

**ARTICLE 35 - TO COMPLY WITH ARTICLE 97 REQUIREMENTS FOR THE YANKEE DOODLE BIKE PATH**

To see if the Town will vote:

- (1) To transfer the care, custody, management, and control of certain portions of land in Billerica, subject to enactment of a special act of the Commonwealth, from the Conservation Commission to the Select Board, for recreational purposes, to support the bike path construction project being undertaken by the Commonwealth of Massachusetts and the Town of Billerica as identified as those portions of Billerica land depicted as “permanent” as shown on a plan entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Yankee Doodle Bike Path in the Town of Billerica, Middlesex County, Preliminary Right of Way Plans” identified on said plan as:

| <u>Permanent Easements</u> | <u>Square Footage</u> |
|----------------------------|-----------------------|
| E-23                       | 55,089 sq. ft.        |
| FP-9                       | 6,308 sq. ft.         |
| PUE-5                      | 104 sq. ft.           |

- (2) To authorize the Billerica Conservation Commission, subject to enactment of a special act by the Commonwealth, to grant temporary construction areas for construction use by the Commonwealth and the Town, provided that the Commonwealth and the Town return such land upon completion of the bike path construction project free of easements, cleaned, restored, and in their original natural condition, such land being described as follows:

| <u>Temporary Construction Areas</u> | <u>Square Footage</u> |
|-------------------------------------|-----------------------|
| TCA-1                               | 12,110 sq. ft.        |
| TCA-2                               | 985 sq. ft.           |
| TCA-3                               | 17,362 sq. ft.        |
| TCA-4                               | 5,784 sq. ft.         |
| TCA-5                               | 3,904 sq. ft.         |
| TCA-6                               | 156 sq. ft.           |
| TCA-7                               | 3,208 sq. ft.         |
| TCA-8                               | 659 sq. ft.           |
| TCA-9                               | 699 sq. ft.           |
| TCA-10                              | 2,471 sq. ft.         |

- (3) Further to authorize the Select Board to receive and accept on behalf of the Town of Billerica replacement conservation land, or sums of money in lieu thereof as may be authorized by law, offered by any source public or private, for mitigation of the permanent easements granted by the Town of Billerica pursuant Chapter 3, section 5A of the general laws of the Commonwealth, and upon such receipt and acceptance, to authorize the Select Board to transfer said replacement land to the care custody and control of the Billerica Conservation Commission, or deposit such sums of money in a Conservation Commission land acquisition fund pursuant to chapter 40, section 8C of the general laws, to be used only

to acquire additional conservation land under the care custody and control of the Conservation Commission; and

- (4) To authorize the Select Board to request the Town’s representatives in the General Court to introduce legislation to authorize the Town to grant permanent easements relative to said conservation land described as “permanent easements” and temporary use of conservation land described as “temporary construction areas” for other than conservation or Article 97 purposes in order to support the bike path construction project and further to authorize the Select Board and the General Court to make constructive changes in perfecting the language of this legislation in order to secure passage, it being the intent to authorize the Select Board and the General Court to vary the specific text of the legislation consistent with the scope of the general objectives of this home rule petition, such legislation to read substantially as follows:

*AN ACT AUTHORIZING THE TOWN OF BILLERICA TO GRANT TEMPORARY AND PERMANENT EASEMENTS OF CERTAIN LAND OF THE TOWN SITUATED IN THE TOWN OF BILLERICA FOR RECREATIONAL PURPOSES*

*SECTION 1. Pursuant to chapter 3 § 5A of the general laws of the Commonwealth, notwithstanding the provisions of any other general or special law to the contrary, the Town of Billerica Select Board may grant certain permanent easements, and the Town of Billerica Conservation Commission may grant access to certain temporary construction areas, related to certain conservation land owned by the Town of Billerica under the jurisdiction of the Billerica Conservation Commission situated in the Town of Billerica, to the Commonwealth of Massachusetts and the Town of Billerica for recreational purposes, to support the bike path construction project being undertaken by the Commonwealth of Massachusetts and the Town of Billerica for the construction of the Yankee Doodle Bike Path, as identified as those permanent easements and temporary construction areas on a Plan entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Yankee Doodle Bike Path in the Town of Billerica, Middlesex County, Preliminary Right of Way Plans” being a portion of those parcels owned by the Town of Billerica and described in the Assessor’s records of the Town of Billerica as Parcel ID: 78-282-1-1, Parcel ID: 87-258-1 & Parcel ID: 87-249-2. The Select Board on behalf of the Town of Billerica, is authorized to accept and receive replacement land, or alternatively pursuant to said chapter 3 section 5A, accept and receive certain sums of money offered as mitigation pursuant to said statute and to transfer said replacement land for conservation land without further vote of the Town to the care, custody, management and control of the Billerica Conservation Commission, or deposit such sums of money in a Billerica Conservation Commission land acquisition fund without further vote of the town, to be used only for the purposes of acquiring replacement Billerica conservation land, as applicable.*

*SECTION 2. Pursuant to chapter 40, § 15A of the general laws, the care, custody, management, and control of a portion of the land in Billerica owned by the Town of Billerica, identified as “permanent easements” on a Plan entitled “Massachusetts Department of Transportation Highway Division Plan and Profile of Yankee Doodle Bike Path in the Town of Billerica, Middlesex County, Preliminary Right of Way*

*Plans” being part of those parcels owned by the Town of Billerica described in the Assessor’s records of the Town of Billerica as Parcel ID: 78-282-1-1, Parcel ID: 87-258-1 & Parcel ID: 87-249-2, is approved notwithstanding Article 97 of the Constitution of the Commonwealth, to be transferred from the Billerica Conservation Commission to the Billerica Select Board for the purposes stated in section 1 of this Act.*

*SECTION 3. Any temporary construction areas upon such conservation commission land owned by the Town of Billerica, for the bike path construction project shall be extinguished, and returned to the Town of Billerica Conservation Commission clean, restored, and in its natural state, upon completion of said project.*

*SECTION 4. This act shall take effect upon its passage.*

Or act in relation thereto.

Submitted by the Town Manager; authorized by the Select Board

***Finance Committee has not made final recommendation.***

Article 35 Explanation: This article authorizes the Town to move forward with the Article 97 process. The Bike Path will need access to the temporary construction areas and permanent easements through conservation land to construct the Bike Path.