours of 6:00 PM and 7:00 AM on weekdays and Saturday, and at any time on Sunday or a legal holiday, noise associated with construction, shall be limited by the standards of Section 23.4.

23.6

Maintenance Noise Standards

A.

Noise associated with maintenance is permitted between 7:00 AM and 6:00 PM on weekdays and Saturdays and between the hours of 9:00 AM and 6:00 PM on Sunday, provided the sound level does not exceed 80 dBA as measured with a sound level meter set to slow response on any other property, but at least 50 feet from the maintenance activity;

B.

Between the hours of 6:00 PM and 7:00 AM on weekdays and Saturday, and between the hours of 6:00 PM and 9:00 AM on Sunday or a legal holiday, noise associated with maintenance, shall be limited by the standards of Section 23.4.

23.7

Commercial

Trash Collection and Deliveries or Pick-up

A.

The operation of commercial trash compactors or collection of trash, rubbish, refuse or debris, which generates noise in excess of the criteria given in Section 23.4 at any point of public or common pass-by between the hours of 7:00 PM and 7:00 AM is prohibited.

B.

Deliveries or pick-ups for commercial or business purposes between 10:00 PM and 6:00 AM are prohibited unless the noise level of such deliveries or pick-ups in nearby residential areas does not exceed the noise criteria listed in Section 23.4.

23.8

Electronic Devices and Musical Instruments

No person owning, leasing or controlling the operation of any electronic device or musical instrument shall willfully or negligently cause or permit noise levels to exceed the criteria given in Section 23.4.

23.9

Entertainment/Nightclub Noise

For the nighttime periods (11pm to 8am) no sound from Entertainment establishments shall create audible sound that exceeds a C-Weighted level of 67 dBC at residential locations.

(Note: this limit addresses low frequency or bass noise)

23.10

Motor Vehicles or Motorcycles

Motor vehicles or motorcycles operated on public ways in the Town of Billerica or in any place where the public has the right of access as invitees or licensees may not exceed a maximum sound level of 103 dBA. It is also in violation of the By-law to operate a motor vehicle or motorcycle without a sound-limiting device connected to the exhaust system.

This prohibits so called "straight pipe" exhaust systems. This section shall not include screeching sounds emitted from emergency braking. Measurement for the purposes of this Section shall be at a distance of 36 inches from the noise source.

23.11

Special Provisions:

Noise associated with the following activities shall be exempted from the provisions of this By-Law:

A.

All Town-owned facilities and vehicles and public works projects.

B.

Emergency work or emergency vehicles.

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C.

The operation of any vehicular alarm, provided it terminates within 15 minutes of the initially recorded complaint.

D.

Activities, other than construction, conducted in public parks and playgrounds, and on public or private school grounds so long as authorized by the appropriate jurisdiction including but not limited to school athletic and school entertainment events.

E.

Occasional outdoor gatherings, public dances, shows, and sporting and entertainment events provided said events are conducted pursuant to a permit or license issued by the appropriate jurisdiction relative to the staging of said events.

F.

Snow removal performed by snow blowers, snow throwers or snow plows when appropriately outfitted with a muffler.

G.

Any activity to the extent regulation thereof has been preempted by Town, State or Federal Law or by agreement between Town, State or the Federal Government.

H.

The maintenance of real property (not construction), such as the temporary use of power tools and equipment such as lawn mowers, chain saws, septic pumping trucks and similar equipment, provided said activities take place between the hours of 7:00 AM and 10:00 PM on any day.

23.12

Prima Facie Violations.

Any measured noise exceeding the sound level standards as specified in Section 23.4, and may be deemed by the enforcing person to be prima facie evidence of a violation of the provisions of this By-law.

23.13

Penalties for Violations

A.

Violations under Article 23, in the discretion of the enforcing person, may be enforced by non-criminal disposition as provided in MGL Chapter 40, Section 21D.

B.

The penalty for a violation under this By-law shall be \$50 for a first offense, \$100 for a second offense, \$200 for a third offense, and for each succeeding offense each day or part thereof shall constitute a separate offense.