HOUSE . . . . . No. 3154

By Mr. Forman of Plymouth, petition of Peter Forman and Edward P. Kirby for legislation to protect the Silver Lake Reservoir in the town of Kingston. Natural Resources and Agriculture.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Eighty-Eight.

AN ACT PROTECTING THE SILVER LAKE RESERVOIR IN THE TOWN OF KINGSTON.

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 existing or projected water supply needs and problems expressed by the people of the city of Brockton (or the commonwealth of Massachusetts), and its surrounding and abutting lands as determined by the potential users of the proposed reservoir, through their local, state, regional, or national institutions, have created a need for water and land resource management and use. These needs and problems are of such a multi-governmental nature that their resolution requires cooperation and coordination by many levels of government and private interests. It is the intent of this legislation to protect and improve the public interest, general health, safety, and economic and general welfare of the city of Brockton and others of legal standing as potential users, and reflect society's preference in the above by regulating usage, modifications to and creation of wetlands, lakes, ponds, reservoirs, and rainfall drainage systems, and other economic or ecologic systems, wholly or in part within the city of Brockton's water supply. Participants within the meaning of this legislation shall be governed by the Mass. Wetlands Regulations of 1983, MGL-Chap. 131 (wetlands) Acts pertaining to MDPW, by the FEMA, other applicable federal, state, and local laws, all as revised, and whichever is the more restrictive.

SECTION 2. As used in this act, the following words shall have the following meanings: —

reservoir — that body of water designated by and for the use of the city of Brockton for the purpose of potential water supply;

changing of the water course — alterations within and for the public;

boundaries of water bodies — at least one thousand feet from the limits of surface water, but up the street lot line of certain streets;

reconstruction — that alteration which exceeds 50% of the current market value;

wetlands — as defined by MEPA, and/or typical vegetation;

special permit — that permit as customarily occurs under the by-laws, as revised;

maintenance — any improvements, necessary to correct and normal wear and tear, or to preserve the public health and safety.

SECTION 3. The following uses shall be permitted after a

A. special permit is granted by the planning board:

3.1 structure(s) intended for human, animal, or material occupancy or use on a permanent basis, or over thirty continuous days, whichever is the lesser, having water and sewerage facilities;

3.2 dumping, filling, mining, dredging, grading, drilling, paving, or transferring of any earth material;

3.3 creation of wells, ponds, pools; changing of water courses for swimming, fishing, or other recreational; agricultural uses; changing of scenic or historic features (as defined by the local Historical Commission); changes to drainage boundaries — including stormwater or underground systems within, or impacting upon, the boundaries of the water supply;

B. The following uses after determination of the board of health shall be prohibited:

3.4 placement or depositing of debris or unlawful organic and/or inorganic chemicals, or chemical wastes;

3.5 introduction of influents or effluents of sufficiently high thermal, bacteriological, or other polluting content as to cause a deleterious ecological effect upon potential and existing water supply users;

C. The following exemptions, contingent upon planning board approval, shall apply:

3.6 Any structure, existing upon the effective date of approval of this act, is allowed and may be reconstructed or repaired to only

the original proportions and limits, up to two years after a fire or other casualty, provided that no other provision of law impacting upon said structure(s) are violated and the use is within the interest of these by-laws;

3.7 normal lawn and garden maintenance, or farm areas of five acres in size or less, which are used for such purposes at the time this legislation becomes effective;

3.8 tree trimming, pruning, bracing;

3.9 ordinary repair and maintenance of existing stone walls and retaining walls;

3.10 decorative landscaping, including addition of trees and plants similar in nature to existing vegetation, but not within a one hundred foot boundary of existing wetlands or other open water body, as determined by the conservation commission;

3.11 any other work or application of an emergency nature, in a controllable area, and immediately necessary to protect the health, safety, and well-being of, or damages to the individual persons, and personal or real property after giving written notice to the city clerk within forty-eight hours after commencement of the work, and forty-eight hours prior to the completion of the work said completion to be inspected by the planning board.

SECTION 4. Any person or applicant can submit to the planning board for a special permit, and must comply with the following provisions.

4.1 In those applications where the estimated total cost of the project, including labor and materials, does not exceed two thousand dollars, such plans and specifications need not be prepared by a licensed practitioner, but shall be neat, fully definitive, of an engineered scale of at least 1″=40′ legible and capable of reproduction; features on said plan may need to be shown at the discretion of the planning board. No applications or plan of land or use shall be further subdivided or sublet as to circumvent or lessen the requirements of this or other acts of law.

4.2 In those applications, where the estimated total cost of the project exceeds two thousand dollars, the plans and specifications shall be prepared by a professional engineer and/or architect, and who shall be licensed for such work by solely the appropriate agency of the commonwealth.

4.4 The planning board may waive certain applications, where such waiver is in the public interest. Such waiver must appear on records of the planning board together with the individual votes taken and the reasons therefore. Waivers must be obtained by majority vote. No waivers shall be granted resulting in nullifying the intent and purpose of these regulations. The planning board can attach stipulations to its judgement to so secure the objectives of the standards or other requirements so waived.

4.5 The planning board shall examine all plans and documents or specifications affecting the plans, or cause them to be examined by the city engineer, or a licensed practitioner of the state of Massachusetts as indicated by the scope of work involved. Such examiner shall render the requested report to the planning board, Within an elapsed time, commensurate with the complexity of the project involved, but no later than sixty calendar days after so requested by the planning board. An extension of review for all examinations may be granted upon written agreement of the applicant.

4.6 The application shall contain a description of the proposed action, use, or development on a set of plans of at least 1″=40′ scale, with specifications that include technical data adequate to allow for a careful assessment in light of following guidelines:

4.6.1 the probable (most likely) impact of the proposed action on the environment and all surrounding ecological systems;

4.6.2 probable (most likely) adverse environmental effects which cannot be avoided and are adverse to the purposes of current laws governing the application;

4.6.3 all alternatives, with sufficient explanation offered, to the proposed action;

4.6.4 the relationship between short and long-term uses of the environment, to include maintenance and enhancement of the productivity of the reservoir, and encourage subsequent generations of responsibility.

4.6.5 all irreversible, and irretrievable, commitments of resources.

4.7 Immediately upon officially receiving the report mentioned in 4.5 above, the planning board shall cause a notice of public hearing to be published no less than fourteen calendar days prior to the scheduled public hearing. Said notice shall also appear twice

57 within fourteen days prior to the timeframe mentioned above, and
58 shall contain adequate language and description of the action
59 involved, setting forth the location of streets bounding the pro-
60 posal, with appropriate plot and lot numbers of all parcels affected
61 by the proposal. At a minimum, the conservation commission shall
62 also mail, certified, such notice to property owners within three
63 hundred feet of the bounds of said property as adjudged from the
64 most recent tax assessor's listing.

1 SECTION 5.
2 5.0 The planning board shall review the report within two regu-
3 larly scheduled meetings of said body, or twenty-one days which-
4 ever is the greater, after the public hearing.
5 5.1 Upon approvals, each copy and/or sheet of the plans, and
6 cover sheet of all documents and specifications, shall be stamped
7 approved by planning board with current date, and signature of
8 either the chair or secretary to the board. The approval may be
9 accompanied by certain stipulations in the public interest and must
10 be so noted and delivered to the applicant. Applicant shall also
11 receive a signed copy of the approved documents.
12 5.2 The planning board may also request a bond covering one
13 hundred percent of the most current estimate in dollars of the work
14 to be involved, should the developer/applicant not pursue the
15 intent of the proposed action. Such board shall issue a permit with
16 appropriate conditions and a reasonable time to start and complete
17 the proposed action. Violations of these conditions will be deemed
18 a violation of these entire regulations, and the applicant will be
19 fined according to the schedule listed below. The permit shall also
20 state that the granting of this permit under these regulations does
21 not waive the requirements of any other city, county, state, or
22 federal laws. Any future alterations of the permit and/or proposal
23 shall require the application of a new permit. No permit is valid for
24 more than one year prior to start-up, and expires immediately
25 upon completion of the acts specified therein.
26 5.3 Fines shall be assigned by the planning board to the devel-
27 oper or applicant as necessary, at a rate of five hundred dollars per
28 day per incident, from the date of the actual occurrence of the
29 violations until corrected or ceased as determined by a majority of
30 the planning board.

5.4 The applicant shall provide an "as-built" plan upon completion of the project, with all necessary job-changes or alterations from the original scheme shown, to the planning board.

5.5 The planning board can acquire the services of a qualified agent acting in its behalf, or the city inspector of buildings, to inspect the construction of the proposal from time to time. Said agent or BI shall have the power to enter onto any lands so affected so as to conduct and enforce the purposes of these regulations, or initiate court proceedings thereto.