



BY-LAWS
of the
GRAFTON WATER DISTRICT

Amended April 2019

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GENERAL PROVISIONS

1 GENERAL PROVISIONS

1.0 Title of By-Laws

The following provisions shall constitute the GENERAL BY-LAWS of the Grafton Water District (District) of Grafton Massachusetts. Such By-Laws shall be supplementary to Chapter 135 of the Acts of 1984 establishing the District.

1.1 Manner of Repeal

Any or all of these by-laws may be repealed or amended, or other by-laws may be voted, at any District meeting by 2/3 vote of the voters present and voting, an article or articles for that purpose having been inserted in the warrant of such meeting by the Board of Water Commissioners (Commissioners) as specified in Section 119 of Chapter 41 of the Massachusetts General Laws.

1.2 Effect of Repeal

The repeal of a by-law shall not thereby have the effect of reviving any by-law theretofore repealed.

1.3 Power to License

When in a by-law anything is prohibited from being done without the license or permission of the Commissioners, the Commissioners shall have the right to license or permit such thing to be done.

1.4 Penalty

1.4.1 Fees

Whoever violations any of the provisions of these by-laws, shall, unless other provisions are expressly made herein or in the GENERAL LAWS, be subject to court procedure and costs including reasonable attorney fees, and all expenses of the prosecution and all court costs thereof, and shall forfeit and pay a fine as outlined in the District's Rules and Regulations. Each day that a violation continues shall be considered a separate offense.

1.4.2 Limitations

All penalties for the violation of these By-Laws may be recovered by complaint before any court, or magistrate of the county, having jurisdiction of criminal offenses committed within the District and the penalties so recovered shall be paid into the treasury of the

District. But no prosecution shall be commenced after six (6) months from the time such violation, unless otherwise provided by law.

1.4.3 Enforcement

The Commissioners shall be charged with the enforcement of these By-Laws, and upon their own initiative or upon the written petition of any citizen alleging a violation, shall investigate the same and authorize in writing the District Counsel to bring property charges, if in the Commissioner’s discretion the facts warrant such action.

1.5 Validity

If any provision of the By-Laws is declared unconstitutional or illegal by final judgment, order or decree of the Supreme Judicial Court of the Commonwealth, the validity of the remaining provisions of these By-Laws shall not be affected hereby.

1.6 Period of Notice

Whenever a period of notice is called for in these By-Laws, Sunday and Legal Holidays shall be included in computing the time period specified, unless otherwise provided for in these By-Laws.

1.7 Taxation – Single Payment Rule

Any tax due the District in an amount not in excess of twenty-five dollars shall be due and payable in a single payment.

DISTRICT MEETINGS

2 DISTRICT MEETINGS

2.1 Date of District Meeting

The Annual Meeting for the election of officers, voted by ballot, and the determination of all other matters to be referred to the voters shall be held on the last Tuesday of the month of April of each year. The time and place of holding such election and meeting shall be stated in the warrant and posted as required by the District by-laws. Any business not completed on the day of the Annual Meeting shall be adjourned to the following Tuesday and Thursday as necessary or until final adjournment.

2.2 Notice of Meeting

All warrants for the Annual District meeting and all Special District meetings shall be served by posting an attested copy thereof at the North Grafton Post Office, South Grafton Post Office, Grafton Post Office, Town of Grafton, Municipal Center, and the

Grafton Water District Office, at least fourteen days before said meeting. Also, all warrants shall be advertised in one or more newspapers generally circulated in the District prior to all meetings.

2.3 Adjournment Meeting

As soon as practicable after the adjournment of any District Meeting, on a vote to adjourn to another day, the clerk shall cause a brief statement of the day and hour to which the adjournment was voted and of the business remaining to come before the meeting, to be posted, in accordance with these By-Laws.

2.4 Only Voters admitted To Floor Of Hall

At any District Meeting held for the transaction of District Business, if the Moderator or a vote of the meeting, so orders, and no person whose name is not on the list of voters shall be admitted to the floor of the hall. Any such order may be enforced by the use of the checklist, but the same shall not be construed to prohibit press reports from the meeting. The Moderator shall determine the bounds of the hall.

2.5 Speaking Time

No person shall speak for more than five minutes for the second time on a subject if there are any other citizens who desire to be, but not have been, heard on the same subject, without first obtaining leave of the meeting.

2.6 Motions In Writing

Any report, resolution or motion shall be reduced to writing before being submitted to the meeting.

2.7 Largest Sums First On Motions

On substitute motions and proposed amendments involving sums of money, the larger or largest amount shall be put to the question first, and an affirmative vote thereon shall be a negative vote on any smaller vote.

2.8 Priority Of Motions

When a question is before the meeting, the following set of motions shall be used as a guide, and shall ordinarily have precedence in their numerical order:

1. To adjourn.
2. Take a recess.
3. Rise to a question of privilege.
4. Call for the order of the day.
5. Lay on or take from the table.

6. Call for the previous question.
7. Limit or extend limits of debate.
8. Postpone to a certain time.
9. Commit, refer or recommit to a committee.
10. Pass over.
11. Amend.
12. Main motion.

But the treatment and the order of receipt, of these and all other motions made in a District meeting, shall be left to the final decision of the Moderator.

2.9 Reconsideration

No article in the Warrant acted upon, passed over, or under which further action has been indefinitely postponed, shall be again taken into consideration.

2.10 Recognition by Moderator

No person shall address the meeting without first being recognized by the Moderator. When two or more persons rise to speak at the same time the Moderator shall name the one entitled to speak.

2.11 Articles to be Acted On In Order

Articles in the Warrant shall be acted upon in the order in which they stand, except that the Moderator shall, upon request and for reasons stated, entertain a motion to take up an article out of its regular order.

2.12 Motion To Dissolve Without Acting Upon An Article

No motion, the effect of which would be to dissolve a District Meeting, shall be in order until every article in the Warrant has been duly considered and acted upon, but this shall not preclude the postponement of action on or consideration of, any article to an adjournment of the meeting to a stated time.

2.13 Determination Of Vote

When a question is put, the sense of the meeting shall be determined by a show of hands of the District Meeting voters and the Moderator shall declare the vote as it appears to him. If the Moderator is unable to decide the vote by the show of hands, or if his/her decision is immediately questioned, he/she shall determine the vote by a standing vote and he/she may appoint tellers to make and return a count.

2.14 Written Or Printed Ballot

If before action is taken on an article or on an item thereof, twenty-one voters request that the vote on said article or item thereof by written or printed ballot, the same shall be ordered by the Moderator and the voting list shall be used.

2.15 Last Day for Filing Petitions

The last day for filing petitions with the Commissioners for the insertion of Articles in the Warrant for an Annual District meeting is forty-five or more days prior to the date fixed by the District by-laws for the District Meeting to convene. Such petition must be signed by 10 or more registered voters in the District and received by the District office prior to 4:00 P.M. on the date petitions are due.

2.16 Reserved for future Use.

2.17 Petitions to call a Special District meeting submitted by voters.

The Commissioners shall call a Special District Meeting upon request in writing of one hundred registered voters or twenty percent of the total number of registered voters of the District, whichever number is the lesser; such meeting is to be held no later than thirty days after receipt of such request, and shall insert in the warrant therefor all subjects the insertion of which shall be requested by said petition.

DISTRICT OFFICERS, PROPERTY AND RECORDS

3 DISTRICT OFFICERS, PROPERTY AND RECORDS

3.1 Annual Report

The commissioners shall present to the District, at each Annual District Meeting, a full and comprehensive report of its actions during the previous year, including but not limited to, a review of the condition of the District, a Financial Statement and an estimate of the appropriations needed for the ensuing term. Copies of the Annual Report shall be available for any registered voter of the District at the District Office at least 14 days before the Annual District Meeting.

3.2 Material To Be Included In The Annual Report

The Commissioners, before the Annual District Meeting, shall, at the expense of the District, print the Annual District Report for the use of the inhabitants, and in addition to other matters as may be required by law, the book shall contain:

- a. A complete list of the District Officers with expiring term of office.
- b. Copies of the Warrant for the Annual and Special District Meetings held during the fiscal year.
- c. A report of all claims that are outstanding and all suits in which the District is a party.
- d. A tabulated statement showing the object of each appropriation for the year, the amount appropriated, the amount overdrawn, in each instance, and an itemized list of all unpaid bills and obligations.
- e. A classified statement of all expenditures, in excess of \$4,000.00 of the District in detail, and receipts, excluding individual Water receipts, of the District in detail, so as to give a fair and full exhibit of the objects and methods of all expenditures. This detailed report shall itemize expenditures by types of goods for services purchased and by listing all persons and businesses and the amounts paid to each annually for services or supplies furnished by them to the District.

3.3 Rules For Sales, Contracts and Agreements By District Officers

No officer of the District shall, in his/her official capacity, make or pass upon or participate in making or passing upon, any sale, contract, or agreement; or the terms or amount of any payment in which the District is interested and which such officer has any personal financial interest, direct or indirect.

3.4 Restrictions on Compensation

No District Officer, and no employee of the District, or any agent of any such officer or employee shall receive any compensation or commission for work done by him/her for the District, except in his/her official salary and fees allowed by law without the permission of the Commissioners expressed in a vote which shall appear on their records with the reasons therefore.

3.4.1 Compensation

1. Each District Commissioner shall be paid a stipend of one-thousand dollars (\$1,000.00) per year.
2. The District Clerk shall be paid a stipend of Five-hundred dollars (\$500.00) per year.
3. The District Moderator shall be paid a stipend of Three-hundred (\$300.00) per year.

3.5 Written Contracts

No contract involving an obligation of the District exceeding the sum of Ten Thousand Dollars (\$10,000.00) shall be binding upon the District unless it is in writing and is signed by at least a majority of the Commissioners. No contract or preliminary plans and specifications therefore shall be split into orders or purchased or divided for the purpose of evading the provisions of this Section, or of Sections following.

3.6 Purchase of Property of Supplies by Public Bids

The Commissioners, when in fulfilling their duties as prescribed in Chapter 135 of the Acts of 1984 (Act Incorporating the District), and amended by Chapter 427 of the Acts of 1987, pursuant to, these By-Laws or any Article in the Annual or the Special District Warrant are authorized to purchase any property, operating services or supplies, or to do any public work, or erect, construct or repair any building, the estimated annual cost of which exceeds Ten Thousand Dollars (\$10,000.00) shall make a written contract therefore; and before executing any such contracts, shall invite proposals therefore by advertising in one or more newspapers generally circulated in the District of Grafton. Such notice or proposal must state the time and place for opening the proposals, and reserving the right of the Commissioners to reject any or all proposals.

- 1) The Commissioners may exempt a purchase or contract from any or all of the provisions of the preceding section when in their opinion; an emergency exists requiring immediate action on such purchases or contracts to protect the health and safety of persons or property. Evidence that such an emergency exists shall be furnished to the District Clerk in writing by the Commissioners and shall be kept on file with other records of such transaction.
- 2) Whenever any written contract is required by these By-Laws and where the award is made to other than the lowest bidder, the reasons for such an award shall be expressed in a vote of the commissioners and shall appear in their record. A copy of said vote and reasons therefore shall be filed with the District Clerk along with the contract awarded as provided below.

3.7 Custody and Approval of Contracts

Whenever any written contract is required by these By-Laws, it shall be approved as to form, by the District Counsel in writing. Said contract, with the District's Counsel written approval as to form, shall be filed with the District Clerk within one month.

3.8 Sale of Unneeded Property

The Commissioners may sell any personal property or material not required by the District on a majority vote of the District's Commissioners. All personal property sold shall be done so as outlined under the Commonwealth of Massachusetts, procurement laws, Chapter 30B.

3.9 Performance of the Board

Except as otherwise provided by the General Laws, whenever any contract with the District is for Ten Thousand Dollars (\$10,000.00), or more, a bond or other security for the faithful performance of the provisions of such contract shall be required. The amount not less than the full contract price and all security shall be subject to the approval of the Commissioners or their agent making such contract on behalf of the District.

3.10 Presentation of By-Laws and Open Meeting Law

A copy of the District By-Laws with amendments and Section 23B of Chapter 39 of the Massachusetts General Laws (Open Meeting Law) shall be presented by the District Clerk to all elected Officers of the District immediately after they are sworn into office.

BOARD OF WATER COMMISSIONERS

4 BOARD OF WATER COMMISSIONERS

4.1 General Management

The Commissioners shall have the general direction and management of the property and affairs of the District in all matters not otherwise provided for by law or by By-Laws.

4.2 Rules and Regulations

The Commissioners shall make from time to time, such Rules and Regulations as they deem necessary for the operation, maintenance and control of the District.

4.3 Claims and Suits

The Commissioners shall have full authority as agents of the District, acting upon the advice of the District Counsel, to settle any claims or suits against the District, which in their judgment cannot be successfully defended.

4.4 Defending Interest of the District

The Commissioners shall appear in the interest of the District either personally or by the District Counsel or by special counsel, before any court, committee, or any State or County Board or Commissioner. They shall have full authority as agents of the District acting upon the advice of District Counsel or special counsel, to institute and prosecute any and all necessary suits and proceedings in favor of the District, and to appear and defend any and all suits and legal proceedings against or involving the District interest, except as is otherwise provided by law.

4.5 Execution of Deeds

All conveyances of land or interests in land or other District property which may hereafter be authorized by a vote of the District, or otherwise, shall be signed by a majority of the Commissioners, unless otherwise provided by law or by vote of the District, and shall be sealed with the District seal.

4.6 Lists of Appointments

The Commissioners shall, immediately after any person is chosen or appointed an employee of the District, shall file with the District Clerk a list of such choice or appointment.

4.7 Employment

The Commissioners may hire, employ or appoint such superintendent, foreman, workmen, assistants, etc. as they deem to be necessary for the operation of the District.

4.8 Personnel Rules & Regulations

The Commissioners shall make from time to time, such personnel rules & regulations as they deem necessary for the administration of employee relations.

TREASURER

5 TREASURER

5.1 Placing of Bond

Before entering upon the duties of his/her office, the District Treasurer shall give bond to the District, with good and sufficient surety, to be approved by the Commissioners. Said Bond shall be upon condition the said Treasurer shall well and faithfully discharge the duties of his/her office during any and every period of his/her incumbency thereof.

5.2 Custodianship

The Treasurer shall be the custodian of all fiduciary bonds, of all notes, bonds and coupons which have been paid, and all deeds, conveyances, releases and policies of insurance.

5.3 Record of Expiration Dates

The Treasurer or his/her designee shall keep a record of amounts and expirations of all policies of insurance and shall notify the Commissioners not less than thirty (30), days before such policies expire.

5.4 Annual Report

The Treasurer in his/her annual report, in addition to such matters as are required by law, shall furnish: a condensed statement of the financial condition of the District and financial transactions for the year covered by such report; a statement of the amount of money received and paid out by him/her during the year; a full exhibit and full description of all monies, properties and securities which may be placed in his/her charge by virtue of a vote of the District or of any statutes or By-Laws, or by virtue of any gifts, devise, bequest or deposit; a list of all notes issued during the year showing the purpose for which money was borrowed and given the date, term, rate of interest, time of maturity, and premium, if any received thereon; a list of all notes paid during the year, and received thereon; a list of all notes paid during the year, and a list of all outstanding notes, with dates on which they mature.

5.5 Annual Audit

There shall be an annual audit of the District accounts under the supervision of the Director of Accounts in the Department of Corporations and Taxation in accordance with the provisions of Section 35, Chapter 44 of the General Laws, or any acts in addition thereto or in amendment thereof.

DISTRICT CLERK

6 DISTRICT CLERK

6.1 Report Files

The District Clerk shall keep a file of all District reports, and all original documents relating to the affairs of the District which come into his/her custody. He/she shall suitably index all such reports and all records of the District in his/her custody in a manner convenient for reference and examination.

6.2 Employment of Competent Person and Filing of Notes

The District Clerk shall record all District Meetings and at his discretion, employ a competent person, who shall be sworn in and shall be present at and shall record the entire proceedings of every District Meeting to assist the District Clerk in obtaining and retaining the proper record of the proceedings. The person shall deliver his/her records of such proceedings to the District Clerk within ten days of the meeting, and said records shall be filed as part of the public records of the District.

6.3 Temporary Clerk

The District Office Secretary shall be appointed Temporary Clerk of the District and may perform the following duties of the District Clerk:

1. Accept any petitions for the District Meetings.
2. Post meetings for the District.

DISTRICT COUNSEL

7 DISTRICT COUNSEL

7.1 Appointment and Term of Office

The Commissioners shall each year after the Annual District Meeting, and whenever a vacancy shall exist, choose some competent lawyer to act as District Counsel. He/she shall be paid such compensation as the Commissioners shall determine. The Commissioners may remove him/her at pleasure. His/her term of office shall continue until the appointment and acceptance of his/her successor.

7.2 Duties

The District Counsel shall, when required by the Commissioners furnish a written opinion on any legal question that may be submitted to him/her in regard to any matter which concerns the District or them as District Officers, and he/she shall at all times furnish legal advice to any officer of the District who may require his/her opinion upon any subject with reference to the duties incumbent upon such officer by virtue of his/her office.

7.3 Prosecution and Defense of Suits

The District Counsel shall, unless otherwise directed by the Commissioners, prosecute all suits ordered to be brought by the District or defend suits brought against the District or questioned by the Commissioners, appear before any tribunal, whether in law, equity or otherwise, or before any board, referee, commissioners, committee, arbitrators or other tribunal in matters in which the District may be party, or in which the District may be interested. For such service he/she shall receive suitable compensation as determined by the Commissioners.

7.4 Prosecution For Violation of Statutes

The District Counsel shall prosecute on behalf of the District in the local district court, all cases for the violation of the statues, or these By-Laws, when requested in writing by the Commissioners to do so. For such services he/she shall receive suitable compensation as determined by the Commissioners.

7.5 Drawing Up an Approval of Legal Instruments

The District Counsel shall draw up all bonds, deeds, leases, obligations, conveyances and other legal instruments or approve the same.

7.6 Annual Report

The District Counsel shall annually make a written report to the Board of Water Commissioners, to be printed in the Annual District Report, concerning the professional services rendered by him/her during the preceding year. Said report shall contain a statement of each case or claim which has been tried, settled or otherwise disposed of by him/her during the past year, and also a statement of each case which is still pending and the status of the same in-so-far-as the facts may be properly published, together with such other information and recommendations as he/she may deem advisable.

METHOD OF TAXATION

8.0 METHOD OF TAXATION

That whenever a tax is duly voted by the District; that no estate shall be subject to any tax assessed unless it maintains a connection to the water system.

STATUTORY PROVISIONS

9.0 STATUTORY PROVISIONS

The following statutory provisions have been accepted by the District: M.G.L.C. 32B SS1-2, 3-6, 7A, 8A, 9, 9D, 10, 11, 11A, 11C, 11F-17 and C. 40 SS42A-42F, 30B, C.40 SS5C, 42G, 42H, 42I.

INDEMNIFICATION

10.0 INDEMNIFICATION

The District shall, to the extent legally permissible, indemnify each of its present and former Commissioners, Treasurer or Clerk against all expenses and liabilities which he has reasonably incurred in connection with, or arising out of any action or threatened action, suit or proceeding in which he may be involved by reason of his being or having been a Commissioner, Treasurer or Clerk, such expenses and liabilities to include, but not limited to, judgments, court costs and attorney's fees and the cost of reasonable settlements, provided no such indemnification shall be made in relation to matters as to which such Commissioner, Treasurer or Clerk shall be finally adjudged in any such action, suit or proceeding not to have acted in good faith in the reasonable belief that his action was in the best interests of the District. The District may reimburse a Commissioner, Treasurer or Clerk for expenses incurred in defending a civil or criminal action or proceeding, upon receipt of an undertaking by him to repay such reimbursement if he shall be advocated to be not entitled to indemnification hereunder, which undertaking may be accepted regardless of the financial ability of the Commissioner, Treasurer or Clerk to make repayment. In the event that a settlement or compromise of such action, suit or proceeding is effected, indemnification may be had but only if the Commissioners shall have been furnished with the opinion of counsel for the District to the District the effect that such settlement or compromise is in the best interest of the District and that such Commissioner, Treasurer or Clerk and if the Commissioners (not including the vote of any person seeking indemnification hereunder) shall be adopted a resolution approving such settlement or compromise.

The foregoing right of indemnification shall not be exclusive of other rights to which any Commissioner, Officer or employee may be entitled as a matter of law.

ELECTION OF OFFICERS

11.0 ELECTION OF OFFICERS

11.1 Elected Officers

At the Annual District meeting in every year when the term or office of any incumbent expires, the District shall choose from its registered voters residing within boundaries of the District, by ballot the following terms of office.

- A Clerk, for a term of 3 years
- A Moderator, for a term of 3 years
- One Commissioner, for a term of 3 years

11.2 Term of Office

The term of all elected officers will commence immediately after the completion of the Annual District Meeting in which they are elected and will run until the completion of the subsequent Annual District Meeting at the end of his/her term of office.

11.3 One Elective District Office at a Time

Any citizen elected to fill a vacancy in an elective District office shall only hold one elective District office at a time. If an elected District Official seeks another elective District Office, he/she will have to resign from the first office prior to being sworn in to the second office.

11.4 Employment of Elected Official

No elected official of the District may be directly employed by the District during his/her term of office.

11.5 Vacancy

If a vacancy should occur for any cause in the offices of Clerk or Moderator of the District it shall be filled within 60 days of the vacancy for the unexpired term; by a majority vote of the Board of Water Commissioners.

If a vacancy should occur for any cause on the Board of Water Commissioners it shall be filled within 60 days for any unexpired term by a majority vote of the District Moderator, District Clerk and the Chairman of the Board of Commissioners.

All vacancies shall be advertised and posted in a public place within 7 days of the vacancy requesting applications for the open position and said applications shall be accepted for no longer than 30 days and at which time the applications, if any, shall be reviewed and appointments made as required to fill the remaining term of the vacant position.

If more than one Commissioners office is vacant for an unexpired term, which results in the absence of a quorum on the Board of Commissioners, the District Clerk shall call a special election within 14 days of such vacancy to fill the vacant seats.

11.6 Petitions for Nomination for District Office

A Candidate for the office of Commissioner, District Moderator, and District Clerk must obtain a petition of nomination from the District Office. Such petition shall state the office the nominee is seeking, full name and address, and be signed by 15 registered voters of the District, stating name and complete address. The petition must be received at the Water District office by four o'clock, P.M., at least 45 days prior to the Annual District meeting.

11.7 Certification of Petitions

All submissions of "Petitions for nomination for District Office," shall be certified by the Town of Grafton, Town Clerk.

11.8 Time of District Elections

The election of officers shall be held on the Tuesday of the Annual District meeting, prior to said meeting. Polling hours shall be open for a period not less than two hours.

11.9 Notice of Election

The Clerk of the District shall be responsible for posting and advertising the date, time and place of the Annual Water District election. All elections for the Annual District Meeting shall be served by posting an attested copy, outlining the date, time and place of the election at the North Grafton Post Office; South Grafton Post Office; Grafton Post Office; Grafton Municipal Center, 30 Providence Road; Grafton Water District, 44 Millbury Street, at least fourteen days before said election. All elections shall also be advertised in one or more newspapers generally circulated in the District prior to said election.

11.10 Ballots

The District Clerk shall have printed a ballot which conforms to the standards set forth by the General Laws, of the Commonwealth of Massachusetts. A copy of the ballot shall be available for review prior to the election and at the place of polling. Ballot shall be clearly marked “Sample Ballot.”

11.11 Absentee Ballots

Absentee Ballots shall be available which conform to the standards set forth by the General Laws, of the Commonwealth of Massachusetts.

11.12 Polling

The polling location shall be accessible to all voters of the District. Voting booths which allow for privacy in voting shall be provided. The District Clerk shall have “Checkers” available to monitor the access of those wishing to vote. The District Clerk may, at his discretion, make available a police officer, who will be available to provide security and control access to the polling area during the election.

11.13 Failure to Elect

In the event that there is a failure to elect, the District Clerk shall immediately post and hold another election, pursuant to these By-Laws. In the event that there are no candidates for election, the Moderator shall appoint a person to fill said term of office.

BETTERMENTS

12.0 BETTERMENTS

Betterments will be used to share the cost to the District for the laying of pipes with the property owners whose property benefits from the laying of pipes.

- A. Betterment will only apply to those projects that are voted on prior to the start of installation. Betterment can be used in any instance where benefit is received, including the following situations:

1. District initiated projects

When the Commissioners plan a new water main extension (laying of pipes), the capital expenditure shall be voted on at a scheduled district meeting called therefore. An assessment of 50% of the finished project shall be subject to betterment charges.

2. Citizens Petitions

When a citizen petition is received by the Commissioners to extend a new water main into an area that is not supplied by existing water mains, the petition shall be voted on at a scheduled district meeting called therefore. The entire project shall be subject to the betterment charges.