Council Order 2019-070 **Introduced By: Town Manager Brian Howard**
December 2, 2019

AN ACT ESTABLISHING THE TRI-TOWN WATER DISTRICT

12/2/19: Introduced by Town Manager Brian Howard. Councilor W. Alexopoulos moved that the Town petition the General Court for special legislation to create a regional water district entity among the towns of Holbrook, Braintree and Randolph, which legislation shall be substantially in the form as presented, and to authorize the Town Manager to take any action necessary in connection with the submission of said petition, and to authorize the General Court to make clerical or editorial changes of form to the bill, seconded by Councilor Goldstein.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. The establishment of the Tri-Town Water District, hereinafter referred to as the District passed by votes of the legally authorized authorities in the towns of Braintree, Holbrook and Randolph in 2019 and in accordance with a Joint Powers Agreement among said towns for the establishment of the District, hereinafter referred to as the Agreement, and all actions heretofore taken by the District Board of Directors which were not inconsistent with this act or with the terms of the Agreement, are hereby validated, ratified and confirmed in all respects. The Agreement shall be effective and binding upon approval by the parties in the following manner: (a) in Braintree and Randolph, by their respective town councils, and with the approval of the mayor in Braintree; and (b) in Holbrook, by the board of selectmen.

The purpose of the District shall be to provide for the supply, treatment and distribution of water to the member towns. The said District for the purposes aforesaid, in the manner herein provided, may take, by purchase or otherwise, and hold and convey to and into the said towns, from some one convenient point, or through a common conduit, the waters of the Great Pond Reservoir System, including Great Pond, Richardi Reservoir, Farm River, Norroway Brook and the Cochato River in the towns of Braintree and Randolph and the waters which flow into and from the same, or any part thereof; and may also take, by purchase or otherwise, and hold any water rights connected therewith, and also all lands, rights of way and easements necessary for holding and preserving such water, and for conveying the same to any part of said towns, and may erect on the land thus taken or held proper dams, buildings, fixtures and other structures, and may make excavations, procure and operate machinery and provide such other means and appliances as may be necessary for the establishment and maintenance of complete and effective water works, and may construct and lay down conduits, pipes and other works, under or over any lands, water courses, railroads, or public or private ways, and along any such way, in such manner as not unnecessarily to obstruct the same; and for the purpose of constructing, maintaining and repairing such conduits, pipes and other works, and for all proper purposes of

this act, said District, may dig up any such lands, and may enter upon and dig up any ways in said towns, in such manner as to cause the least hinderance to public travel on such ways.

This Act shall, in the manner and on the terms set forth in the Agreement, supersede in their entirety, and fully repeal, Chapter 217 of the Acts of 1885 and Chapter 269 of the Acts of 1886.

SECTION 2. The powers, duties and liabilities of the District shall be vested in and exercised by a District board of directors, hereinafter referred to as the board, organized in accordance with this section and the Agreement. Each member of the board shall be entitled to a vote. The board shall choose a chairman and secretary by ballot from its membership. The board shall coordinate the activities of the District and may establish any policies or procedures necessary to do so. The board shall establish and manage a fund to which all monies contributed by the participating towns, and all grants and gifts from the federal or state government or any other source, shall be deposited. The board shall appoint a treasurer who may be a treasurer of 1 of the participating governmental units. No member of the board or other employee of the District shall be eligible to serve concurrently as treasurer. The treasurer, subject to the direction and approval of the board, shall be authorized to receive, invest and disburse all funds of the District without further appropriation. The treasurer may, by vote of said board, be compensated for his services. The treasurer of the District shall be subject to sections 35, 52 and 109A of chapter 41 of the General Laws, to the extent applicable. The treasurer may make appropriate investments of the funds of the District consistent with section 55B of chapter 44.

The board shall appoint a business officer who may be a city auditor, town accountant or officer with similar duties, of 1 of the participating governmental units. The business officer shall have the duties and responsibilities of an auditor or accountant pursuant to sections 52 and 56 of chapter 41 and shall not be eligible to hold the office of treasurer.

The District shall be subject to an annual audit and a copy of such audit shall be provided to the member towns and to the division of local services of the department of revenue.

Each of the member towns' legally authorized authorities shall appoint 1 board member, for a total of 3 members.

SECTION 3. The District shall be a body politic and corporate and political subdivision of the commonwealth and shall have the following powers and duties:

(1) To adopt a name and a corporate seal, and the engraved or printed facsimile of such seal appearing on a bond or note of the District shall have the same legal effect as such seal would have if it were impressed thereon.

(2) To sue and be sued, but only to the same extent and upon the same conditions that a city or town may be sued. The members and officers of the District shall be deemed to be public employees within the meaning of chapter two hundred and fifty-eight.

(3) To purchase, take by eminent domain under chapter 79 of the General Laws or otherwise acquire property within the member towns, or any interests therein, for the purposes of the District, including the protection of the water supply; to construct, reconstruct, replace, rehabilitate, repair, equip, operate and maintain water supply, treatment and distribution facilities for the benefit of said towns, and any other facilities necessary to carry out the purposes of the District; and to make any necessary contracts in relation thereto. The board may exercise its power to take property by eminent domain only upon a unanimous vote of the full board,

(4) To borrow money and apply for state, federal or corporate grants or contracts to obtain funds necessary to carry out the purposes of the District. Any borrowing shall undertaken in accordance with sections 16 to 28, inclusive, of chapter 44. The board may, subject to chapter 30B, enter into contracts for the purchase of supplies, materials and services and for the purchase or lease of land, buildings and equipment, as considered necessary by the Board.

5) To incur debt, in accordance with the Agreement, for the purpose of acquiring land, or any interests therein, and constructing, reconstruction, replacing, rehabilitating, repairing and equipping water supply, treatment and distribution facilities and any other facilities necessary to carry out the purposes of the District, including debt for the purposes of designing and otherwise planning any such improvements, for a term not exceeding 30 years. Alternatively, for the same purposes, the board may, in lieu of incurring debt, allow each of the District's member municipalities to incur debt for the benefit of the District.

(6) To issue bonds and notes in the name and upon the full faith and credit of said District; said bonds or notes shall be signed by the chairman and the treasurer of the board, except that said chairman by a writing bearing his written signature and filed in the office of said treasurer, which writing shall be open to public inspection, may authorize said treasurer to cause to be engraved or printed on said bonds or notes a facsimile of said chairman's signature, and such facsimile signature so engraved or printed shall have the same validity and effect as said chairman's written signature, and each issue of bonds or notes shall be a separate loan.

(7) To receive and disburse funds for any District purpose, and to invest funds in any investments legally permitted for cities and towns.

(8) To incur temporary debt in anticipation of revenue to be received from the member towns or from any other source.

(9) To assess member towns for any expenses of the District.

(10) To maintain a reserve fund, and to carry over the remaining balance of such fund into the ensuing fiscal year, subject to the limitations in section 4 of this Act.

(11) To apply to receive and expend or hold any grants or gifts from the commonwealth, the federal government and other grantors for the purposes of the District.

(12) To engage legal counsel, financial advisors, engineers, accountants, consultants, agents and other advisors.

(13) To submit an annual report to each of the member towns, containing a detailed financial statement, and a statement showing the method by which the annual charges assessed against each town were computed.

(14) To employ such employees as it considers necessary to operate such district.

(15) To enter into contracts with any persons, including but not limited to non-member cities and towns, other bodies politic and the United States of America, that are necessary or convenient to carrying out the powers of the District, including but not limited to contracts for the purchase, supply, treatment and distribution of water and contracts for the operation and management of the water facilities of the District.

(16) To enact by-laws and rules concerning the management and regulation of its affairs and the use of its facilities and the provision of its services.

(17) To convey, sell, lease or otherwise dispose of any District real or personal property, or interests therein, no longer needed for District purposes.

(18) To do any and all other things necessary and convenient to carrying out the powers and purposes of the District, and all other things incidental and related thereto.

SECTION 4. The board shall by unanimous vote annually determine the amounts necessary to be raised to maintain and operate the District during the ensuing fiscal year, plus a reserve fund not to exceed 15 per cent of the maintenance and operating budget, and the amounts required for payment of debt and interest incurred by the District which will be due in said year, and shall apportion the amounts so determined among the several member towns in accordance with the terms of the Agreement, namely such that operating costs shall be apportioned to each member town on a flow-proportionate basis, based upon the average daily usage as measured at the District flow meters, and capital costs shall be apportioned among the member towns in the following proportions: Braintree shall pay 50%, Randolph shall pay 34% and Holbrook shall pay 16%. The amounts so apportioned for each town shall, prior to February first in each year, be certified by the District treasurer to the treasurers of the several towns. Except to the extent provided for from water system revenues and other sources, the obligation of each member town to pay apportionments pursuant to the Agreement shall be included in the amounts to be assessed

annually in each such town under section 23 of chapter 59 of the General Laws, and, with or without an appropriation therefore, the town treasurer shall pay to the District the amounts so apportioned at the times specified in the Agreement. The amounts apportioned or to be apportioned pursuant to the Agreement shall not be included in the statutory limit of indebtedness of any town. Each of said towns shall transfer all or any portion of the amounts appropriated for capital costs to the District only upon receipt by the treasurer of the town from the District of copies of invoices or other evidence satisfactory to the treasurer that the project costs for which said amounts are being transferred have been incurred by the District and are due and payable.

SECTION 5. Notwithstanding chapter 44 of the General Laws to the contrary, only sections 16 to 28, inclusive, of said chapter 44, so far as apt, shall apply to the District; provided, however, that section 16 of said chapter 44 relating to the countersigning of bonds and notes and section 24 of said chapter 44 relating to the countersigning and approval of notes and the certificates of the clerk relating thereto shall not apply to the District. Any debt incurred by the District shall not be subject to the limit of indebtedness prescribed in section 10 of said chapter 44.

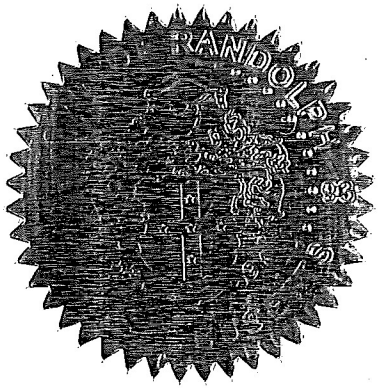
SECTION 6. The member towns may from time to time amend the Agreement if the Agreement as so amended is not inconsistent with this act.

Approved December 2, 2019.

Roll-call vote: 8-0-0 passed unanimously

Yays: Adams, C. Alexopoulos, W. Alexopoulos, Clerger, Clifton, Egan, Goldstein, Huff-Larmond

Absent: Burgess



Cheryl D. Sass
Acting Town Clerk/Registrar

12/2/19
Date of Vote