

2019 ATM Article 52: Easements – Main Street Corridor Re-Authorization
Frequently Asked Questions

The Town of Hopkinton appreciates resident feedback on the ongoing Main Street Corridor Project, which will be the subject of discussion under Article 52 of the Annual Town Meeting, which will be held starting May 6. We understand that the project’s scope is significant and the issues it presents can be complicated. This page provides answers to some frequently asked questions. The Town will update this page as more inquiries are made:

Question: *The upcoming Town Meeting is being asked to vote to authorize the Board of Selectmen to acquire temporary and permanent easements in connection with this Project. What will the easements be used for?*

Answer: The answer varies from property to property and depends on where the property is located and the site conditions in the area. Potential uses include expansion of the roadway, sidewalk and bike lanes; relocation of traffic signals; relocation of retaining walls; grading; driveway and walkway tie-ins; and relocation and undergrounding of utility lines. Temporary easements are needed to accommodate construction activities.

Question: *What is the difference between a temporary and a permanent easement?*

Answer: A permanent easement gives the Town access rights over or across your property forever. A permanent easement is needed for access rights that will continue after the Project is complete and its components are put into service. A temporary easement gives the Town access rights only for a limited time period—long enough to complete the Project.

Question: *Why is the Town seeking a five-year term for “temporary” easements?*

Answer: In order to receive federal funds for the Project, the Town is required by the Department of Transportation to obtain all temporary easements for a term of not less than three years from the date of recording the deed at the Registry of Deeds. In this case, however, the Town believes it is prudent to acquire temporary easements for a term of five years to ensure that easement rights are maintained in case the project takes longer than expected to complete or if remedial measures are needed after project completion.

Question: *Weren’t these same easements already authorized at the 2018 Annual Town Meeting? Why are we being asked to vote to reauthorize the Board of Selectmen to acquire them at the 2019 Annual Town Meeting?*

Answer: Pursuant to *M.G.L. c.82, §24*, if a Town needs to acquire land for the purposes of laying out, altering or relocating a public way, the Town must complete the acquisition within 120 days of the Town Meeting vote. That time period expired before Project design could be advanced to a point where it was possible to

identify the precise dimensions of the necessary easements. So a new vote is required for those easements.

Many of the necessary easements are for purposes other than laying out, altering or relocating a public way, however. For example, some are for the purpose of relocating and undergrounding utility lines. Those easements do not require reauthorization since the 2108 vote remains in full force and effect.

Question: *Does the Town need a two-thirds vote to reauthorize the acquisition of these easements?*

Answer: No. *M.G.L. c.40, §14* requires only a simple majority vote for a Town Meeting to authorize the acquisition of real property. That same statute, however, requires a two-thirds vote to appropriate the funds for that acquisition. In this case, the funds were appropriated under Article 20 of the 2018 Annual Town Meeting, which was approved by more than a two-thirds majority.

Question: *Some property owners recently received a letter from the Town regarding Project easements. Why are they receiving these letters now?*

Answer: Project design has now advanced to the point that all of the specific easements needed to complete the work have been identified. While the general parameters of these easements have been known for some time, the Town now has enough detailed information to allow the necessary easement documents to be prepared and executed. The letter represents the Town's first effort to reach out individually to property owners along the Project route as currently designed so that the acquisition process can begin.

Question: *Didn't some property owners receive a similar letter years ago?*

Answer: Yes. Letters went out in November 2012 to property owners along the Project route as it was configured at that time. The Project has been significantly re-designed since that time, however. So communications with property owners have been restarted.

Question: *What is involved in the easement acquisition process?*

Answer: The Town hopes to enter into voluntary agreements with each property owner. The Town believes that many property owners will recognize the benefit to their property values, their business, their neighborhood or the community as a whole, and decide to donate the necessary easements to the Town for that reason. However, the Town will also be providing each property owner with an appraisal of the easement's value, and is willing to negotiate a payment to property owners that choose not to donate.

Question: *Some easements appear to include nearly all of the area between the Town's right of way and the building on the property owner's land. Why is it necessary to acquire such a large area?*

Answer: This may turn out not to be necessary. Many easements are being acquired to allow connection of underground utility lines to individual utility customers. So they need to cover a distance from the right of way to the building that is being served. The width of the necessary easement will depend on the location of connection points both within the right of way and within the building. If all connection points are within a short distance of each other, then a narrower easement will be adequate. For now, however, the details of these connection points are unknown and, in some cases, they may continue to be unknown until construction work is well underway. The Town would prefer to acquire an easement wide enough to allow utility connection regardless of where the connection points are located.

Question: *Why is the Annual Town Meeting being asked to authorize the use of eminent domain to acquire the necessary easements?*

Answer: The Main Street Corridor Project is expected to provide significant benefits to the Hopkinton community, and the Town is committed to the steps necessary to secure those benefits for its residents. If a property owner is unwilling to reach an agreement with the Town regarding acquisition of easements, the Town may be left with only two choices: abandon the Project entirely, or exercise its power of eminent domain to enable the Project to proceed. The use of eminent domain to acquire an easement from an unwilling property owner is, of course, only a last resort to be exercised after an earnest effort has been made to reach agreement, but has failed. The power of eminent domain requires that the property owner receive just compensation for the value of the easement that is acquired.

Question: *Whom should I contact to get more information?*

Answer: Our Town Engineer/Facilities Director, David Daltorio, is available to answer your inquiries. He can be reached by email at ddaltorio@hopkintonma.gov or by telephone at 508-497-9740.