

**Board of Selectmen
Minutes of Tuesday, April 16, 2019
Bourne Veterans' Memorial Community Center
Buzzards Bay, MA**

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TA Tom Guerino
ATA Glenn Cannon

Selectmen

Peter Meier, Chairman
Judy Froman, Vice Chair
James Potter, Clerk
George Slade
Jared MacDonald

Note this meeting is being televised and recorded. If anyone in the audience is recording or videotaping, they need to acknowledge such at this time – Michael Rausch Bourne Enterprise.

All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

Documents

Meeting Called to Order

Chm. Meier called the meeting to order at 7:01 pm.

Moment of Silence for our Troops and our public safety personnel /Salute the Flag

Vision: Bourne is a community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community, embraces excellent education, and the amenities that it affords and offers to citizens a healthy, active lifestyle.

Mission: Bourne will maximize opportunities for social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsibility and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

Public Comment – Non-Agenda Items

Peter Meier released a statement on Buzzards Bay Park. Work began Monday to restore the Buzzards Bay Park to make it accessible for children with disabilities, as required by state and federal law. After months of negotiations between the town and Weston & Sampson and Green Acres Landscape and Construction Co. executed documents last Friday to work together cooperatively to remedy problems at the playground. The goal is to have the

playground open by Memorial Day this year weather permitting after the playground is inspected and certified as safe by a playground safety expert.

Kathy Zagzebski, Executive Director of National Marine Life Center, said the National Marine Life Center is a non-profit marine animal hospital and science and education center. Ms. Zagzebski spoke about what they do at the National Marine Life Center, regarding education, learning about marine animals, and visitors to the center. Ms. Zagzebski also spoke about the parking; they are interested in being part of the productive conversations and long-range comprehensive planning for parking in town, would like to get on the agenda sometime in the future.

Mr. Donovan, Heritage Commercial Park, said the easement is a violation of his rights. He would like to state his comments to the Board. He has been trying to come before this Board to fulfill a motion made by the Finance Committee when the easement was voted and approved and further to authorize the Board of Selectmen to take all necessary actions to implement the vote. It has now been over two years. I have a right to come before my elected official to discuss this item.

3) Approval of Minutes: 2/11/19; Joint meeting with Finance Committee, 4/2/19

Voted Judy Froman moved and seconded by Jared MacDonald to approve the minutes from February 11, 2019. Vote 4-0-1. Peter Meier abstained.

Voted Judy Froman moved and seconded by Jared MacDonald to approve the joint meeting from April 2, 2019. Vote 5-0.

4) Town Administrator Report

- a. FY 2020 Budget – This will be an ongoing piece of this part of the agenda.**
- b. Annual/Special Town Meeting –Warrant review with the Board of Selectmen.**
- c. Debriefing of the Economic Summit held April 10, 2019.**
- d. Parking Working Group update (Mr. Meier, Ms. Froman, Mr. Guerino)**
- e. Upper Cape Towns' / Joint Base Cape Cod Wastewater update**
- f. Reminder Municipal Vulnerability Workshop Tuesday and Wednesday 12:30 – 4:30 p.m. and 9:00 – 1:00 p.m. respectively**

4.a. Tom Guerino spoke about the budget; we will probably be looking at adding money to the budget under DPW or Recreation as it relates to the Buzzards Bay Playground area staffing. Have to figure out how much will be expended into the lifeguard area during the course of the summer to staff two beaches. It has been strongly recommended we have staff at the Buzzards Bay Park.

4.c. Tom Guerino said the Cape Cod Commission, the Planning Department did an outstanding job framing the forum for the day; continuing the economic vitality for the town and everything that contributes to our economy.

Judy Froman said it was a helpful conversation across departments and business. It was helpful identifying our uniqueness and tying it together with the Local Comprehensive Plan.

George Slade said it was nice having the present and potential stakeholders speak. We spoke about infrastructure, to make this town more inviting for people that want to invest in our town; as long as we have a commitment that we want to make this community more attractive.

Peter Meier said we forgot to include the Board of Health, when it comes to development in this town, we have to include the Board of Health. It was a great tool and a lot of people had input.

4.d. Tom Guerino said the Parking Working Group has been meeting. An idea was to bring in the Chamber Executive Director to this group because they have institutional memories as well as the lay of the land. As it relates to specific parking issues that have been brought up over the last several weeks, a subcommittee of the parking group will be meeting this week with people involved with the west end of Main Street specifically at the Marine Life Center to talk about what may or may not be possible for enhancing parking on Main Street.

Jared MacDonald questioned the number of spots in front of the Chamber of Commerce that are marked for private parking for apartment tenants, are they leased? Mr. Guerino said the Chamber has a number of spots that are granted to them by the Commonwealth. They have, for several years, provide parking in the front of that lot for the housing units. Not sure what kind of arrangement they have with those people.

Elmer Clegg, Planning Board Chair, spoke about the meeting he and Mr. Guerino had. Asked to bring Maria Oliva, chair of the Chamber onto the Working Group because she represents the businesses in the town and she does have an agreement with MassDOT. Would like to talk to her to find out what the nature of her agreement is and what areas of parking does she have control over.

James Potter said whatever the history is for how the parking has been arranged would have gone through our Planning Department, so there should be some record of that.

Peter Meier said this was from 15-16 years ago. There was nothing dedicated, in the master deed it didn't say anything about dedicated parking for these units and under the deeds for the individual units it said nothing about dedicated parking, so it had to have been an arrangement with the Chamber and the units. The only thing that has been documented is there is public parking available across the street for use.

Judy Froman said we have maps and we are in the process of making sure that we are very clear what spaces belong to whom. We will eventually be sharing that information with the public once we have the actual facts straightened out.

4.e. Mr. Guerino said we are working, as a junior partner, with the upper Cape towns as it relates to wastewater on the Base, primarily to protect the ability for ISWM at whatever time goes through new development that is approved by the Board of Health and by the Select Board and working group to protect any treated leachate or wastewater from being allowed to go into the outflow pipes and rapid filtration beds. We are looking at perhaps 100,000 gallons that would also take into consideration the property that is currently owned by the apparent company Stop & Shop at the rotary. There has been a draft Joint Powers Agreement that has been put together by Sandwich. We are trying to get the engineering group to come in to discuss where we have been since 2018. We haven't signed on but we have been an active participant. If the Base does give up that wastewater what does that do to the agreement made with the folks on the Base relative to the landfill. Since the town has the easement from the state, we secured 77 acres.

4.f. Tom Guerino said Sam Haines and Tracy Sullivan, conservation Engineering Office have done a fantastic job in putting this Municipal Vulnerability Workshop together with the Cape Cod Commission. It started today. It is talking about sea level rise, climate change, what the impact may be to its coastal community. There was about 25 people there.

5) Update, discussion and action related to Briarwood Bridge (The MassDOT has made a determination)

Peter Meier said in the packet there was letter stamped in, on April 8th from Astrid Glynn Rail and Transit Administrator. Peter Meier read: Although no one disputed the conclusion that the bridge is structurally deficient, it goes on to say that MassDOT arranged for an extensive search of deeds, assessing records and other property records concerning ownership and rights to use and maintain the bridge. The deeds and other real estate records confirm that the bridge is privately-owned and not the property of either the Commonwealth of Massachusetts or the Town of Bourne.

April 16, 2019



Charles D. Baker, Governor
Karyn E. Polito, Lieutenant Governor
Stephanie Pollack, MassDOT Secretary & CEO



RECEIVED

APR 18 2019

TOWN OF BOURNE
BOARD OF SELECTMEN

April 5, 2019

Viriato M. deMacedo
State Senator
Plymouth and Barnstable
State House, Room 313-C
Boston, MA 02133

David T. Vieira
State Representative
Third Barnstable District
State House, Room 167
Boston, MA 02133

Re: Gardner Bridge Crossing

Dear Senator DeMacedo and Representative Vieira,

This letter follows up prior discussions and inquiries concerning the Gardner Bridge Crossing, and provides an update based on information gathered to date concerning the condition of the bridge and allocation of responsibility for its maintenance and repair. We appreciate the concerns that you and your constituents have voiced and the responsiveness that the Town has demonstrated as these issues were explored.

Concerns about the structural integrity of the Gardner Bridge Crossing were identified by the railroad during an inspection on December 29, 2018. This was followed up by an inspection by MassDOT's consultant on January 26, 2019, which confirmed the issues and recommended that the bridge be closed immediately to vehicular traffic. MassDOT provided the Town of Bourne with these inspection reports, which prompted the Town to close the bridge to vehicular traffic. MassDOT concurs with the Town's actions and until necessary repairs are made, agrees that the bridge should remain closed to all vehicular traffic. The structure is safe for bicycle and pedestrian traffic and can remain open for these modes of transportation.

On March 15, 2019, we met with residents and officials to discuss the findings and contents of the inspection reports. Although no one disputed the conclusion that the bridge is structurally deficient with respect to vehicular traffic and that repairs must be made, questions were raised concerning the allocation of responsibility for maintaining and repairing the bridge. To address that issue, MassDOT arranged for an extensive search of deeds, assessing records, and other property records concerning ownership and rights to use and maintain the bridge. The deeds and other real estate records confirm that the bridge is privately-owned and not the property of either the Commonwealth of Massachusetts or the Town of Bourne.

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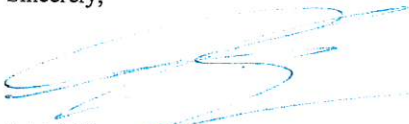
The information filed in the Barnstable County Registry of Deeds, and in records of the Town of Bourne and the Town of Sandwich, confirms that Gardner Road Bridge crosses the railroad right of way from Shore Road along a private driveway known as Briarwood Lane. All of the parcels on the westerly side of the railroad line have easement rights to maintain and use the bridge over the rail line, either as defined in their deeds or as defined in prior deed(s) in their chain of title, to reach Shore Road. The obligation of the property owners to maintain the private bridge are either expressed in their deeds or are implicit or devolve from the terms of the deeds in their chain of title.

Under Massachusetts law, owners of private bridges have the duty of maintaining them in such condition and repair as may be necessary. While the title search has confirmed private ownership of the bridge, MassDOT does not draw any conclusions with respect to the allocation of ownership and responsibility among the several private owners. Each owner's responsibility is derived from the specific terms and conditions of the applicable deeds. In addition, the process for apportioning responsibility for financing repairs to private bridges among multiple bridge owners is governed by M.G.L. c. 84, §§12-14.

Given the fundamental constitutional requirement that public funds may be used only for public purposes, MassDOT has no authority to expend public monies to repair private property. As a result, it cannot expend public funds for the maintenance and repair of the privately-owned Gardner Road Bridge in Bourne.

As long as the bridge remains closed to vehicular traffic, there are no immediate safety concerns for the railroad or for pedestrians and bicyclists using the bridge. However, if the bridge owners wish to have the bridge re-opened to vehicles, they will need to finance and repair the structural deficiencies. In that regard, MassDOT is available to offer technical assistance and advice to the bridge owners in developing an appropriate repair plan.

Sincerely,



Astrid Glynn, Rail & Transit Administrator
Massachusetts Department of Transportation

Cc: Thomas M. Guerino
Bourne Town Administrator

Peter Meier questioned where the documentation is that goes with this. This letter is incomplete. We need to pressure the Commonwealth to go back and take another look. We need documentation to back it up. Think we need to look into this further.

Tom Guerino said this letter was disconcerting based on some of the information that was provided to the folks at MassDOT. Recommend to reengage the Commonwealth relative to how they came to these conclusions. It is important from the town's perspective, we need to be sure that we can continue to bring in emergency vehicles when necessary and continue the municipal services, which we currently provide. Recommend to recontact the secretary of the agency and to sit down with Town Council as to what options are available to the town.

Jared MacDonald stated that bridge doesn't hold emergency vehicles. We should use some of our resources and do some research ourselves.

Peter Meier said we should have a motion authorizing a letter to go back to MassDOT asking they take a second look and give reasons why.

Chris Farrell said they rebuilt the bridge sometime around 1980 so if you look at town meeting articles there should be information.

Jean Campbell, Briarwood Lane, Director of the Town Archives, said she did a lot of research and sent the information to MassDOT, seems they do own the property. Peter Meier requested that information be sent to the Selectmen/Town Administrator.

Kevin O'Neil, Briarwood Lane said the residents sent a note to the selectmen. At the last meeting Rep. Vieira offered to submit legislation to help resolve this issue. Would like the town to support that legislation. The safety issue is paramount.

Loraine Schratz, Briarwood Lane, said it was not in the title that they bought a bridge. We are approaching the summer months, don't think our kind neighbor should have to allow our guests to travel through his property. Also spoke about overflow parking along Shore Road, when checking with the Police was told to park at the baseball fields.

Voted Judy Froman moved and seconded by Jared MacDonald to instruct the Town Administrator to request more information from the Department of Transportation regarding the Briarwood Bridge and the decision.

Peter Meier requested to contact Rep. Vieira and see what his intentions are regarding filing special legislation.

Vote 5-0.

6) Underground Battle Paint Ball – Discussion on groups use of the Stop & Shop property

Peter Meier said this is on the agenda because a letter to the editor suggested the Town take the property by eminent domain for the purposes of doing development on that property. Mr. Meier said that is not the position of this Board. Mr. Smith wanted to educate the public regarding what goes on at that property.

Robert Smith, owner Ultimate Battle Ground, wanted the opportunity to speak to the Board about that property; we have been operating at the Bourne Rotary since I bought it in 2009. The field has been in operation for 20 years, when it was originally Cape Cod Paint Ball. Wanted to share their positive impact to the local community, where families can go to have fun, year-round, and also spoke about non-residents who play there. Spoke about the games they offer, they are a unique entertainment venue on the Cape. We service Mass. Maritime Academy and Joint Base Cape Cod. We have a security system on premises.

7) Bourne Recycling Committee – Heather DiPaolo: hosting two cleanups this year in honor of Earth Day on April 27, 2019 from 10:00-12:00 p.m.

Jean Hill, Amy Sharpe, representatives from the Bourne Recycling Committee, updated the Board on their activities. They are sponsoring, along with ISWM and DPW, two clean-ups to celebrate Earth Day on April 27, 2019 from 10:00 a.m. until 12:00 p.m. One will be at Monks Park, the other will be at Keith Field, area around the field. Wanted to remind everyone that Recycling in Bourne is mandatory. Spoke about recycling and recycling bins at beaches and Keith Field.

8) Appointment to the Cape Cod Commission: Term 4/25/2019-4/24/2022 – Candidates: Stephen F. Mealy; James J. Robinson, Jr.; Robert J. Cronin, Jr.

Peter Meier thanked Mr. Conron for his service.

Each resident Robert Cronin, James Robinson, and Stephen Mealy gave a brief background on themselves, spoke about why they are requesting to be appointed to the Cape Cod Commission, and answered questions from the Board members.

Mr. Donovan spoke about Cape Cod Commission and Economic Development and questioned the candidates what their efforts are going to be to help the Commission with Economic Development. Each candidate answered the question.

Voted Judy Froman moved and seconded by Jared MacDonald to nominate Mr. Mealy, Mr. Cronin, and Mr. Robinson.

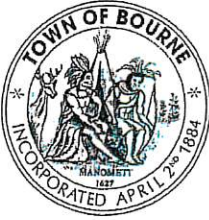
Jared MacDonald – Mr. Mealy; Judy Froman – Mr. Mealy; James Potter – Mr. Mealy; George Slade – Mr. Mealy; Peter Meier – Mr. Mealy
Unanimous Vote - Mr. Mealy

9) Presentation by Landfill Business Model Working Group - Financial Policy

Representative Stanley Andrews, Chair of the Business Model Working Group, and Dan Barrett, Manager ISWM were present.

Stanley Andrews updated the Board on the landfill and the ISWM Financial Policy. Mr. Andrews said they hope the Board will endorse the Policy.

Tom Guerino said this Policy will take care of the needs of the landfill as it relates to its cashflow and its business, but does not abrogate the town's responsibility to oversee it as a town department.

**TOWN OF BOURNE**

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**TOWN OF BOURNE****ISWM ENTERPRISE FUND FINANCIAL POLICIES AND GUIDELINES****I. INTRODUCTION**

The following financial management policies and guidelines set forth the framework for overall planning and management of the Town of Bourne, Integrated Solid Waste Management Enterprise Fund, overseen by the General Manager of the Town of Bourne, Department of Integrated Solid Waste Management. The policies are intended to be advisory in nature and serve as a point of reference for all policy-makers, administrators and advisors.

Responsibility for maintaining safe and environmentally sound operation of the Department of Integrated Solid Waste Management, that is in compliance with all Federal, State and local laws and regulations, is by the Charter, the responsibility of the ISWM General Manager. For each Fiscal Year, the General Manager shall prepare an overall financial management plan that includes an annual budget, administrative fee structure, capital outlay and debt management plan, and contributions to all funds within Retained Earnings. The ISWM General Manager will work closely with the Town Administrator and the Finance Director in the annual budget planning process and the implementation of the Financial Policies.

The policies are designed to ensure the sound financial condition of the ISWM now and in the future. Sound financial condition may be defined as:

- Cash Solvency: The ability to pay bills in a timely fashion and have a reserve to address unexpected increases in operational expenses
- Long- Term Solvency: The ability to pay future costs including all debt service and benefit costs beyond the life of the landfill
- Service Level Solvency: The ability to provide needed services for the residents and customers of the ISWM facilities in a safe and environmentally sound manner
- Infrastructure Solvency: The ability to maintain infrastructure, plan for future development and meet long term care obligations

II. ANNUAL BUDGET

- A. Components: The annual Operating Budget of ISWM shall include the Salaries and Wages, Expenses, Host Fee; and the Administrative Fee.
- B. Administrative Fee: Administrative Fee represents contributions from the ISWM Enterprise Fund, in a manner compliant with the MA Department of Revenue guidelines for Enterprise Funds, for Administrative expenses of the Town. The Administrative fee shall include ISWM fringe benefits, DPW expenses associated with the curbside collection program and other miscellaneous expenses such as accounting, management, postage and legal counsel.
- C. OPEB: ISWM will make contributes to the OPEB Trust Fund in accordance with the Town's Financial Policy on OPEB contributions.

III. FISCAL RESERVES GUIDELINES

ISWM's accumulation of prudent reserves is critically important to the fiscal health of the community for many reasons. The Town will endeavor to establish and maintain the following accounts as part of Retained Earnings. The undesignated balance of Retained Earnings will be reviewed as needed and applied in a manner to enhance the financial stability of the Enterprise Fund, including reducing debt.

- A. Working Capital: Retained Earnings should be maintained at a minimum balance of 3 months operating expenses in cash. A month's operating expenses shall be calculated as the 12-month average from the previous fiscal year. The Finance Director shall be consulted and will make the annual determination of the amount required.
- B. Reserve Fund: The ISWM Reserve Fund will be budgeted at 5% of the ISWM Annual Operating Budget (Components defined in Section II. A.). Access to the Reserve Fund shall be for emergencies or other unanticipated budgetary needs that may arise as a result of unexpected circumstances and must be approved by a vote of the Finance Committee upon request of the ISWM General Manager. Any funds expended during the fiscal year may be replenished at a Special Town Meeting if recommended by the General Manager and the Town Administrator. The minimum annual allocation shall be \$600,000.
- C. Closure and Post-Closure Funds: To maintain closure accounts in compliance with state regulations that set aside adequate funds to close the landfill and/or transfer stations and further to maintain an account for the long-term post-closure care and monitoring required by regulations. Any annual calculation shall be done, in accordance with regulations, to determine the contributions from Retained Earnings into these accounts. Costs for closure and post-closure will be reviewed and updated at least every three

years. Withdrawals from closure accounts shall be made on the recommendation the General Manager and in consultation with the MA DEP. These funds are not to be used for any other purpose and are required to receive operating permits.

- D. Future Solid Waste Stabilization: Funds set aside to cushion the impact on the Town's Operating Budget after the landfill closes and Host Fee revenue will be less. This fund will pay for transportation and disposal of MSW and recycling after the closure of the landfill. There are currently no required contributions to the fund. A policy for the specific goals of the fund and funding mechanism or requirements should be established.
- E. Host Fee: ISWM shall contribute to the General Fund, in accordance with law, the minimum required annual host fee based on a per ton fee per qualifying ton. Said fee shall be calculated in accordance with the law utilizing the cited inflation factor published by the Federal government. The fee shall be part of the annual operating budget and will be based on projected qualifying tons and revenue for the coming Fiscal Year. The total qualifying tons multiplied by the established rate per ton is the determining factor for the host fee. If the General Manager determines that the qualifying tons in any Fiscal Year will not be sufficient to cover the budgeted Host Fee, the General Manager will notify the Town Administrator and the Finance Director as soon as the determination is made but no later than April 1 before the Fiscal Year end.

IV. FINANCIAL PLANNING & MONITORING GUIDELINES

Long-term financial forecasting and constant monitoring of current revenue and expenditure trends are vitally important to maintain quality service levels and fiscal discipline. As a result, it is the policy of the Town that ISWM undertake the following:

- A. Multi-Year Financial Forecasting: Establish and maintain an on-going financial planning model that projects revenues and expenses over the next five (5) years by using five (5) years of historical data and other fiscal trend analysis. ISWM shall endeavor to secure long-term contracts and other business arrangements to ensure that it has a steady source of revenue to meet its obligations.
- B. Monitor and Track Current Year Financial Activities: Constantly monitor revenue and expenditure activities and publish periodic reports for policy-makers, the Town Administrator and Finance Director. To meet this objective, ISWM should implement improved financial management systems to create the required revenue and expenditure reports, reduce duplication of effort, and maximize productivity of finance department staff.

V. CAPITAL PLANNING & DEBT SERVICE MANAGEMENT GUIDELINE

ISWM's ability to address its capital needs (Infrastructure, facilities, equipment, etc.) is critical to meet contractual and regulatory obligations to provide safe and environmentally compliant facilities. ISWM is a unique operation in the state of MA for a municipal government and consideration must be given to the General Manager that ISWM has substantial expenditures for the purposes of keeping its facilities in good working order and to plan for the future. Therefore, ISWM shall undertake the following:

- A. Capital Improvement Plan: The Town shall establish and maintain a five (5) year capital improvements plan, to update the plan annually, to develop capital financing strategies consistent with these policies, and to integrate any new operating costs associated with capital projects into the annual operating budget. The Town should capitalize expenditures of at least \$20,000 and having a useful life of more than five years.
- B. Debt Maturity Guidelines: The Treasurer will strive to limit the maturity of ISWM's debt according to Mass General Laws and within the overall active life of the specific project or the landfill. A debt management plan will be developed for each fiscal year as part of the Operating Budget. This plan shall take into account the Fiscal Reserves that have been identified and that must also be fully funded.
- C. Alternative Financing Strategies: ISWM will continually pursue opportunities to acquire capital by means other than conventional borrowing such as grants, and other programs as may be available.
- D. Reconciliation & Record keeping: ISWM will annually reconcile debt-related records with the Finance Director/Treasurer and the Town Accountant before April 1 of each fiscal year to determine if any unissued bond authorizations need to be rescinded at the Annual Town Meeting.
- E. Debt Issuance: ISWM will work closely with the Finance Director and the Town's Financial Advisor and Bond Counsel to ensure that all legal requirements are met and that the lowest possible interest rate can be obtained.
- F. Capital Budget: The Capital Budget for ISWM shall be determined on an annual basis and shall include replacement of ISWM funded equipment utilized by the Department of Public Works to fulfill the duties of curbside MSW and recyclables collection. ISWM will include a 5-year capital plan as part of the annual capital outlay review.

VI. REVENUE ENHANCEMENT GUIDELINES

- A. ISWM will rapidly move to collect all receivables and close accounts of customers who do not pay. Further ISWM will notify the Town Administrator of accounts that require the Town to pursue full payment by all legal means.

POLICY ENDORSEMENTS

Approved:

Town Administrator
Dated:

Finance Committee Chair
Dated:

Chairman, Board of Selectmen
Dated:

Finance Director/Treasurer
Dated:

Vice Chairman, Board of Selectmen
Dated:

Town Accountant
Dated:

Clerk, Board of Selectmen
Dated:

ISWM General Manager
Dated:

Board of Selectmen
Dated:

Board of Selectmen
Dated:

Stanley Andrews said this year we have had a 30% increase in leachate disposal. These policies will prevent us from having to shut down another portion of our business unit.

Peter Meier questioned regarding item 3C Closure Post-Closure Funds if every 3 years is too long a time to go before reviewing. Dan Barrett said from a regulatory standpoint we have to review our closure post-closure every year internally; we have to submit to the State every two years.

James Potter said under Capital Planning section 5A, The Town shall establish and maintain a five-year Capital Improvements Plan, to update the plan annually; that annually needs to fall within our budget review cycle. We should put in a specific month; we could insert December so it falls within the other budgets being put together for January.

Tom Guerino said a date certain makes sense. December or January is fine, but wouldn't want to have this department held to a December date on its Capital Expenditure plan for the ensuing fiscal year because some things change. December is ok for the 5-year plan, but don't want to hold the annual expenditure plan until a little later in the budget season.

James Potter said he is concerned because anything past January 15th doesn't give the Board of Selectmen the actual 5-year Operational Plan that the Charter says we are supposed to have. If we are past January 15th for Capital Improvement then we are outside the Charter.

Dan Barrett said we already have a 5-year plan in place, we go by what Capital Outlay and Finance Committee like to see. We could be ready anytime you want the plan.

Tom Guerino said the Charter states that Budget with Capital will be turned over to the Board on that date certain. The Board at that point has the opportunity to make changes.

Judy Froman made a recommendation that we reflect the policy wording to say it is done on an annual basis based on the Town Charter deadline (budgetary deadlines in the Charter.)

Voted Jared MacDonald moved and seconded by Judy Froman to move this to second reading subject to the wording change in item 5a. (Update annually according to the Charter) Vote: 5-0.

10) License/Appointments

a. Council on Aging – Alternate Appointment – Donna M. Pascarella

b. Election Worker – Vivian R. Stowe

c. Stomping Grounds Grille – Request to serve liquor 10:00 a.m. on Sundays for brunch

Donna Pascarella gave a brief background and spoke about why she wants to be considered as an alternate for the Council on Aging.

Voted Judy Froman moved and seconded by Jared MacDonald to appoint Donna M. Pascarella to the Council on Aging as Alternate Member, term to expire June 30, 2019. Vote: 5-0.

Voted Judy Froman moved and seconded by Jared MacDonald to appoint Vivian R. Stowe as an Election Worker, term to expire June 30, 2019. Vote: 5-0.

Tom Guerino requested a point of privilege related to the landfill and budget. The Charter states "Will file a budget within time fixed by Bylaw". The bylaw provides for when the budget is submitted. The budgets from the departments to the Town Administrator by December 8th. The Town Administrator shall submit the budget to the Board of Selectmen, proposed Operating Capital Budget for all departments including the school, on the 15th of January.

10.C. Tom Guerino said on July 27, 2010 the Selectmen voted to opt in to the provisions of application of Mass General Laws to allow individual licenses to apply for a 10:00 a.m. license on Sunday. We currently have six that the Board has allowed to do this. This just requires a vote of the Board.

Helene Rogers, owner Stomping Grounds Grille, explained why she is requesting the license change to serve liquor at 10:00 a.m. on Sundays for brunch.

Voted George Slade moved and seconded by Judy Froman to move forward to approve this request. Vote: 5-0.

11) Selectmen's Business

a. Signing of Special and Annual Town Meeting Warrants

Mr. Guerino said tonight the Board is voting to allow the Warrant to be posted. Judy Froman wanted to clarify we are voting the individual articles, but our end result is to vote the total warrant. James Potter said we have to vote affirmative to post the warrant.

ARTICLE 3: To see if the Town will vote to raise and appropriate or transfer from available funds, a sum of money to defray the regular annual expenses of the Town, or take any other action in relation thereto. *Sponsor – Board of Selectmen*

The Selectmen agreed to postpone the vote on this item until next Tuesday

ARTICLE 7: To see if the Town will vote to raise and appropriate or transfer from available funds a sum of money to operate the Integrated Solid Waste Management Program, or take any other action in relation thereto. *Sponsor – Board of Selectmen*

Voted Judy Froman moved and seconded by Jared MacDonald to support Article 7. Vote: 5-0.

ARTICLE 19: To see if the Town will vote to appropriate a sum of money for the purpose of implementing a secure wireless electronic voting system configuration for use by registered voters at an annual or special town meeting including, but not limited to, handheld voting devices, software, hardware, provide training to all persons involved in

conducting the town meetings, and provide voter education, or take any other action in relation thereto. *Sponsor - Town Clerk*

The Selectmen agreed to postpone the vote on this item until next Tuesday

ARTICLE 20: To see if the Town will vote to amend the Town of Bourne Bylaws, Article 3.1 Section 3.1.17 entitled "Hawkers and Peddlers," by deleting it in its entirety and, substituting in its place, a new Article 3.1.17 Hawkers and Peddlers; Door-to-Door Sales as printed below, or act anything in relation thereto. *Sponsor - Bylaw Committee*

Judy Froman said the question moving forward was do we, Selectmen, need to be the point of approval. Tom Guerino said the Board of Selectmen can defer the decision to the Town Administrator.

James Potter said it is important to go through the Board for the enforcement. If someone violates, they get brought before the Board and we can institute a fine, the Town Administrator wouldn't be able to do that.

Voted Judy Froman moved and seconded by Jared MacDonald to support Article 20.
Vote: 5-0.

ARTICLE 24: To see if the Town will vote to amend the Town of Bourne By-laws, Article 1.1 Section 1.1.8 Time Limit, by adding the following.

"Each Saturday session of an annual or special town meeting shall begin no earlier than 10:00 a.m.", or take any other action in relation thereto. *Sponsor - Board of Selectmen*

Tom Guerino said the reason to keep the word Annual in there is if you want to continue the Annual from a Monday night to a Saturday, it will still be considered the Annual Town Meeting.

Voted Judy Froman moved and seconded by Jared MacDonald to support Article 24.
Vote: 5-0.

Peter Meier said the warrant only has 0 Squeteague Road listed, but the email had 9 different easement addresses listed.

ARTICLE 29: To see if the Town will vote to authorize the Board of Selectmen to grant to Clare H. Heffernan, and their successors in title, a perpetual easement to maintain, repair, and replace a 30 square foot easement to access an existing structure shown on the plan on file with the Town Clerk's Office, or take any other action relative thereto.

Mr. Donovan said under Article 3 Section 3-3 of the Town Charter states The Board of Selectmen shall serve as the chief goal setting and policy-making agency of the town. Mr. Donovan said he did not want his easement blanked into all the easements because the easement he is talking about is a housekeeping matter. It is a defective, illegal, easement

that was put on the property in 1963. It was never voted in by Town Meeting. If we go with this Article to Town Meeting floor I will remove my land from that article then I will debate it on Town Meeting floor. I just want to discuss this one particular easement. I have the right to come before this Board and be heard. In 1963 someone gave the town of Bourne an easement 4 months before they owned the property, it was never voted at Town Meeting. If it hasn't been voted at Town Meeting then it is illegal and has never been accepted by the town. I'm asking you as the Board of Selectmen to look at this individually as a housekeeping matter. I want my public officials to give me my due process that I am entitled to. If I had not come to tonight meeting, who was going to tell me that I was back on the warrant?

James Potter said Town Meeting has to authorize easements, not the Board of Selectmen. We can negotiate on behalf of the town, if they so choose at Town Meeting through a warrant article to approve a negotiation.

Mr. Donovan said I sent everyone a copy of this on January 7th. I cc'd every Board Member. It was a unanimous decision at Town Meeting in 2017. I started this process in 2016. When the Town Council asked the Town Administrator to pull it because he was concerned about something undenounced to me. The following year I filed a private petition with the Town Meeting in May 2017. I got a unanimous decision. The Finance Committee voted 11-0 to endorse it. The Board of Selectmen voted 4-0-1 to endorse it. For 2 years I have not been allowed to come and negotiate and to explain to you that you have a letter from legal council that shows it is a defective easement. This easement that was put on my property in 1963 was never gone to Town Meeting. This easement only appeared in 2012 when I sold the land to Hydroid, someone found in the appendix an article that represented some termination. Mr. Donovan said Bob Troy is afraid the Town will be sued so he wants to blanket it in with the other easements.

Jared MacDonald said this is something that has never been corrected. We should take time to look at this and have Mr. Donovan back in. We have to address this based on the timeframes.

Mr. Donovan said the easement goes through 2 of his properties and through the property now owned by Hydroid.

Tom Guerino suggested the Selectmen vote Article 29 as it relates strictly to the Heffernan's. The Board of Selectmen still needs to have a session relative to negotiating position of the Board as it relates to the Donovan property and the easement relative to Basset's Island; two separate easements.

Mr. Donovan said in his email he requested the Selectmen not to go into executive session regarding his easement. That State Law and Open Meeting Law required you to vote individually on each easement to discuss it.

Mr. Donovan said you have the information before you now. If you want, I am more than willing to come back to the Board and have a discussion after you read the information. I

am disappointed that the Board of Selectmen have not in 2 years been able to afford me the time to come and speak before you. Mr. Donovan requested a time certain to come back to the Board. Peter Meier said the first meeting after the conclusion of Town Meeting, May 14th. Mr. Donovan said he would like a conversation prior to town meeting. The Town Administrator will contact Mr. Donovan by next Tuesday.



C.C. Ventures, Inc.

PO Box 1197 – 5 Benjamin Nye Circle
Pocasset, MA 02559
Tel: (508) 563-2740 Fax: (508) 563-2744

April 16, 2019

Addendum

VISION STATEMENT: BOARD OF SELECTMAN

POLICY ROLE: TOWN OF BOURNE CHARTER REVIEW

EMAILS: TO TOWN ADMINISTRATOR AND SELECTMAN

LETTER TO DEBRA JUDGE JANUARY 23, 2019

LETTER OF WILLIAM ROSA ESQ JUNE 23, 2017

PAGE 44 WARRANT MAY 2017 TOWN MEETING

LETTER OF TOWN ENGINEER JULY 27, 2016

LETTER OF TOWN PLANNER MARCH 21, 2012

LETTER OF STEPHEN MEALY SELECTMAN MARCH 7, 2017



Town of
BOURNE *Massachusetts*

Published on Bourne MA (<https://www.townofbourne.com>)

[Home](#) > [Boards & Committees](#) > [Selectmen](#)

Selectmen

Sewer Commissioners

Vision:

Bourne is a community that embraces change while respecting the rich heritage of the town and its villages. It is a municipality based on strong fiscal government with a durable economy that recognizes the rights of all citizens, respects the environment, especially the coastal areas of the community, embraces excellent education, and the amenities that it affords and offers to citizens a healthy, active lifestyle.

Mission:

Bourne will maximize opportunities for the social and economic development while retaining an attractive, sustainable and secure coastline and environment for the enjoyment of residents and visitors. Through responsible and professional leadership and in partnership with others, Bourne will strive to improve the quality of life for all residents living and working in the larger community.

Goals:

- 1: To improve the user-ability, organizational structure, and timely posting of the town website by January 2019.
- 2: To develop a town-wide unified economic growth plan by February 2019 with a five-year strategic implementation plan.
- 3: To implement financial software package for town services by May 2019.
- 4: To prioritize town policies for need and review by August 1, 2018, mapping out the timeline to address 10 policies by May 31, 2019.
- 5: To establish a multi-year financial and strategic plan involving Priority Based Budgeting and quarterly reporting with implementation by April 2019.

Goals working document

Board Members:

Peter J. Meier
Judith MacLeod-Froman
James L. Potter
George G. Slade
Jared P. MacDonald
All Selectmen

Staff Contacts:

Judith MacLeod-Froman

Phone:

(508) 759-0600 Ext.1503

Hours of Operation:

Monday - Friday: 8:30 am to 4:30 pm

Excluding Holidays

Address

24 Perry Avenue

Buzzards Bay, MA 02532-3441

United States

See map: [Google Maps](#)

When:

Tuesday evenings

Where:

Bourne Memorial Community Center

Time:

7:00 pm

Quick Links

[Talent Bank Form](#)

Source URL: <https://www.townofbourne.com/selectmen>

TOWN OF BOURNE
2010 CHARTER REVIEW COMMITTEE
REPORT TO TOWN MEETING

By four-fifths vote, the Board of Selectmen may waive the aforementioned requirements for the special Town Meeting, in case of emergency.

(c) Availability of the Voter Handbook - The Voter Handbook shall include the text of any annual or special Town Meeting warrant with the recommendations and counted votes of the Finance Committee, Board of Selectmen, and any other appointed or elected board or committee proposing an article. In the Voter Handbook for the Annual Town Meeting the Selectmen shall include the recommended operating budget with revenue projections, the departmental goals for the upcoming fiscal year, and five year financial, debt and capital projections. The Voter Handbook shall be available to the public at town hall and the public library not less than fifteen (15) days prior to the Annual Town Meeting.

to

(b) Time for Closing Town Meeting Warrants - The Board of Selectmen shall close the Warrant not less than seventy-five (75) days prior to the date for the annual Town Meeting, and not less than forty-five (45) days prior to the date for any special Town Meeting. By four-fifths (4/5) vote, the Board of Selectmen may waive the aforementioned requirements for the special Town Meeting, in case of emergency.

(c) Availability of the Voter Handbook - The Voter Handbook shall include the text of any annual or special Town Meeting warrant with the recommendations and counted votes of the Finance Committee, Board of Selectmen, and any other appointed or elected board or committee proposing an article. In the Voter Handbook for the Annual Town Meeting the Selectmen shall include the recommended operating budget with revenue projections, the departmental goals for the upcoming fiscal year, and five (5) year financial, debt and capital projections. The Voter Handbook shall be available to the public at town hall and the public library not less than fifteen (15) days prior to the Annual Town Meeting.

Article 3 Section 3-3: Policy Role

The Board of Selectmen shall serve as the chief goal setting and policy-making agency of the town, keeping in mind the goals, policies and action items of the Local Comprehensive Plan (LCP), and shall appoint a Town Administrator to carry out such policies. Policies and goals specific to each policy shall be filed with the Town Administrator no later than 45 days after the regular spring town election. Individual selectmen shall have no independent authority unless specifically voted by the Board of Selectmen. Selectmen shall deal with administrative agencies and departments ~~shall act through the adoption of broad policy guidelines~~ through the Town Administrator.

Nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of its members, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the Board of Selectmen shall act ~~only~~ through the adoption of broad policy goals, policies and action items, which are to be implemented by the Town Administrator.

to

The Board of Selectmen shall serve as the chief goal setting and policy-making agency of

TOWN OF BOURNE
2010 CHARTER REVIEW COMMITTEE
REPORT TO TOWN MEETING

the town, keeping in mind the goals, policies, and action items of the Local Comprehensive Plan (LCP), and shall appoint a Town Administrator to carry out such policies. Policies and goals specific to each policy shall be filed with the Town Administrator no later than sixty five (65) days after the regular spring town election. Individual selectmen shall have no independent authority unless specifically voted by the Board of Selectmen. Selectmen shall deal with administrative agencies and departments **only** through the Town Administrator.

Nothing in this section shall be construed to authorize any member of the board of selectmen, nor a majority of its members, to become involved in the day-to-day administration of any town agency. It is the intention of this provision that the Board of Selectmen shall act through the adoption of broad policy goals, policies, and action items, which are to be implemented by the Town Administrator.

Explanation – The 2007 Annual Spring Town Meeting approved the proposed change as part of Article 26 as amended by a vote of 184 to 2. When the proposed text of the change was transcribed the following errors were introduced:

- 1.) Paragraph 1- 45 days should be 65 days
- 2.) Paragraph 1- ~~shall act through the adoption of broad policy guidelines~~ is extraneous text and should be deleted
- 3.) Paragraph 1- the word **only** was deleted and should be added
- 4.) Paragraph 2- the word **only** was inserted and should be deleted.

The Massachusetts General Court approved the language as shown in Section 3-3. The purpose of this change is to restore the action of Town Meeting and send to the correct language to the General Court for their affirmation.

Article 4 Section 4-1: Appointment; Qualification; Term

The Board of Selectmen shall appoint a Town Administrator Search Committee of not fewer than 5 and not more than 9 residents of the community to assist the Board of Selectmen in the recruitment and selection of the Town Administrator. If the Board of Selectmen does not select one of the candidates presented by the search committee within thirty 30 days, then the search committee shall resume its search and submit an additional list of candidates to the Board of Selectmen within 60 days after it resumes the search.

The Board of Selectmen, by an affirmative vote of 4 members, shall appoint the Town Administrator for an indefinite term and fix the Town Administrator's compensation within the amount annually appropriated for this purpose. ~~The office of the Town Administrator shall not be subject to the Personnel by-law.~~ The Town Administrator shall be appointed solely on the basis of executive and administrative qualifications.

The Town Administrator shall be a professionally qualified person of proven ability, especially fitted to perform the duties of the office by education, training and previous experience in municipal administration. The Town Administrator shall have a Bachelors Degree, preferably a Masters Degree, in Public Administration, Business Management or

April 16, 2019

1/30/2019

Fwd: Easement

From: Thomas Donovan <dcoldon@aol.com>
 To: Iolake <iolake@lobstertrap.com>; henrydonovan <henrydonovan@hotmail.com>
 Subject: Fwd: Easement
 Date: Wed, Jan 30, 2019 9:43 am

-----Original Message-----

From: Thomas Donovan <dcoldon@aol.com>
 To: TGuerino <TGuerino@townofbourne.com>
 Cc: PMeier <PMeier@townofbourne.com>
 Sent: Wed, Jan 30, 2019 9:42 am
 Subject: Re: Easement

Tom

As I have stated in my letter I believe there is NO legal reason to go into Executive session on the easement removal authorized by the Bourne Town Meeting and that this will be a violation of the Open Meeting Law and my Civil Rights. It is the intent of the Open Meeting Law that on Town issues not in litigation that they be open and transparent to the public and to those effected by decisions of a Town's elected officials (BOS). I stand by my request that discussion of the defective easement on our land and that of Hydoid LLC should be held in a public forum and not in Executive Session along with 3 other easement requests to the Town. Our issue stands alone and needs to be addressed on its own merits. Thomas Donovan , CC Ventures Inc

-----Original Message-----

From: Guerino, Thomas <TGuerino@townofbourne.com>
 To: 'Thomas Donovan' <dcoldon@aol.com>
 Cc: Meier, Peter <PMeier@townofbourne.com>
 Sent: Tue, Jan 29, 2019 1:11 pm
 Subject: RE: Easement

Tom:

The Board will not be discussing the easements on February 5 as previously thought. Other pressing issues are taking precedent and the Board will be meeting in Executive Session solely on these matters. I will schedule you to come before the Selectmen after the Board has had the opportunity to review the easement issue in Executive Session. As you know, there are new members to the BOS that need to be briefed on all of the easement related properties.

TG

From: Thomas Donevan [mailto:dcoldon@aol.com]
 Sent: Thursday, January 24, 2019 10:57 AM
 To: Judge, Debbie <DJudge@townofbourne.com>
 Cc: Guerino, Thomas <TGuerino@townofbourne.com>; Meier, Peter <PMeier@townofbourne.com>; Froman, Judith <jfroman@townofbourne.com>; James L. Potter <jlpotter@townofbourne.com>; Slade, George <gslade@townofbourne.com>; MacDonald, Jared <JMacDonald@townofbourne.com>
 Subject: Easement

Hi Debra

Please see the attached letter and information to be put on the agenda for the Board of Selectman's meeting on February 5, 2019

Thank you

Thomas Donovan

<https://mail.aol.com/webmail-std/en-us/PrintMessage>

1/2

C.C. VENTURES, INC.
P.O. Box 1197 - 5 Benjamin Nye Circle, Unit #5
Pocasset, MA 02559
Tel: 508-563-2740 / Fax: 508-563-2744

January 23, 2019

Debra Judge
Executive Assistant
Town of Bourne
24 Perry Ave.
Bourne Ma. 02532

Email: Djudge@townofbourne.com

Dear Debbie

Please accept this email as my request to be put on the agenda for the Board of Selectman's meeting on February 5, 2019. I will be addressing the Board of Selectmen in regard to the removal of the easement on land owned by C.C. Ventures Inc. and Hydroid LLC.

As the board is aware the 2017 May Town meeting voted to remove this easement and for the Selectman to "negotiate in good faith" the removal of the easement. After two years, and at least 6 meetings and numerous phone calls to Mr. Guerino the town manager, I would like to address the board in a public meeting.

Mr. Guerino has indicated today the intent of the board to go into executive session to discuss different easement items on February 5 of which ours is one. My reading of the "Open Meeting Law Executive Session" section 6 is the board will need to vote on each specific easement to go into Executive Session and I believe I have the right as a tax payer to be heard prior to executive session.

In closing I believe the Selectman should allow a resident of the Town to be heard in public on a matter approved by Town Meeting and not in Executive Session. The other easement requests are completely different than ours and each one should be discussed individually. I have been more than patient and ask only for the due respect a public body should give to its residents.

Sincerely


Thomas Donovan
Treasurer/CC Ventures Inc.

Cc: Tom Guerino - Town Manager
Peter Meier - Chairman Board of Selectman
Members - Board of Selectman

P. Meier
@townofBourne
.com.
J. Fruman
JL Potter.
G Slade
J MacDonald.

WYNN & WYNN
ATTORNEYS

Patricia B. Couto
Jeffrey D. Klesling
Janet A. Landry
Jeffrey L. Maclean
Kate A. Messinger*
Robert H. Mills
John J. O'Day, Jr.
Kevin J. O'Malley
Raymond C. Pelote*
Corey T. Pontes
Thomas B. Pontes
Michael J. Princi
Rebecca C. Richardson
Janice E. Robbins
William Rosa*
Dina M. Swanson
Diana M. Williams
Paul E. Wynn
Thomas J. Wynn

Of Counsel

Gerald S. Garnick
Hon. James R. McGillen, II (Ret.)
Keough & Sweeney
William B. O'Keefe
Edward R. O'Brien, Jr.

Admitted:

*Massachusetts and Rhode Island
**Massachusetts and New Hampshire

June 23, 2017

Robert S. Troy, Town Counsel
Town of Bourne
Troy Wall Associates
90 Route 6A
Sandwich, MA 02563

Dear Attorney Troy:

Please be advised that our office represents C.C. Ventures, Inc., relative to the abandonment of an easement located on Lots 6, 9 and 10 of Henry Drive and Henry Drive Extension in the Heritage Commercial Park in Bourne. It is my understanding that at the April Town Meeting, the Town voted to allow the Selectmen to negotiate the terms of the abandonment of this easement with my client. I am in receipt of your memo dated April 24, 2017, relative to the procedure you believe the Town is obligated to follow in cases in which they are releasing property rights in land previously granted to the Town.

As I am sure that you are aware, the history surrounding this parcel is a bit confusing. I believe that, because of the history, the Town's procedures may not apply in this particular situation. There appear to be defects in the initial grant of this easement, as well as in the Town's procedure relative to accepting the easement.

The first issue involves the fact that this property was deeded to the Town in March of 1963; however, Mr. Tuttle, who was the grantor in that deed, did not take title to the property until May of that year. The Doctrine of Estoppel by Deed may be applicable here; however, this was not a conveyance with monetary consideration or for value, and the Massachusetts courts are unclear as to the application of that Doctrine to quitclaim deeds not for value. The record title holder at that point due to tax lien foreclosure would have been aware that Mr. Tuttle was not the owner of record, and the Massachusetts courts have indicated that the Estoppel by Deed Doctrine is not applicable when the grantee is aware of the defect.

The second defect involves the Town's acceptance of the grant of easement. A search of the Town Meeting records does not indicate that the Town ever voted to accept this conveyance, a requirement in order for them to complete the receipt of any land intended to be conveyed to them.

For these two reasons, I believe that the initial conveyance is defective; and, therefore, good title to the property was never effectively conveyed to the Town. Accordingly, the Town was never able to take possession.

Robert S. Troy, Town Counsel
Town of Bourne
Troy Wall Associates
June 23, 2017
Page 2

Additionally, since the purported conveyance, the Town has never taken dominion or control over this property. It has never exercised any ownership rights, and the property remains in the exact same state in which it was originally conveyed - unused and unimproved. The indication from the Town Engineer is that the necessity of this easement no longer exists due to the development of land to which this easement is adjacent. Therefore, its original purpose, which was to potentially give access to Town land, is no longer in effect. Any Doctrine of Easement by Necessity or Prescription does not appear to be applicable.

The impact of these two defects makes the deed void; or, at least voidable.

For these reasons, I believe that it would be within the reasonable purview of the Town to convey whatever interest they may hold in this property to my client; and, that they may do so without the "new" appraisal rights, etc., which the Town has adopted. I would agree that in those instances where title is clear, there is a laudable purpose for the Town to receive as much value as they can for the conveyance of any Town lands.

However, in this instance, I do not believe that it would be unreasonable to have the Town waive that requirement in light of the fact that they, in effect, do not have good title, have no adverse possession claim over the property, and the conveyance which they will execute is merely one to clear the record, rather than an absolute conveyance of land appropriately owned by the Town. At a minimum the appraisal if required shall take into account the status of the title and its impact on value.

I thank you for your consideration in this matter. Should you have any questions, please feel free to contact me.

Very truly yours,
WYNN & WYNN, P.C.

William Rosa

WR:djg

✓ **ARTICLE 19:** To see if the Town will vote to appropriate, borrow or transfer from available funds a sum of money to the **Special Education Reserve Fund**, or take any other action in relation thereto.

Sponsor – Board of Selectmen

Finance Committee voted 11-0 to recommend approval of this article.

Board of Selectmen voted 4-0 to recommend approval of this article.

ARTICLE 20: To see if the Town will vote to remove existing 40' wide access and utility easement on lots 9, 6 and 10 Henry Drive and Henry Drive extension recorded in Deed Book 1200 Page 76 shown on plan entitled "Amended to Definitive Plan, Heritage Commercial Park II drawn by Holmes and McGrath, Inc. and dated November 11, 2011", as shown on a plan on file in the Town Clerk's Office, or take any action in relation thereto.

Sponsor – Thomas Donovan and others

Finance Committee voted 11-0 to recommend approval of this article.

Board of Selectmen voted 4-0 to recommend approval of this article.

See Appendix "C" Page 86

ARTICLE 21: To see if the Town will vote to amend the Town of Bourne Bylaws CHAPTER 3, **GENERAL REGULATIONS Article 3.1 Public Safety and Good Order Section 3.1.29 Licensing and Control of Dogs** by removing g. Kennel License in its entirety and replacing it with a new Kennel License. To read as follows:

g. Kennel License

1. The owner or keeper of a dog kennel within the Town of Bourne must be renewed annually by January 1st of each year.

2. **Annual Fee**

Each license for a kennel shall be \$50.00 if four (4) dogs or less are kept in said kennel; \$75.00 if more than four (4) but not more than nine (9) dogs are kept in said kennel; \$150.00 if ten (10) or more are kept in said kennel.

3. **Substitute Kennel License Tag**



TOWN OF BOURNE
ENGINEERING DEPARTMENT

24 PERRY AVENUE
BUZZARDS BAY, MASSACHUSETTS 02532

(508) 759--0600 extension #1518

July 27, 2016

To: Thomas Guerino, Town Administrator

From: Michael Leitzel, Engineering

Re: Request from C.C. Ventures to abandon Town Easement between Town Forest and MacArthur Boulevard,

BACKGROUND: The easement was granted to the Town of Bourne by Winslow H. Tuttle in 1963. It was granted on an agreement between the Board of Selectmen and Mr. Tuttle involving a Tax Lien Case on the property on which this easement lies upon (see attached documents). I could find no records of this Easement being accepted under any article at a Town Meeting.

In 1963, this area was completely undeveloped and the easement was created for a future access/utilities point for the Town Forest from MacArthur Boulevard. Today, between the Town Forest and MacArthur Boulevard lies a developed residential subdivision and a developed commercial subdivision. The 2,000' long easement along the northerly line within these two subdivisions has never been used by the Town for the purpose of servicing the Town Forest. The intent of the easement has become outdated and is no longer needed.

I, WINSLOW H. TUTTLE, of that part of Bourne, Barnstable County, Massachusetts known as Pocasset, being unmarried, for consideration paid grant to the TOWN OF BOURNE, with QUITCLAIM COVENANTS, an easement for the purpose of travel by all modes and methods and without limitation as to amount and for the installation of utility lines of any kind and description under, on and over a strip of land forty (40) feet in width extending from MacArthur Boulevard to the northeasterly corner of the land of the Town of Bourne which is known as the Bourne Town Forest, over the land taken by the Town under an instrument of taking dated May 29, 1958 recorded with Barnstable County Registry of Deeds, Book 1006 at Page 27 and which tax title has been redeemed by the within grantor.

Witness my hand and seal this 16th day of March, 1963.

Winslow H. Tuttle

COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE, SS:

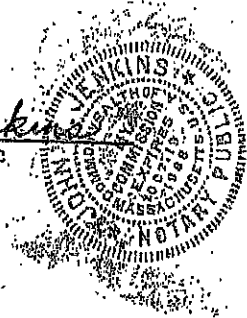
MARCH 16, 1963

Then personally appeared the above named Winslow H. Tuttle and acknowledged the foregoing instrument to be his free act and deed, before me.

John B. Jenkins
Notary Public

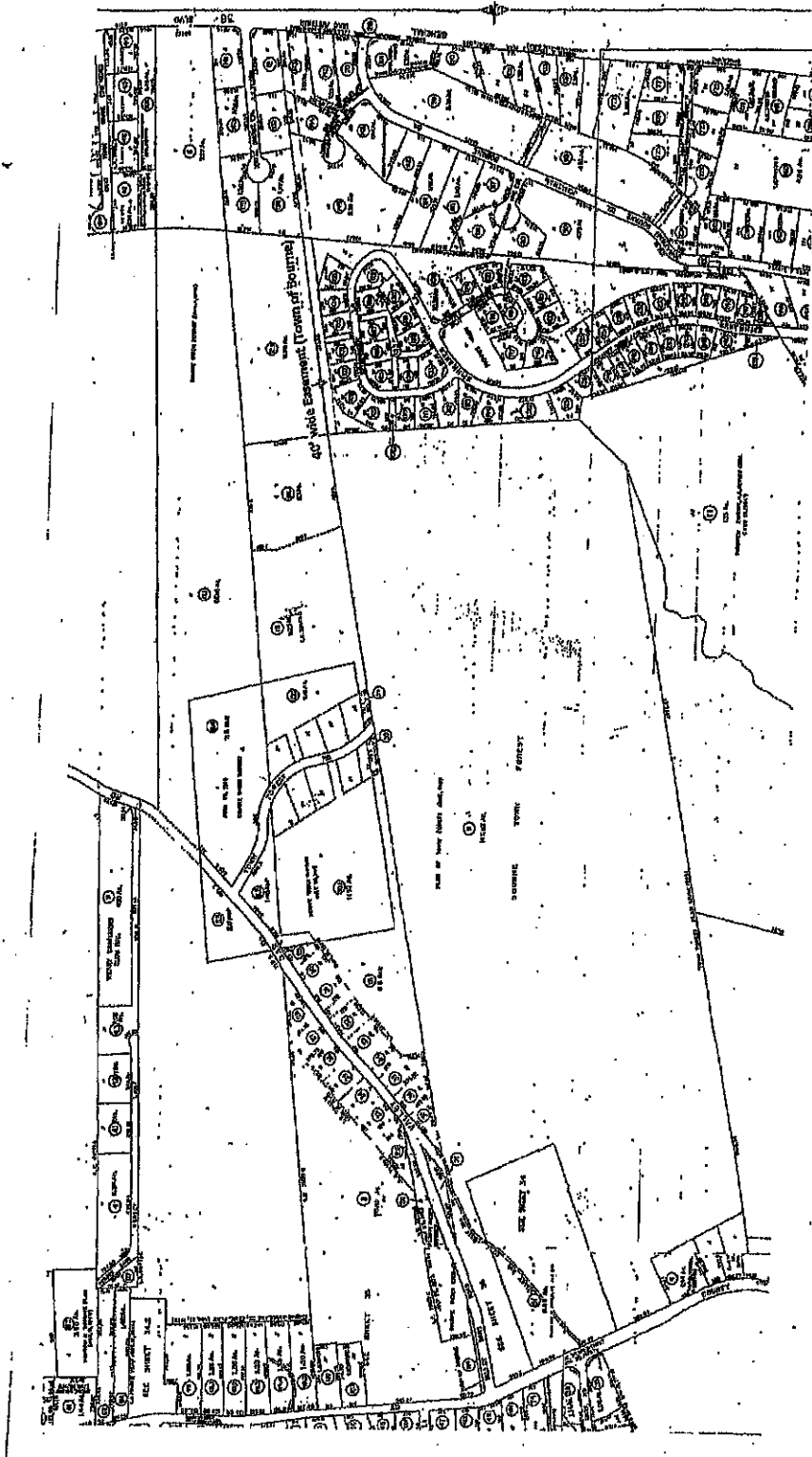
My Commission Expires Oct. 29, 1968

My commission expires:

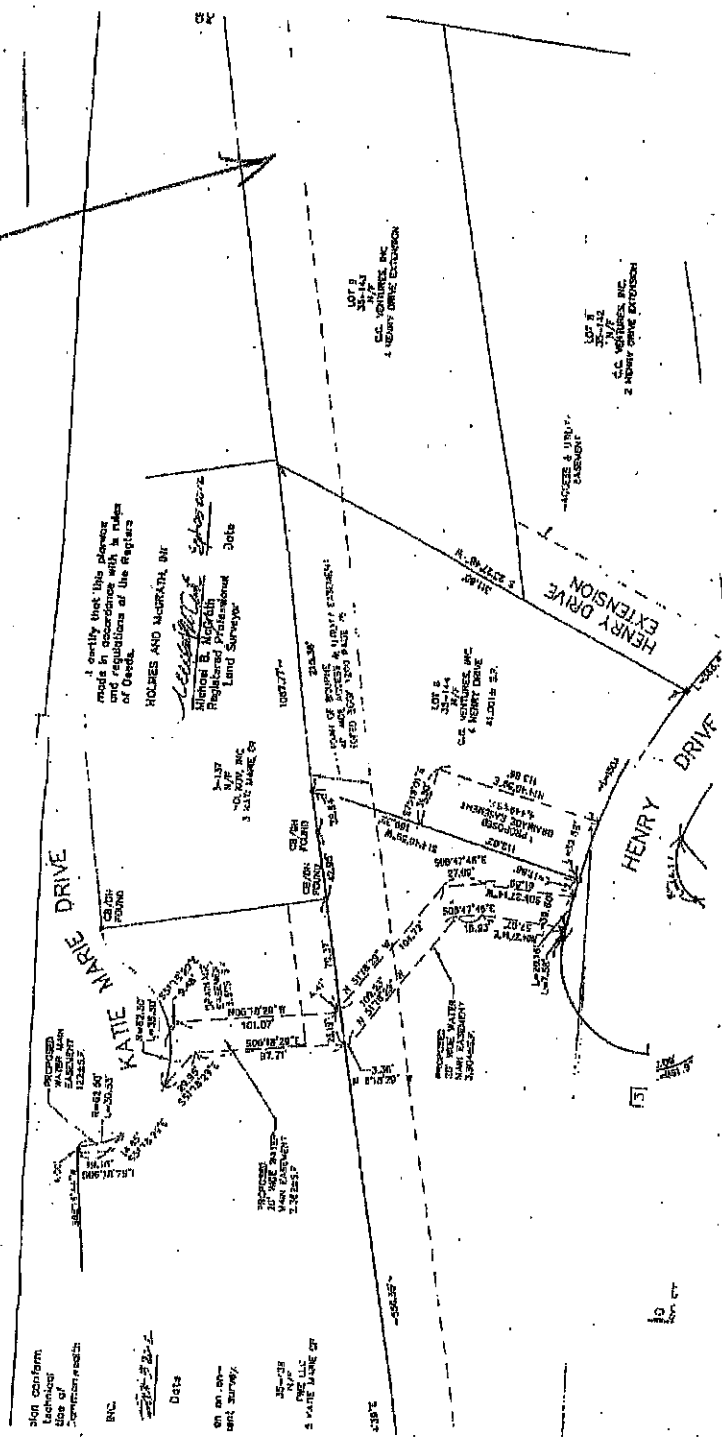


Barnstable, ss., Received May 6, 1963, at 3 h. 55 m. P.M.,

and is entered with Barnstable County Deeds in Book 1200, Pa. 7C



Town
Easement
3



April 16, 2019



TOWN OF BOURNE
Office of the Town Planner

TOWN HALL
24 PERRY AVE.
BUZZARDS BAY, MA 02532
PHONE: 508-759-0615 x4 • FAX: 508-759-8026
Email: cmoore@townofbourne.com



March 21, 2012

Robert H. Ament Esq.
Ament & Ament
39 Town Hall Square
Falmouth, MA 02540

RE: Town of Bourne Access and Utility Easement off MacArthur Boulevard- Lots 3, 4 & 5
Henry Drive

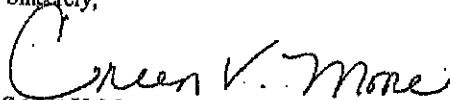
Dear Bob:

I am writing to you regarding the 1963 easement to the Town of Bourne from a certain Winslow H. Tuttle that runs along the northern property line of the proposed Hydroid parcel. To confirm what you stated in your letter, we also cannot find the easement on any plans of record. In addition we cannot find any town meeting action conveying or accepting the easement.

I have confirmed with Michael Leitzel of the Engineering department and he has not been able to find any town action on this easement. We have also contacted the Bourne Water District to make sure the District does not have an interest in the easement. The Town of Bourne does not intend to develop this easement. If the easement needs to be extinguished it would require a vote of Town Meeting. It appears that the purpose of the easement would be to create an access the Town Forest. The Town of Bourne has adequate access (including for utilities) along the existing roadways and that there is no present plan to develop this easement.

Please feel free to call me with any questions at 508-759-0615

Sincerely,



Coreen V. Moore
Town Planner

Cc: Michael Leitzel, Engineering Department

EXHIBIT A

Barnstable, ss., Received May 6, 1963, and is recorded.

1200

76

I, WINSTON H. TUTTLE, of that part of Bourne, Barnstable County, Massachusetts known as Pocomasset, being unmarried, for consideration paid grant to the TOWN OF BOURNE, with QUIETCLAIM COVENANTS, an easement for the purpose of travel by all modes and methods and without limitation as to amount and for the installation of utility lines of any kind and description under, on and over a strip of land forty (40) feet in width extending from MacArthur Boulevard to the northeasterly corner of the land of the Town of Bourne which is known as the Bourne Town Forest, over the land taken by the Town under an instrument of taking dated May 29, 1958 recorded with Barnstable County Registry of Deeds, Book 1006 at Page 27 and which tax title has been redemmed by the within grantor.

Witness my hand and seal this 16th day of March, 1963.

COMMONWEALTH OF MASSACHUSETTS
BARNSTABLE, ss:

Then personally appeared the above named Winston H. Tuttle and acknowledged the foregoing instrument to be his free act and deed, before me.

Notary Public

My commission expires:

Barnstable, ss., Received May 6, 1963, and is recorded.

1. Debtor's Name (Print and address)		2. Amount (Printed) and date of maturity	3. Registry of Deeds (Date, Time, Number and filing office)
HAUGHTON, EDWARD S. 870 Lincoln Street Barnstable, Massachusetts		WEBB, ALBERT E. LANZA, ANGELO, and HAYES, JR., MARCEL L., Tenants in Common, all of South Yarmouth, Mass.	5/6/63 4:10 PM, #522 Registry of Deeds Barnstable, Mass. (1200-76)

4. This financing statement covers the following types (in full) of property:

All furniture, furnishings, fixtures, goods, equipment, and all other personal property of every name, nature and description now located on the premises and/or in or upon any building or buildings owned by the debtor and located on the premises in Yarmouth (West), Barnstable County, Massachusetts, more particularly described in Barnstable County Registry of Deeds, together with all such furniture, furnishings, fixtures, goods, equipment and other personal property as may be placed on the premises and/or in or upon any building or buildings of the debtor located on the premises described in said Certificate, whether in addition thereto or in substitution therefor, and used in any way in connection with the business conducted on said premises. Subject to a check of a general lien on the premises of the debtor, Cooperative Bank, Barnstable, Mass.

Filed with the Registry of Deeds

By: *Edward S. Haughton*
Edward S. Haughton

By: *Albert E. Webb*
Albert E. Webb

Witness Officer, Copy - Allocated

This form of financing statement is prepared by the Massachusetts Department of State, Bureau of Registration Services, and is subject to the provisions of the Uniform Commercial Code, Article 9, and the Massachusetts Uniform Commercial Code, Chapter 94A.

Barnstable, ss., Received May 6, 1963, and is recorded.

holmes and mcgrath, inc.

civil engineers and land surveyors
382 gifford street
falmouth, ma 02540
508-548-3564 • 800-874-7373 • FAX 508-548-9872
email: mcgrath@holmesandmcgrath.com

EXHIBIT B

December 1, 2011

Robert H. Ament Esq.
Ament & Ament
39 Town Hall Square
Falmouth, MA 02540

RE: Town of Bourne Access and Utility Easement off MacArthur Boulevard, Pocasset

Dear Bob,

Title research for the property that Hydroid is considering developing off of Henry Drive ("Hydroid parcel") in Pocasset, MA has uncovered an access and utility easement granted by a previous owner to the Town of Bourne ("Town easement"). The Town of Bourne took a parcel of land, a portion of which the Hydroid parcel now lies within, by a tax taking in 1958 (Deed Book 1006 Page 27). Winslow H. Tuttle purchased the land from the Town in May 1963 (Deed Book 1202 Page 496). Mr. Tuttle granted a 40 foot wide easement to the Town in March 1963 for access and utility connections between MacArthur Boulevard and the northeasterly corner of the Bourne Town Forest across the same referenced piece of property (Deed Book 1200 Page 76). A sketch of the property is attached.

The land changed hands a number of times in subsequent years and several divisions and redivisions of the land were proposed. The larger parcel was portioned off into smaller lots in coordination with many factors including the location of ancient ways, topography, and zoning boundaries. Roadways were constructed across the parcel to provide access around and throughout the individual subdivisions as well as routing available utilities.

The record plans for the subdivisions of Henry Drive and Spinnaker Lane do not show the Town easement. However, a 20 foot wide water line easement straddling the southerly property line of the Hydroid parcel is on the currently recorded subdivision plan to provide a potential water main loop connection between Jonathan Bourne Drive and Spinnaker Drive.

The Town easement is not specific as to the exact alignment of the easement, other than the starting and ending points. Open space for the Spinnaker Drive subdivision currently abuts the northeast corner of the Town Forest with access aisles connecting to the interior subdivision roadways. The attached sketch is an overlay of the 2009 aerial orthophotograph and the Bourne Assessors parcels. It shows physical access trails farther south than the northeast corner of the Town Forest property.

Our field survey of the Hydroid parcel did not uncover physical evidence of an access or utility easement between MacArthur Boulevard and the northwest corner of the Hydroid parcel along the northerly Hydroid parcel property line, the assumed route of the Town easement. The

April 16, 2019

Hydroid site has been disturbed by an unfinished development to the property. This route along the northerly property line would not be well suited for an access road or utilities due to the rolling topography and existing retaining walls constructed for developments on the adjacent property. It is possible that the Town of Bourne could extinguish the 1963 easement given that there is real and practical access along the existing roadways that serves the intent of the Town easement.

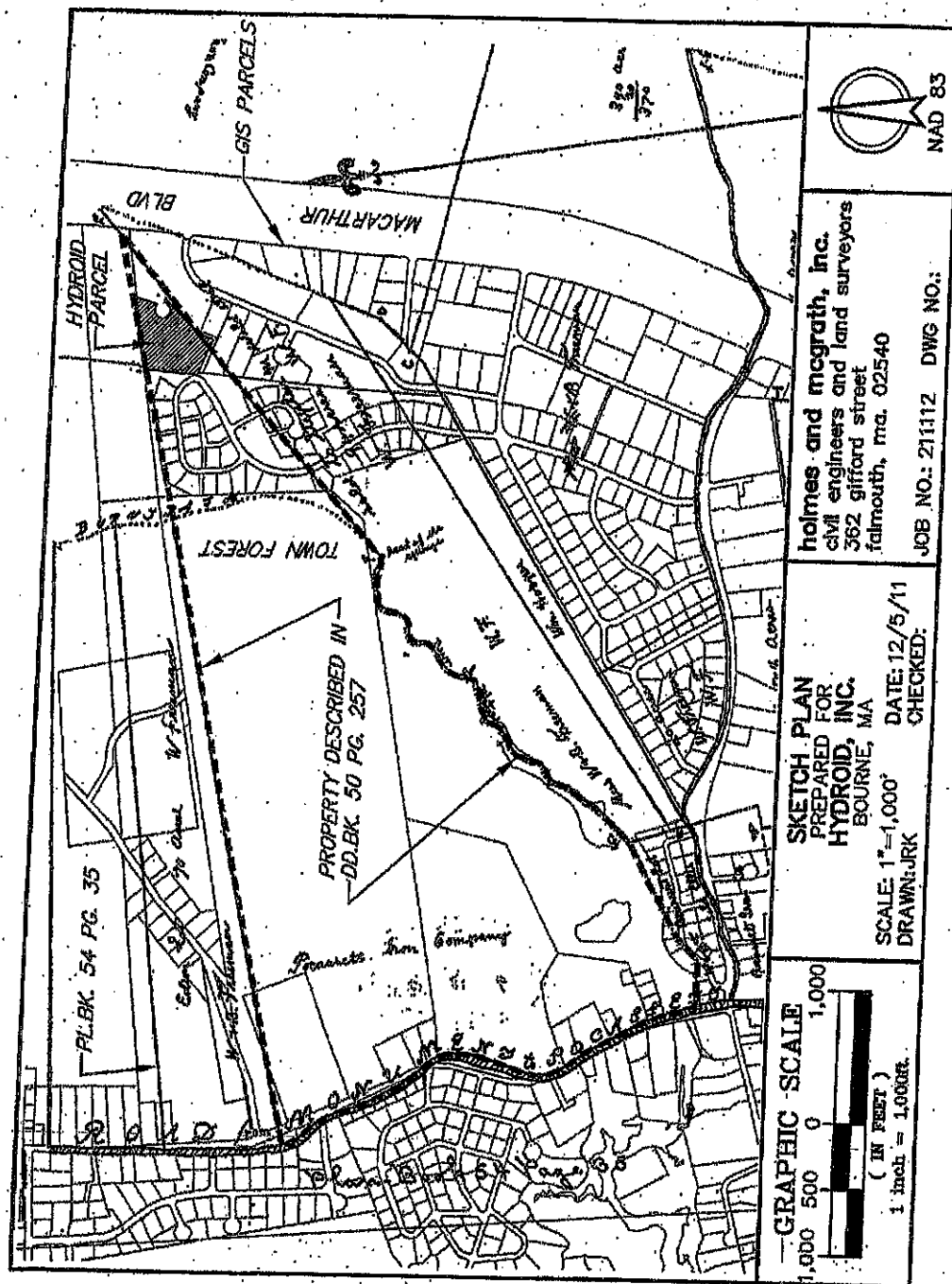
Please let us know if you have any comments or questions regarding this matter.

Sincerely,

Holmes and McGrath, Inc.


Joel Kubick, PE, PLS





- 5: To establish a multi-year financial and strategic plan involving Priority Based Budgeting and quarterly reporting with implementation by April 2019.

Staff Contacts

Board Members

Name	Title
Peter J. Meier	Chair (2019)
Judith MacLeod-Froman	Vice Chair (2020)
James L. Potter	Clerk (2021)
George G. Slade	Selectman (2019)
Jared P. MacDonald	Selectman (2021)
All Selectmen	

About Meetings

Cape Light Compact - 2.24.15

Rules of Procedure

Town of Bourne Traffic Rules and Orders

Contact Info

Hours of Operation:

Monday - Friday: 8:30 am to 4:30 pm

Excluding Holidays

Phone:

(508) 759-0600 Ext. 1503

Address:

24 Perry Avenue

Buzzards Bay, MA 02532-3441

United States

See map: Google Maps

Meetings - When: Tuesday evenings

Board of Selectmen Meeting March 7, 2017

Stephen F. Mealy, Member

Summary, Agenda Item 7, Extinguishing a Town Easement on 1 Henry Drive, Pocasset

Private Petition Request

The request from Mr. Thomas Donovan is to place by private petition on the 2017 Annual Town Meeting a warrant Article to remove a town-owned easement located along the northern property line of the proposed (reference Town Planner letter of March 21, 2012) Hydroid parcel.

Background

Title research for the property uncovered an access and utility easement granted by a previous owner (Mr. Tuttle) to the Town of Bourne. The Town took the parcel of land, a portion of which the Hydroid parcel now lies within, by a tax taking in 1958 (Deed Book 1006, page 27). Winslow H. Tuttle purchased the land from the Town in May, 1963 (Deed Book 1202, page 490). Mr. Tuttle granted the Town a 40-foot wide easement in March 1963 for access and utility connections between MacArthur Blvd and the northwestern corner of the Bourne Town Forrest across the property (Deed Book 12999, page 76).

The land has changed hands several times with several divisions and subdivisions being proposed and taking place. The larger parcel was portioned off into smaller lots recognizing many factors including ancient ways, unusual topography, and boundaries created by Zoning.

Roadways were constructed across the parcel to provide access around and throughout the individual subdivisions as well as providing available routes for utilities.

Missing Easement

The recorded plans for the subdivisions of Henry Drive and Spinnaker Lane do not show the Town Easement, but a 20-foot wide water line easement crossing the southern property line of the Hydroid parcel is recorded on the subdivision plans to provide potential water main loop connection between Jonathan Bourne Drive and Spinnaker Drive.

This recorded easement from Tuttle to the Town does not specify the exact location or alignment of the easement, only where the easement starts and stops, MacArthur Blvd and the Town Forrest.

December 2011 Field Survey

A field survey conducted by Holmes and McGrath Civil Engineers and Land Surveyors reported in December 2011 do not find any physical evidence of an access or utility easement between MacArthur Blvd and the NW corner of the Hydroid parcel or along the northerly property line of the Hydroid parcel, the assumed route of the Town Easement.

In their report of December 2011, Holmes and McGrath noted that the route along the northerly property would not be well suited for either a travel access roadway or a utility access way due to the rolling and uneven topography and existing retaining walls constructed for developments in the adjacent property.

Holmes and McGrath reported that the 1963 Tuttle Easement could be extinguished or given up identifying that there is no real access along the existing roadways as they exist that serves the original intent of the Town easement.

Town Planner and Engineering Office Research, 2012

The Town Planner confirmed on March 21, 2012 that through her investigation and that of Michael Leitzel, then Town Engineer, could not locate any town meeting action conveying or accepting the easement as recorded.

The easement was recorded on March 16 1963 in Deed Book 1200, page 76 by Winslow Tuttle an easement to the Town of Bourne for the purpose of a utility easement and travel from the town forest to MacArthur Blvd.

The Town Planner in her letter of March 21 2012 noted the following:

- No easement was located on any plans of record
- No action by Town Meeting action conveying or accepting the easement was found
- The Town Engineering Department could not locate any action on the easement
- The Bourne Water District was contacted and expressed no interest in the easement
- The Town of Bourne has adequate access for travel and utilities along existing roadways
- There is no present plan to develop this easement

Recommendation

Based upon the documentation provided by the Holmes and McGrath Civil Engineering and Land Surveyors, The Bourne Town Planner, the Bourne Town Engineering Department, I support the Article appear in the Warrant of the 2017 Annual Town Meeting for consideration by the voters to extinguish the easement as recorded in May, 1963 (Deed Book 1202, page 490) by Mr. Winslow H. Tuttle.

Peter Meier said the Board voted unanimously to support Article 29. Mr. Meier requested Article 29 be brought back up for discussion. How can we give him an easement when the public can't use it. Tom Guerino said there is a beach way that goes to the side of that property to the beach. The intent was that Mr. Heffernan was going to clear that and make sure there was accesses allowed.

Bill Grant, Cataumet, said it would be a mistake to grant this easement. There is a walkway from Ocean Avenue to the public beach, which is overgrown. The public should know it is a public way and it should be repaired. Mr. Grant explained what happened. Don't understand why the Town allowed them to convert that property as an extension of their residence, it is public property. Now we are going to grant an easement for them to have stairs from their property to the beach while access for the rest of the public from Ocean Avenue isn't usable. Don't think this Board should sponsor this article. Urge the Board not to be a sponsor to this article. The walkway should be repaired and it should be posted public beach/public access.

Peter Meier suggested to withdraw the article or we can make a motion to IP it at Town Meeting.

Voted Judy Froman moved and seconded by Jared MacDonald to withdraw Article 29. Vote: 5-0.

Tom Guerino asked the Board to add \$22,000 to the Budget for the playground monitoring staff, so the amount would be \$68,513,405.

Voted Judy Froman moved and seconded by Jared MacDonald to support Article 3 of the Annual Town Meeting, in the amount of \$68,513,405. Vote: 5-0.

Voted Judy Froman moved and seconded by Jared MacDonald to sign the Annual and Special Town Meeting Warrant. Vote: 5-0.

12) Correspondence

James Potter brought the Board and the public up to date on the correspondence.

13) Adjourn

Voted Judy Froman moved and seconded by George Slade to adjourn. Meeting adjourned at 10:04 pm. Vote 5-0.

Respectfully submitted – Carole Ellis, secretary.