

South Portland City Council
Position Paper of the Interim City Manager

Subject:

ORDER #25-16/17 – Authorizing the Interim City Manager to accept delivery of a storm water management facility easement deed from Weight Watchers of Maine, Inc. for property at 241 Running Hill Road (a portion of Assessor’s Map 84, Lot 5). Passage requires majority vote.

Position:

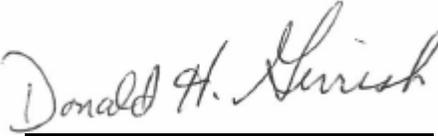
This item is brought forward to authorize the Interim City Manager to accept delivery of an easement deed from Weight Watchers of Maine, Inc. to the City so the City can construct storm water management facilities on Weight Watchers’ property at 241 Running Hill Road (a portion of Assessor’s Map 84, Lot 5). The easement will allow the City enter upon a portion of Weight Watchers’ property to construct, reconstruct, install, operate, modify, alter, use, maintain, repair, replace, inspect and monitor storm water management facilities, including, without limitation, pipes, mains, fixtures and appurtenances for conveying and transmitting storm water, over, under and across the easement area. The principal storm water management facility will be a water quality treatment pond designed to collect and remove pollutants from storm runoff on Cummings Road prior to their discharge into the Long Creek Watershed. In short, this is an environmental enhancement to the City’s road rehabilitation of Cummings Road for the benefit of the Long Creek Watershed. Ongoing maintenance of this storm water management facility will become the responsibility of the Long Creek Watershed Management District.

The easement will be recorded in the Cumberland County Registry of Deeds once it is fully executed.

Doug Howard, Director of Public Works will be at Monday’s meeting to answer any questions.

Requested Action:

Council passage of ORDER #25-16/17.



Interim City Manager



CITY OF SOUTH PORTLAND

THOMAS E. BLAKE
Mayor

DON GERRISH
Interim City Manager

SALLY J. DAGGETT
Jensen Baird Gardner & Henry

EMILY F. CARRINGTON
City Clerk

IN CITY COUNCIL

ORDER #25-16/17

ORDERED, that the Interim City Manager be, and hereby is, authorized and directed to accept delivery on behalf of the City of an easement deed, in substantially the same for as shown on the attached, from Weight Watchers of Maine, Inc. conveying a drainage and storm water management facility easement on, over and under a portion of property located at 241 Running Hill Road (currently shown as a portion of Assessor's Map 84, Lot 5).

Fiscal Note: Less than \$1,000

Dated: August 1, 2016

District One
CLAUDE V. Z. MORGAN

District Two
PATRICIA A. SMITH

District Three
EBEN C. ROSE

District Four
LINDA C. COHEN

District Five
BRAD FOX

At Large
MAXINE R. BEECHER

At Large
THOMAS E. BLAKE

EASEMENT DEED

KNOW ALL PERSONS BY THESE PRESENTS that **WEIGHT WATCHERS OF MAINE, INC.**, a Maine business corporation with a mailing address of 241 Running Hill Road, South Portland, ME 04106 (hereinafter “Grantor”), in consideration of One Dollar (\$1.00) and other valuable consideration, the receipt of which is hereby acknowledged, hereby grants and conveys to the **CITY OF SOUTH PORTLAND**, a municipal corporation organized and existing under the laws of the State of Maine, with a principal place of business located at 25 Cottage Road, South Portland, Maine 04106 (hereinafter “the City”), its successors and assigns, with **Warranty Covenants**, a perpetual right and easement over, under and across the westerly portion of Grantor’s property, bounded and described in **Exhibit A** attached hereto and incorporated herein (hereinafter the “Easement Area”). Reference is made to a plan entitled “Exhibit B of Proposed Drainage Easement” prepared for the City of South Portland by Sebago Technics, dated March 29, 2016, attached hereto and incorporated herein as **Exhibit B**.

This easement shall allow the City and its agents, officers and employees, to construct, reconstruct, install, operate, modify, alter, use, maintain, repair, replace, inspect and monitor storm water management facilities, including, without limitation, pipes, mains, fixtures and appurtenances for conveying and transmitting storm water, over, under and across the Easement Area and for the purposes stated below:

1. the right to collect and control the flow of storm water with the purpose of remediation of existing contamination and prevention of additional contamination of Long Creek due to storm water runoff;
2. the right to trim, cut down, and/or remove bushes, trees, grass, crops or any other vegetation to the extent deemed necessary by the City in its reasonable discretion to effectuate the purposes of this easement;
3. the right to change the existing surface grade of the Easement Area as is deemed necessary by the City in its reasonable discretion to effectuate the purposes of this easement; and
4. rights of ingress and egress, with people and machines, to and from the Easement Area and over the Easement Area.

This easement shall be subject to all existing easements, covenants, restrictions and encumbrances of record. Reserving to Grantor, its successors and assigns, the use and enjoyment of the Easement Area for such purposes only as will in no way interfere with the perpetual use of the easement rights herein set forth by the City, its successors and assigns; provided that no building or any kind of permanent structure shall be erected on the Easement Area by Grantor, its successors and assigns, and that Grantor, its successors and assigns, shall not

remove earth from the Easement Area or place fill thereon without the written permission of the City.

Meaning and intending to convey, and hereby conveying, an easement over, under and across a portion of the land of Grantor as described in a deed dated August 30, 2002 and recorded in the Cumberland County Registry of Deeds in Book 18033, Page 327.

TO HAVE AND TO HOLD, the aforegranted rights and easements, with all the privileges and appurtenances thereof to the said City, its successors and assigns, to its and their use and behoof forever. And Grantor does covenant with the said City, its successors and assigns, that Grantor is lawfully seized in fee of the premises; that they are free of all encumbrances; that it has good right to sell and convey said easement to the said City to hold as aforesaid; and that it and its successors and assigns shall and will warrant and defend the same to the said City, its successors and assigns, forever against the lawful claims and demands of all persons.

IN WITNESS WHEREOF, the said Grantor has caused this instrument to be signed and sealed in its corporate name by _____, its _____, thereunto duly authorized, on _____, 2016.

WITNESS:

WEIGHT WATCHERS OF MAINE, INC.

By: _____
_____ [print name]
Its _____

STATE OF _____
COUNTY OF _____, ss. _____, 2016

Then personally appeared the above-named _____ of said Maine business corporation, as aforesaid, and acknowledged the foregoing instrument to be his/her free act and deed in his/her said capacity and the free act and deed of said Maine business corporation.

Before me,

Notary Public/Attorney-at-Law

Print Name

EXHIBIT A

A certain drainage and stormwater management facility easement situated on the easterly side of Cummings Road in the City of South Portland, County of Cumberland, and State of Maine being more particularly bounded and described as follows:

Beginning at a point on the easterly sideline of Cummings Road at Station 302+8.92, 46.98 feet from the centerline;

Thence N 23°-28'-48" E a distance of 27.59 feet;

Thence N 69°-56'-56" E a distance of 36.00 feet;

Thence N 20°-03'-04" W a distance of 32.00 feet;

Thence S 69°-56'-56" W a distance of 45.00 feet;

Thence N 20°-03'-04" W a distance of 20.00 feet;

Thence S 69°-56'-56" W a distance of 10.00 feet to the easterly sideline of said Cummings Road;

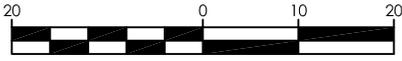
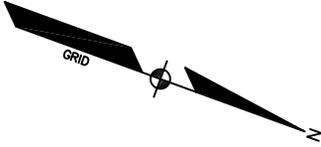
Thence S 20°-03'-04" E along the easterly sideline of said Road, a distance of 72.00 feet to the Point of Beginning.

The total area of the above-described parcel is approximately 2,150 Square Feet.

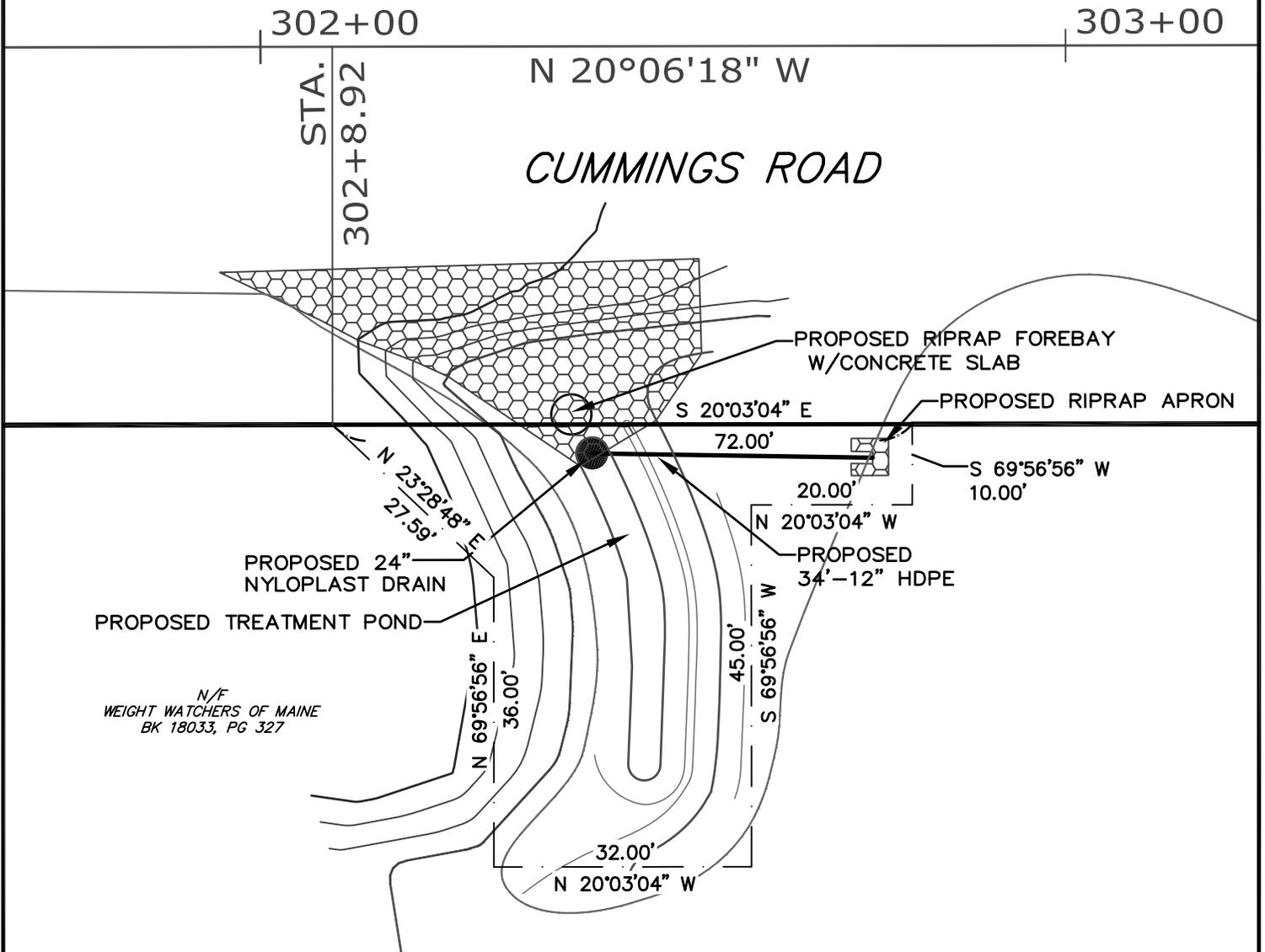
Meaning and intending to describe an easement over a parcel of land being a portion of the land described in a deed dated August 30, 2002 to Weight Watchers of Maine, Inc. recorded in the Cumberland County Registry of Deeds in Book 18033, Page 327.

Bearings herein are based on a Grid North.

EXHIBIT B



GRAPHIC SCALE 1 INCH = 20 FT.



SEBAGO
TECHNICS

WWW.SEAGOTECHNICS.COM

75 John Roberts Rd. Suite 1A South Portland, ME 04106
250 Goddard Rd. Suite B Lewiston, ME 04240
Tel. 207-200-2100 Tel. 207-783-5656

EXHIBIT B OF PROPOSED DRAINAGE EASEMENT

LOCATION:
CUMMINGS ROAD
SOUTH PORTLAND

FOR:
CITY OF SOUTH PORTLAND
PUBLIC WORKS

SCALE: 1" = 20'

DATE: 3/29/2016

SHEET:
1 OF 1