

Town Manager: *Stuart Beckley*
sbeckley@townofware.com



Board of Selectmen
Ware Town Hall, 126 Main Street, Meeting Room

Regular Meeting Notice Agenda
Tuesday, February 27, 2018 at 7:00 p.m.

Meeting Opened

Opening Remarks, Announcements, and Agenda review by Chair

Consent Agenda

Proclamation: Arbor Day 2018

Comments and Concerns of Citizens

Scheduled Appearances

- **7:05 p.m. Joint Meeting with Cemetery Commission to Fill Vacancy in Office until April 9, 2018 Annual Town Election**
 - **Applicant: Lucas McDiarmid**
- **Request to Speak: Keith Krukus**

Old Business

- **Report of GPS Units Installed in Municipal Vehicles**

New Business

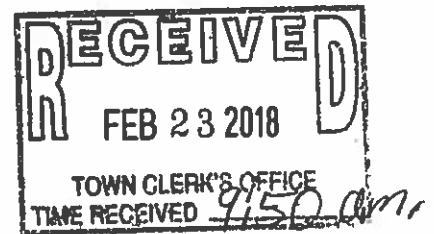
- **Retroactive Approval of Conservation Commission Reappointments**
 - **Kristen Rosenbeck, Term to Expire June 30, 2019**
 - **Dennis Cote, Term to Expire June 30, 2019**
- **Approval/Acceptance of Restriction Limiting Discharge of Dredged and Fill Material: Wildflower Drive Lots 5, 6, 7, 11, and 21**
- **~~Approval of Appointment, Building Inspector~~**
- **Request to Open Warrant for Annual Town Meeting**
- **Request to Open Warrant for Special Town Meeting**
- **Request to Set Hearing for Dangerous Dog – March 20, 2018**

Town Manager Report

Adjournment

Reminder: Tuesday, March 6, 2018 Open Meeting Law Training, Monson, MA

The next Board of Selectmen meeting will be held on Tuesday, March 20, 2018 at 7:00 p.m.



Celebrate Arbor Day 2018

Whereas, In 1872, J. Sterling Morton proposed to the Nebraska Board of Agriculture that a special day be set aside for the planting of trees, and

Whereas, this holiday, called Arbor Day, was first observed with the planting of more than a million trees in Nebraska, and

Whereas, Arbor Day is now observed throughout the nation and the world, and

Whereas, trees can reduce the erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce life-giving oxygen, and provide habitat for wildlife, and

Whereas, trees are a renewable resource giving us paper, wood for our homes, fuel for our fires and countless other wood products, and

Whereas, trees in our town increase property values, enhance the economic vitality of business areas, and beautify our community, and

Whereas, trees, wherever they are planted, are a source of joy and spiritual renewal.

Now, Therefore, we, the Board of Selectmen of the Town of Ware, MA, do hereby proclaim April 27, 2018 as



ARBOR DAY

In the Town of Ware, we urge all citizens to celebrate Arbor Day, to support efforts to protect our trees and woodlands, and to plant trees to gladden the heart and promote the well-being of this and future generations.

Board of Selectmen:

Nancy J. Talbot

Alan G. Whitney

Tracy R. Opalinski

John E. Carroll

Michael P. Fountain

What Is Arbor Day?

Arbor Day is an annual observance that celebrates the role of trees in our lives and promotes tree planting and care. As a formal holiday, it was first observed in 1872, in Nebraska, but tree planting festivals are as old as civilization. The tree has appeared throughout history and literature as the symbol of life.



J. Sterling Morton and the First Arbor Day

The idea for Arbor Day in the United States originated in Nebraska City, Nebraska. Among the pioneers moving into the Nebraska Territory in 1854 was Julius Sterling Morton from Detroit. He and his wife, Caroline, were lovers of nature, and the home they established in Nebraska was quickly planted with trees, shrubs, and flowers.

Morton was a journalist and soon became editor of Nebraska's first newspaper. Given that forum, he spread agricultural information and his enthusiasm for trees to a receptive audience. His fellow pioneers missed their trees and needed them for windbreaks, fuel, building materials and shade from the hot prairie sun. A visit to Nebraska today wouldn't disclose

the state was once a treeless plain, yet it was the lack of trees there that led to the founding of Arbor Day in the 1800s.

Morton wrote and spoke about environmental stewardship and the interrelatedness of life. He encouraged everyone to set aside a specific day to plant trees.

In 1872, the State Board of Agriculture accepted a resolution by J. Sterling Morton "to set aside one day to plant trees, both forest and fruit." The Board declared April 10 Arbor Day and offered prizes to the counties and individuals that properly planted the largest number of trees on that day. More than one million trees were planted in Nebraska on the first Arbor Day. With this first tree planting holiday observance, J. Sterling Morton became known as the "Founder of Arbor Day."

The Spread of a Good Idea

Shortly after this 1872 observance, other states passed legislation to observe Arbor Day each year with appropriate ceremonies. By 1920, more than 45 states and territorial possessions were celebrating Arbor Day. Today, Arbor Day is celebrated

in all fifty states.

Throughout the world, people of all ages are planting trees, caring for them and learning their value.

- In the United States, this tree planting festival is called Arbor Day.
- In Israel, it is called the New Year's Day of the Trees.
- Korea has a Tree-Loving Week.
- Iceland has a Student's Afforestation Day.
- Yugoslavia holds an Arbor Day in the spring and an Afforestation Day in the fall.
- India celebrates a National Festival of Tree Planting.

Most holidays celebrate something that has already happened and is worth remembering like the day someone was born or a religious holiday celebrating a past event. Arbor Day reflects a hope for the future. The trees planted on Arbor Day show a concern for future generations. The simple act of planting a tree represents a belief that the tree will grow and, some day, provide wood products, wildlife habitat, erosion control, shelter from the wind and sun, beauty, and inspiration for ourselves and our children.



When Is Arbor Day?

For many years, Arbor Day was celebrated on April 22, J. Sterling Morton's birthday. Today, National Arbor Day is celebrated on the last Friday in April. All fifty states, Puerto Rico, and some U.S. territories have passed legislation adopting Arbor Day, which is celebrated on a date appropriate for tree planting in their region. Visit arborday.org to learn when Arbor Day is celebrated in your state.



 **Arbor Day Foundation**

211 N. 12th Street • Lincoln, Nebraska 68508 • arborday.org

J. Sterling Morton

Founder of Arbor Day
in his own words

“The cultivation of flowers and trees is the cultivation of the good, the beautiful and the ennobling in man, and for one, I wish to see this culture become universal.”

“Arbor Day ... which has already transplanted itself ... to every state in the American Union and has even been adopted in foreign lands ... is not like other holidays. Each of those reposes on the past, while Arbor Day proposes for the future.”

“ ... how much more enduring are the animate trees of our planting. They grow and self-perpetuate themselves and shed yearly blessings on our race.”

“ ... all the people strive on Arbor Day to plant many, many trees, both forest and fruit. May the day and the observance thereof be cherished in every household, and its name and fruits become as a shower of blessing to the long lines of generations who shall succeed us.”

“Each generation takes the earth as trustees. We ought to bequeath to posterity as many forests and orchards as we have exhausted and consumed.”



 **Arbor Day Foundation**

211 N. 12th Street • Lincoln, Nebraska 68508 • arborday.org

TOWN OF WARE, MASSACHUSETTS
ARBOR DAY – 2018

February 13, 2018

New England Chapter ISA Arbor Day Grant
P O Box 435
Nowell, MA

Dear Sir/Madam:

On behalf of the Town of Ware I am pleased to submit the necessary documents required as part of the Grant Application and Award for this year.

I have recently been appointed as the Tree Warden for our community, and have taken on a role that I believe will benefit the town. Having said this I wish to note for a long time I have witnessed the demise of trees and forests in our country and the lack of appreciation for what they provide.

I realize that we have celebrated Arbor Day in the US for many years but wish to bring this celebration to our community in a way that has not been done in the past.

Please find enclosed the application as completed by me and a copy of the proclamation which we will have the leaders of our community declare, the events which have been planned, in order to host what I believe will become an annual event from this day on. I have reached out to our Superintendent of Schools and other professional members of the community and am coordinating what I believe will be a worthwhile and meaningful day for our youth.

Currently the Town of Ware does not have money which can help to make this event happen and I am hoping that we can be considered for any funding to help defray the costs of plantings and related materials.

I have worked with school officials and have asked that Community Reading Day – March 2nd be one where the community readers incorporate into their reading time a book or books (age appropriate) about trees, forests and their history and relevant benefits. This preface to the Arbor Day activities will help to excite and make students aware and interested.

April 27th – Arbor Day will be a day of activities where children and volunteers will come together and plant a tree or trees on school property. The day will include a brief lecture to those participating about the history of trees and why they are of importance to us now and in the future. Thereafter the actual planting will take place with all participating in some way.

In doing so, I hope to instill in the students how important a tree is. Whether a seedling that is planted, the way in which a tree develops and why, the use of leaves for shade, or other ways of enjoying and appreciating the worth of a tree. In doing this type of activity I believe that there is a

lifetime value that can be instilled in each of those who do take part in the reading day or actual work to plant.

I have purchased several books which I know will be of great interest. One in particular "Letting the Swift River Go" is a book that is relevant to our community – the demise of Dana, Prescott, Enfield and Greenwich took place in 1938 on April 28th – the official discontinuation of these towns to form the Quabbin Reservoir – a body of water created to supply clean drinking water to the ever growing city of Boston. April 27th – Arbor Day should be known to all as the day that in this area trees and forests in those communities no longer stand for all to see or appreciate.

I believe that each day a tree should be planted somewhere in our country in order to continue to provide shade and clean air for the generations of people now and in our future.

Please consider our request for a grant in order to begin what I know can be meaningful and enriching educational activities that carry into the next century.

Sincerely,

Joshua A. Kusnierz
Tree Warden – Ware
96 Coffey Hill Rd.
Ware, MA 01082

k/

Midura, Mary

From: Lucas McDiarmid <mcdiarmid.lucas@gmail.com>
Sent: Friday, February 16, 2018 12:55 PM
To: Midura, Mary
Subject: Re: Cemetery Commission position

Mary,
Please proceed and submit my application for the appointment to the cemetery commission. Thank you.
-Lucas McDiarmid

On Fri, Feb 16, 2018 at 11:57 AM, Midura, Mary <mmidura@townofware.com> wrote:

Lucas – here is information from our Town website regarding Cemetery Commission (from our Town website). You are correct that, if you wish to run for this position, you would submit papers by Tuesday, February 20, 2018 at 5:00 pm.

Since this open position is the result of a resignation, however, the Cemetery Commission and the Board of Selectmen have this position on the agenda of February 27, 2018 to appoint a person to this position – the term would be effective February 27, 2018 through April 9, 2018 only. Again, if you are interested, let me know and I will submit your application and resume (which I have a copy of here in this office) for the February 27, 2018 agenda.

You may also choose to not take out election papers, and even write-ins count on the April 9, 2018 ballot.

You might also find it useful to look at our Town website at www.townofware.com.

Mary L. Midura

Executive Assistant to

Ware Town Manager

413-967-9648 extension 101

Office Hours: 8:00 am – 2:30 pm



Town of Ware
Application for Appointment to
Boards and Committees

Name: Lucas G. McDiarmid
 Address: 28 Morse Ave
 Email: lmediarmid mediaromid.lucas@gmail.com
 Home Phone: _____ Work: 413-253-9227 Cell: 413-237-4531
 Occupation: Program Assistant - Social Auditing Years lived in Ware: 3 mo.
 Ware Resident: Yes No Visite. Part labor

Please indicate the Committee(s) you have interest in serving on: *(Appointment subject to vacancies)*

Ware Agricultural Commission	Ware Cultural Council
ADA Commission	Finance Committee
Board of Registrars	Historical Commission
Capital Planning Committee	Open Space Committee
Community Development Authority <input checked="" type="checkbox"/>	Tax Increment Financing (TIF) Committee
Conservation Commission	Zoning Board of Appeals
Council on Aging	

What skills and experience will you bring to this Board/Committee:

(attach additional sheet or resume if desired)

- Previous Municipal Government Experience: Asst. to Town Manager - Lancaster MA
- Budgeting, communications, program development, Inter Agency negotiation
facilitation, Press Release writing

Are you currently serving or have you served on any Town committee: ___ Yes* No
(if yes, please state what committee) _____

Required: Please read the following. By signing below, you state that you understand and agree:
 The filing of this form does not guarantee my appointment. An application is kept on file for two (2) years. Being appointed to a committee, board or commission means that I am considered a Municipal Employee under MGL Chapter 268A and thereby subject to Conflict of Interest Law MGL Chapter 268A, Financial Disclosure Law MGL Chapter 268B, as well as Open Meeting Law. I understand that I will take the conflict of interest test after being appointed and that I also must be sworn in by the Town Clerk. **IMPORTANT: Once this form is submitted, it becomes a public document. If there is information you do not want open to the public, please do not include it on this form!**

Signature Date 26 Jan. 2018

Please return this form to Stuart Beckley, Town Manager, 126 Main Street, Ware, MA 01082 or email to sbeckley@townofware.com.

Lucas G. McDiarmid
28 Morse Avenue
3rd Floor Left
Ware, MA 01082

26 January 2018

Dear Mr. Beckley, and Mr. Flores-Marzan,

Please accept this letter as an introduction to my application to serve as a member of the Community Development Authority.

As an introduction to myself, I am a Program Assistant with the Assessments Department at the global non-profit, and non-government organization Verité, Inc., based out of Amherst, Massachusetts. My role at Verité is similar in function to a junior/ assistant program officer. The assessment's department at Verité is responsible for conducting labor and ethics audits at a variety factories and agricultural facilities across the world, and the United States. In my role, I assist in budgeting and planning as well as facilitating the actual audit; working with the audit field teams to coordinate the onsite visit. I also conduct research on behalf of the Verité Research Department. My focus has been on the development of the agrarian sector, investigating the risk of, and occurrence of human trafficking, labor trafficking and child labor within the logging industry, and coffee production.

As a 2015 graduate of the Massachusetts College of Liberal Arts, I focused on local issues, serving as the Assistant to Town Administrator in Lanesboro; working directly with the local populace on a wide range of municipal issues. My interest in local policy issues, eventually led me to work as the campaign manager for Senator Anne M. Gobi in the 2016 election cycle.

Given my experience in local politics, municipal government and, labor and ethics, I bring a unique skillset, and an understanding of working families, and their needs to the Community Development Authority. I believe, that in addition to perspective, I also have a work ethic will benefit the Authority in its service to the town. I am prepared to face the challenges facing the Community Development Authority, town and the communities it encompasses.

I would like to thank you in advance for your consideration. I look forward to hearing back in reply.

Sincerely,

Lucas G. McDiarmid



LM

OBJECTIVE

I am seeking a position, post entry level, in the field of Corporate Social Responsibility, International Trade and Development, or Labor Rights.

SKILLS

Multi-tasking, time management, budgeting, Microsoft Office Suite, Quickbase Project management, interviewing, staff development and management, public communications

EXPERIENCE

PROGRAM ASSISTANT • VERITÉ • MAY 2017 – CURRENT

- *Client relations
- * Budget and planning
- *Research and security assessment writing, copy editing
- *Coordinating audits and assessments, domestically and abroad

ASSISTANT • COMMITTEE FOR PUBLIC COUNSEL SERVICES • AUGUST 2016 – MAY 2017 (CONTRACT)

Public Defender Division: Superior Court Of fice

- *Client Meetings
- *Investigative Assistance
- *Interagency Communications and coordination with various agencies of the Judiciary and Law Enforcement

CAMPAIGN MANAGER/ STRATEGIST AUGUST 2016 – November 2016

Gobi Committee: Re-elect Anne Gobi To State Senate

- *Volunteer Coordination
- *Advertisement and Message Development
- *Voter Contact
- *Fundraising

HILLARY FOR AMERICA JANUARY 2016 – MARCH 2016

Keene, NH/ Greensboro, NC

- *Volunteer Coordination
- *Event Planning
- *Database VoteBUILDER
- *Volunteer Training

WILL YANDIK FOR CONGRESS APRIL 2016 – JULY 2016

- *Intern Management and Staff Development
- *Universe building
- *Voter Coordination

SCHOOL



LM

EDUCATION

BA • MAY 2015 • MASSACHUSETTS COLLEGE OF LIBERAL ARTS

GPA: 3.113 Major: Political Science and Public Policy

Minor: History

Course Work Includes: Modern Middle East, North American Politics, Legacies of Communism, The U.S. Border, A History of Diplomacy, Independent Study on Immigration Policies, and Undergraduate Research "Human Trafficking in North America"

VOLUNTEER EXPERIENCE OR LEADERSHIP

St. Thomas the Apostle Parish: Eucharistic Minister

MCLA Student Government Association: Senator-at-Large, 2 terms

- **Constitution Committee, and Property Committee**

MCLA Political Science Club: Vice President, One term

MCLA Class of 2015: Vice President

MCLA Office of Admission, Student Affairs Div.: Admission Ambassador

- **Volunteer Coordinator**

MCLA Mission Abroad: Belize; Spring 2015

- **Community Service in Mahogany Heights, Belmopan, BZE**



TOWN OF WARE

Board of Selectmen
Town Hall, 126 Main St., Suite J
Ware, Massachusetts 01082-1386

Tel. 413-967-9648 EXT. 100

September 22, 2015

Dennis Cote
40 Shoreline Drive
Ware, MA 01082

Dear Mr. Cote:

It is my pleasure to inform you at the Selectmen's meeting September 22, 2015 you have been appointed to the Ware Conservation Commission for a term to expire June 30, 2016. Prior to your serving in this position you must be sworn in at the Town Clerks office, Town Hall, 126 Main St., Ware. The office hours of the Town Clerk are Monday thru Friday from 8:00 A.M. to 4:00 P.M. If these hours are not convenient for you please contact the Town Clerk at 413-967-9648 Ext. 177 to make arrangements.

Congratulations on your appointment and if this office can be of any assistance to you please don't hesitate to contact me.

Respectfully,

Nancy J. Talbot
Chairman, Board of Selectmen

Cc File
Town Clerk
Town Manager
Ware Conservation Commission



TOWN OF WARE

Board of Selectmen
Town Hall, 126 Main St., Suite J
Ware, Massachusetts 01082-1386

Tel. 413-967-9648 EXT. 100

September 22, 2015

Kristin Rosenbeck
40 Shoreline Drive
Ware, MA 01082

Dear Ms. Rosenbeck:

It is my pleasure to inform you at the Selectmen's meeting September 22, 2015 you have been appointed to the Ware Conservation Commission for a term to expire June 30, 2016. Prior to your serving in this position you must be sworn in at the Town Clerks office, Town Hall, 126 Main St., Ware. The office hours of the Town Clerk are Monday thru Friday from 8:00 A.M. to 4:00 P.M. If these hours are not convenient for you please contact the Town Clerk at 413-967-9648 Ext. 177 to make arrangements.

Congratulations on your appointment and if this office can be of any assistance to you please don't hesitate to contact me.

Respectfully,

Nancy J. Talbot
Chairman, Board of Selectmen

Cc File
Town Clerk
Town Manager
Ware Conservation Commission

**APPROVAL AND ACCEPTANCE OF GRANT OF RESTRICTION LIMITING
DISCHARGE OF DREDGED AND FILL MATERIAL**

**The Town of Ware does hereby approve and accept the foregoing Grant of
Restriction Limiting Discharge of Dredged and Fill Material.**

[Board of Selectmen][Authorized Municipal Body/Officer(s)]

Date: _____

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

On this ____ day of _____, 20__, before me, the undersigned notary public, personally appeared _____, and proved to me through satisfactory evidence of identification which were _____ to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

Notary Public:

My Commission Expires:

**GRANT OF RESTRICTION LIMITING DISCHARGE
OF DREDGED AND FILL MATERIAL (314 CMR 9.04(3))**

**Property locations: Lots 5 (Parcel ID 52-1-5), 6 (Parcel ID 52-1-6),
7 (Parcel ID 55-1-7), 11 (Parcel ID 55-1-11) and 21 (Parcel ID 55-1-21)
Wildflower Drive, Ware, MA 01082**

THIS GRANT OF RESTRICTION LIMITING DISCHARGE OF DREDGED AND FILL MATERIAL is made this ____ day of February, 2018, by BELCO CONSTRUCTION CO., INC., of Westfield, Hampden County, Massachusetts (“Grantor”), pursuant to the provisions of 314 CMR 9.04(3) of the Water Quality Certification Regulations established at 314 CMR 9.00 (“Restriction”).

WITNESSETH

WHEREAS, Grantor is the owner in fee simple of that certain subdivision of land located in Ware, Hampshire County, Massachusetts, created pursuant to the Subdivision Control Law established at M.G.L. c. 41, §§ 81K through 81GG, and being shown on a Approval Not Required Plan entitled, “WILDFLOWER MEADOW” “DEFINITIVE SUBDIVISION PLAN”, dated July 15, 2003, prepared by Harold L. Eaton and Associates, Inc., and recorded with Hampshire District Registry of Deeds in Plan Book 203, Page 77, and following;

WHEREAS, title to said Subdivision is held by Grantor pursuant to a deed(s) from Hampden Bank to Grantor dated October 3, 2013, and recorded with Hampshire District Registry of Deeds, and recorded with Hampshire District Registry of Deeds in Book 11485, Page 315, and this Grant of Restriction is intended to apply only to the affected lots within the Subdivision, such being Lots 5, 6, 7, 11 and 21;

WHEREAS, pursuant to the provisions of 314 CMR 9.04(3), of the Water Quality Certification Regulations established at 314 CMR 9.00 (“Regulations”), a 401 Water Quality Certification (as defined under 314 CMR 9.02) is required for the creation of a subdivision of land unless there is a valid, unexpired Final Order of Conditions (as defined under 314 CMR 9.02) (“Final Order”) which contains a condition requiring at least 1:1 replacement for bordering or isolated vegetated wetlands affected by the

discharge of dredged or fill material pursuant to 314 CMR 9.03(1)(b), followed by a Certificate of Compliance (as defined under 314 CMR 9.02), and a recorded deed restriction limiting the amount of fill for the single and complete project to less than five thousand (5,000) square feet cumulatively of Bordering Vegetated Wetlands (as defined under 314 CMR 9.02), and/or Isolated Vegetated Wetlands (as defined under 314 CMR 9.02), and Land Under Water (as defined under 314 CMR 9.02), and the discharge is not to an Outstanding Resource Water (as defined under 314 CMR 9.02). Such discharges of dredged or fill material to create the real estate subdivision include, but are not limited to, discharges resulting from the construction of roads, drainage, sidewalks, sewer systems, buildings, septic systems, wells, and accessory structures;

WHEREAS, Grantor has received a Final Order for the Subdivision from the Ware Conservation Commission under Massachusetts Department of Environmental Protection Wetlands File No.317-308, a copy of which is attached hereto, said Final Order limiting the amount of dredged or fill material that may be cumulatively discharged on the Subdivision to 3,989 square feet; and

WHEREAS, Grantor desires that a Water Quality Certification not be required for the Subdivision;

NOW, THEREFORE, pursuant to the provisions of 314 CMR 9.04(3), Grantor does hereby GRANT to the Town of Ware, a Massachusetts municipal corporation situated in Hampshire County, having an address of 126 Main Street, Ware, Massachusetts 01082, acting by and through its Conservation Commission (“Grantee”), for nominal, non-monetary consideration, the receipt and sufficiency of which are hereby acknowledged, with Quitclaim Covenants, a GRANT OF RESTRICTION LIMITING DISCHARGE OF DREDGED AND FILL MATERIAL, the terms and conditions of which are as follows:

1. **Prohibition.** Grantor, its successors or assigns shall not discharge, nor shall Grantor, its successors or assigns suffer, allow or cause any person to discharge in, on, upon, through, over and under the Subdivision, dredged or fill material exceeding a cumulative total amount of 3,989 square feet, the amount authorized, and limited, under the Final Order of Conditions. Discharges of dredged or fill material shall include, but are not limited to, discharges resulting from the construction of roads, drainage, sidewalks, sewer systems, buildings, septic systems, wells, and accessory structures;

2. **Enforceability.** The rights hereby granted shall include the right to enforce this Restriction by appropriate legal proceedings and to obtain injunctive and other equitable relief against any violations, including, but not limited to, relief requiring restoration of the Subdivision to its condition at the time of this Grant (it being agreed that the Grantee may have no adequate remedy at law), and shall be in addition to, and not limited to, any other rights and remedies available to the Grantee. Prior to instituting any action to enforce any violations of this Restriction, however, Grantee shall first notify Grantor and request Grantor to remedy the violation; if the violation is not remedied within sixty (60) days, then the parties shall make a good faith effort to mediate the dispute before

enforcement action is commenced. Grantor, its successors and assigns shall be responsible for and shall pay all costs and attorneys fees incurred by Grantee in enforcing this restriction.

A Final Order may be enforced by either Town of Ware Conservation Commission or the Massachusetts Department of Environmental Protection (“Department”), regardless which is the issuing authority pursuant to 310 CMR 10.08(2). The members, officers, employees and agents of Town of Ware Conservation Commission and of the Department may enter upon the Subdivision for the purpose of performing their duties and obligations under the Regulations.

Grantor shall be liable for only such violations of this Restriction as may occur during Grantor’s period of ownership of the Subdivision. By its acceptance, Grantee does not undertake any liability or obligation relating to the condition of the Subdivision, including compliance with hazardous materials or other environmental laws and regulations not caused by Grantee or its agents. Any forbearance by Grantee to exercise its rights under this Restriction shall not be deemed or construed to be a waiver.

3. Term. This Restriction shall run with the Subdivision, and any portion thereof, for fifty (50) years.

4. Concurrence Presumed. It is agreed that:

(i) Grantor, and all parties claiming by, through or under Grantor, shall be deemed to be in accord with the provisions of this document; and

(ii) all such parties and any party claiming by, through, or under them, and their respective agents, contractors, sub-contractors and employees, also agree that the Restriction herein established shall not be violated and that their respective interests in the Subdivision, or any portion thereof, shall be subject to the provisions herein set forth.

5. Subsequent Transfers. Grantor agrees to incorporate by reference the terms of this Restriction in any deed or other legal instrument by which Grantor conveys any interest in all or a portion of the Subdivision, including, without limitation, a leasehold interest. Grantor further agrees to give written notice to Grantee of the transfer of any interest at least forty-five (45) days prior to the date of such transfer. Failure of Grantor to do so shall not impair the validity of this Restriction or limit its enforceability in any way. This Restriction shall run with the land and apply to and be enforceable against Grantor and its successors and assigns.

6. Recordation. Grantor shall record and/or register this Restriction with the appropriate Registry of Deeds and/or Land Registration Office within thirty (30) days of receiving the accepted Restriction from Grantee. Grantor shall file with Grantee and with the Department a certified Registry copy of this Restriction as recorded and/or registered within thirty (30) days of its date of recordation and/or registration.

7. Termination of Rights and Obligations. Notwithstanding anything to the contrary

contained herein, the rights and obligations under this Restriction of any party holding an interest in the Subdivision shall terminate upon transfer of that party's interest, except that liability for acts or omissions occurring prior to, or subsequent to, the transfer, and liability for the transfer itself if the transfer is a violation of this Restriction, shall survive the transfer.

8. Estoppel Certificates. Upon request by Grantor, the Grantee shall, upon sixty (60) days notice, execute and deliver to Grantor any document, including an estoppel certificate, which certifies Grantor's compliance with any obligation of Grantor contained in this Restriction, and which otherwise evidences the status of this Restriction as may be requested by Grantor.

9. Amendment. In the event circumstances arise under which an amendment to or a modification of this Restriction may be appropriate, Grantor and Grantee may by mutual consent amend any term or provision hereof provided that the parties receive written authorization from the Department; and provided that any such amendment, together with any approvals necessary to its effectiveness, shall be recorded with the Hampshire District Registry of Deeds. Any amendment shall be consistent with the purposes of this Restriction. In no event shall any amendment authorize the discharge of dredge and fill material on the Subdivision which cumulatively exceeds 3,989 square feet.

10. Extinguishment. This Restriction shall not be released or extinguished without the express written approval of Grantor, Grantee and the Department. In the event that this Restriction is released or extinguished, such release shall be recorded at the Hampshire District Registry of Deeds, together with any approvals necessary to prove its effectiveness.


11. Effective Date. Grantor and Grantee intend that this Restriction take effect on the day and year this Restriction is recorded at the Hampshire District Registry of Deeds, after being executed by Grantor and accepted by Grantee.

12. Miscellaneous Provisions

- a. Controlling Law. The interpretation and performance of this Restriction shall be governed by the laws of the Commonwealth of Massachusetts; and
- b. Severability. If any court of competent jurisdiction determines that any provision of this Restriction shall to any extent be held invalid or unenforceable, such provision shall be deemed to have been modified automatically to conform to the requirements for validity and enforceability as determined by such court or tribunal and the remainder shall not be affected.

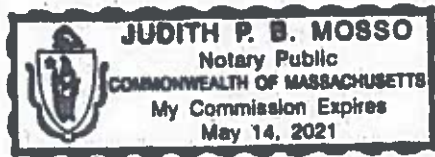
WITNESS the execution hereof under seal this 14th day of February, 2018.


Belco Construction Co., Inc.

by 
John J. Belrandi, III,
President & Treasurer

COMMONWEALTH OF MASSACHUSETTS

On this 14th day of February, 2018, before me, the undersigned notary public, personally appeared John J. Belrandi, III, to me personally known or otherwise proved to me through satisfactory evidence of identification which was MA Driver's Lic to be the person whose name is signed on the preceding document or attached document, and acknowledged to me that he signed such document voluntarily for its stated purpose, on behalf of Belco Construction Co., Inc., as its duly authorized president and treasurer.




Notary Public:
My Commission Expires:

The Town of Ware Conservation Commission does hereby approve and accept the foregoing Grant of Restriction Limiting Discharge of Dredged and Fill Material.

K.R.
[Signature]
John H. Barnes
[Signature]

Date: February 14, 2018

COMMONWEALTH OF MASSACHUSETTS

Hampshire, ss.

On this 14th day of February, 2018, before me, the undersigned notary public, personally appeared John J. BELTRANDI, III (p. 5)*, and proved to me through satisfactory evidence of identification which were MA Driver's Lic to be the person whose name is signed on the preceding or attached document, and acknowledged to me that he/she signed it voluntarily for its stated purpose.

*and the following members of the Ware Conservation Commission:

- Kristen Rosenbeck
- David Kopacz, Sr.
- Thomas Barnes
- Mark Swett

[Signature]
Notary Public:
My Commission Expires:

