

Board of Selectmen Meeting Notice AGENDA



Date

November 1, 2022

Time

7:00 PM

Location

Bourne Veterans' Community Building – Rm 2
239 Main St., Buzzards Bay
Or virtually (see information below)

The Zoom chat will not be monitored. Participants who wish to speak must raise the hand icon until the Chair asks them to unmute. Note this meeting is being recorded for live broadcast and televised replay by BourneTV. If anyone is audio or visual recording, please acknowledge it at this time.

Zoom Meeting ID: 869 5775 5505

Password: 529740

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

7:00 PM Call Public Session to Order in Open Session

1. Moment of Silence to recognize our Troops and our public safety personnel
2. Salute to the Flag
3. Vision: Bourne is a proud 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 and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
4. 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 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.
5. Public Comment on Non-Agenda Items - Public comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.
6. Appointments and Licenses
 - a. Discussion and possible vote to appoint Kristin L. Donahue to the Bourne Human Services Committee as the School Representative for a term ending June 30, 2023
7. Selectmen's Business
 - a. Update from DPW – curbside collection – trash and recycling.
 - b. Citizen request to expand curbside collection to the condominium development at Wildwood Lane in Sagamore Beach.
 - c. Discussion and possible vote – expiration of the Intermunicipal Agreement for the Upper Cape Regional Transfer Station on December 31, 2022.
 - d. Discussion and possible vote to increase departmental fees:

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- i. Dept. of Natural Resources.
 - ii. Fire Dept.
 - iii. Building and Inspection Dept.
- e. Discussion of the Board's intention for a town-wide blight / property maintenance bylaw for the May 2023 Town Meeting.
- f. Ratification of Police Superior Officers Memorandum of Agreement – FY 23-25.
- g. Confirmation of the Town Administrator's authority to settle labor arbitration disputes with public employee unions.
- h. Discussion and possible vote to award the disposition of the Hoxie School and to direct the Town Administrator to proceed with a P&S.

8. Committee Reports

- a. Recycling Committee Report - efforts on Nip Bottle Ban

9. Town Administrator Report

10. Minutes: 6/21/22; 10/4/22

11. Correspondence

12. Other Business

13. Upcoming meetings, November 15; November 29 (BOSC); December 6; December 20; December 27 (BOSC)

14. Adjourn



TOWN OF BOURNE

Department of Public Works

35 Ernest Valeri Drive
Buzzards Bay, MA 02532
Phone 508-759-0600 x 3 - Fax 508-759-0617
Email: dpw@townofbourne.com



Policy Number	PW-2015-02
Effective Date	August 1, 2016
Revision Dates	N/a
Applicable To	Town Residents
Authored By	Jonathan Nelson-Director of Public Works and Facilities; George Sala-Superintendent of Public Works;
Person in Charge of Compliance	Superintendent of Public Works
Purpose	Describe and Define the Town's Curbside Sanitation and Recycling program
Updates Required	As needed, at least every three years

1. **Purpose and Scope**

1.1. This policy will define and describe the cart based curbside sanitation and recycling program provided by the department of Public Works (DPW). It will adequately describe the curbside collection process for town residents, and will provide guidance as to what can and cannot be collected curbside. Residents are reminded that recycling in the town is mandatory (per bylaw 310.01), and compliance is essential to both extend the life the of the landfill, as well as preserve the environment

2. **Procedure Section**

2.1. **Curbside Collection**

2.1.1. The curbside collection program offered by the DPW is only offered to residential properties found to have four (4) or fewer units per property as determined by the Town of Bourne Assessor's office. Condominium complexes and trailer park communities will not be offered curbside collection under this policy.



- 2.1.2. The Superintendent of Public Works (the Superintendent) shall have final approval of all residential properties covered under this policy. If a residence meets the criteria of section 2.1.1 above, and the Superintendent deems curbside service cannot be provided (based on safety issues, access issues or as otherwise provided) the residents at the address will be offered a free sticker to the Residential Recycling center located at 201 MacArthur Boulevard. All decisions of the Superintendent under this section are final.
- 2.1.3. Each residence will be issued two carts; one for household recycling and one for household trash. Carts must be placed at the curbside, in a spot easily viewable from the road, but safely out of the travel lane.
- 2.1.4. Pickup will be based on the schedules developed and issued by the DPW.
- 2.1.5. Carts shall be placed at the curbside by 7am the day of the pickup, and shall not be placed at the curbside earlier than 5pm the day before. Under no circumstances will the DPW will return to pick up carts not placed at the curbside by the designated hours. Truck mounted technology may be used to ensure confirmation of service at all residential addresses.
- 2.1.6. All recycling and trash shall be fully contained in the cart, with the lids closed.
- 2.1.7. Loose bags or trash/recycling in other containers shall not be picked up, and it will be the responsibility of the resident to properly dispose of all items not picked up.
- 2.1.8. The DPW staff will be responsible to move the carts from the curb to the truck to dump, ensuring all waste is removed. Staff will then place the carts neatly back at the curbside out of the path of either roadway traffic or driveways.

2.2. **Cart**

- 2.2.1. The recycling cart shall have a blue body and blue lid and the trash cart shall have a blue body and black lid.
- 2.2.2. The carts will remain the property of the Town of Bourne, and shall be issued only to households, not individuals. The carts shall remain with the household upon sale or transfer of property ownership.
- 2.2.3. The carts shall be labeled barcoded or tagged by the DPW to both assign the carts to a specific residence and to allow for proof of service. At no time will the data generated from this labeling or tagging be used to track the quantities of trash generated by the residence.
- 2.2.4. The carts issued by the department shall be of a durable plastic, with 10 inch wheels and solid axles for long term durability.
- 2.2.5. Each cart will have a town label or seal imprinted on it.
- 2.2.6. Only carts issued by the DPW shall be used for curbside collection.



2.3. **Damaged Carts; Covered Under Warranty**

- 2.3.1. Residents that notice any damage to a cart must report it immediately to the DPW.
- 2.3.2. Carts will be covered under warranty for reasonable wear and tear. This will include damage incurred while being emptied by town equipment and staff. DPW staff will be required to notify the main DPW office immediately if any cart shall become broken during regular curbside pickup or if they notice an issue considered normal wear and tear. Carts covered under the warranty shall be replaced as soon as possible by the department and delivered to the household by DPW staff.

2.4. **Damaged Carts; Not Covered By Warranty**

- 2.4.1. Residents that notice any damage to a cart must report it immediately to the DPW.
- 2.4.2. Residents shall be responsible for all damage above regular use or if the originally issued carts are lost and not able to be located. Residents must request replacement carts through the DPW department. Residents must pay a replacement fee, which will be set based on the town's actual replacement cost for the cart (currently approximately \$50.00). Residents must return damaged carts to the department offices, located at 35 Ernest Valeri Road, before being issued a replacement cart.
- 2.4.3. Replacement carts will be available at the DPW facility. Residents will be responsible to pick up the replacement unit.
- 2.4.4. Replacements for stolen carts will only be issued if the resident has filed a police report and is able to provide the department a copy. The fee for replacement carts reported stolen will be waived.
- 2.4.5. The Superintendent reserves the sole right to waive any fees based on the circumstances of the loss.

2.5. **Items Allowed in Curbside Trash Cart**

- 2.5.1. All non-hazardous residential waste shall be placed in the trash carts. The items include plastic bags, shredded paper, and other items not allowed in the recycling cart.

2.6. **Items Allowed in Curbside Recycling Cart**

- 2.6.1. The list of items allowed in the recycling cart may vary as the recycling markets change, however, the list of items allowed are listed below. No trash may be placed in the recycling cart.
 - 2.6.1.1. All fiber: newspapers, magazines, catalogs, cardboard, chipboard/paperboard, cereal boxes, milk cartons, clean pizza boxes, juice cartons, office paper.
 - 2.6.1.2. All plastic containers #1 - #7 (do not crush and keep the lids on): Soda bottles, water bottles, deli tubs, milk jugs, plant pots, yogurt cups, detergent bottles.



2.6.1.3. All metal containers: tin cans, aluminum cans, clean aluminum foil and pie plates.

2.6.1.4. All glass containers: loose glass bottles and containers. Take off the caps.

2.7. Items Not-Allowed in Curbside Recycling Cart

2.7.1. The list of items not allowed in the recycling are listed below. This list is not a complete list, but attempts to cover many items residents may have questions on. If there is a question on whether something is recyclable or not, please place the item in the cart designated for trash.. The following items are not recyclable and can be placed in the curbside trash cart only.

2.7.1.1. No shrink wrap, plastic bags or bubble wrap

2.7.1.2. No hoses

2.7.1.3. No plants, food waste or liquids

2.7.1.4. No dishes, Pyrex glassware

2.7.1.5. No shredded paper

2.7.1.6. No polystyrene/Styrofoam

2.7.1.7. No tires

2.7.1.8. No plastic pouches

2.7.1.9. No textiles

2.7.1.10. No batteries

2.7.1.11. No electronic waste

2.7.1.12. No toys

2.7.1.13. No K-cups

2.7.1.14. No trash

3. Enforcement and Penalties

3.1. Violations of Policy

3.1.1. Residents not following the policy outlined above will be flagged and provided a notice of violation left at their door or on their barrels. Violations include the items listed below.

3.1.1.1. Cart lids not fully closed

3.1.1.2. Items left at the curbside not contained in the carts

3.1.1.3. Carts left out prior to 5pm the night before pick up

3.1.1.4. Contamination in the recycling stream

3.1.1.5. No recycling placed at curbside

3.1.1.6. Hazardous materials put out for collection

3.1.1.7. Large, bulky or hazardous items left at the curbside

3.1.1.8. In-proper use of containers (ie. recycling cart being used for trash or vice versa)

3.1.1.9. Additional carts or barrels, not provided by the town, being placed at the curbside for pickup



3.2. Termination of Service

3.2.1. Violations will be tracked by the DPW office. Any residence that accumulates three (3) or more violations in a rolling thirty (30) day period will have their curbside service terminated and the residence will be reported to the Town of Bourne Board of Health. Notification of termination will be sent by certified mail with the address on file with the Town of Bourne Assessor's office.

3.2.2. The DPW will be responsible to collect the carts from residences that have been sent letters of termination. The collected carts will be stored for future use.

3.3. Restoration of Service Process

3.3.1. Residences that have had their curbside service terminated may file a written notice with the DPW requesting their curbside service be restored. The written notice must contain detailed information acknowledging the violations that occurred, and must provide a statement that acknowledges that future policy violations will not occur, and that the residents fully understand the curbside collections policy.

3.3.2. The Superintendent will make the determination if the resident is acting in good faith, and at the Superintendent's sole discretion, may decide to restore curbside service to the residence with in question. The Superintendent must respond to all requests within thirty (30) days from receipt of the written notice.

3.3.3. Residents will be required to go to the DPW site to retrieve their carts upon restoration of curbside service.

3.4. Appeals Process

3.4.1. Any decision by the Superintendent under this section may be appealed in writing to the Town Administrator. The Town Administrator will make the determination if the Superintendent's decision should be overturned, and may decide to restore curbside service to the residence in question. The Town Administrator must respond to all requests within thirty (30) days from receipt of the written notice. All decisions of the Town Administrator are final.

3.4.2. If the Town Administrator denies any appeal, that resident must wait sixty (60) days prior to starting the Restoration of Service Process again as outlined in section 3.3 and 3.4 above.

3.5. Repeat Violations

3.5.1. Any resident that is found to have their curbside service terminated more than twice in one year, and with the Town Administrator upholding the decision of the Superintendent upon appeal, will automatically have their curbside collection service suspended. The effective date of the suspension shall commence on the date of the Town Administrator's



response to the appeal. The Town Administrator, in consultation with the Superintendent, shall determine the length of suspension which shall be at least a minimum of one (1) year and a maximum of three (3) years.

- 3.5.2. The residents may decide to apply for restoration (following section 3.3 and 3.4 of this policy) of curbside services within thirty days of the end of the suspension period. Service will not be automatically restored, and the resident must request restoration of service.

4. Changes in Service

4.1. New Service

- 4.1.1. Newly built residences, or residences currently without service in the town may request to be included in the curbside program. The request must be made directly to the DPW. Upon meeting the requirements of the policy above, the DPW will provide carts to the residence within thirty (30) days of the initial request.

4.2. Cancellation of Service

- 4.2.1. Any residence that wishes to cancel the curbside service must notify the DPW thirty (30) days prior to the date of cancellation. The DPW will be required to pick up the carts from the residence within a week of the cancellation date.

5. Communications, Questions and Concerns or Additional Information

5.1. Communications

- 5.1.1. Any issues or questions about the carts or curbside service should be directed to the DPW. Questions may be emailed to dpw@townofbourne.com or the main DPW number 508-759-0600, extension 3.

5.2. Website

- 5.2.1. All information regarding recycling in Bourne as well as the curbside program can be found at www.townofbourne.com/recycling-committee/pages/recycling-in-bourne

5.3. Resident Issues

- 5.3.1. Any resident having an issues with their carts or with employees of the DPW must call **508-759-0600, extension 3** to report the issues to the DPW supervisory staff. A DPW supervisor will set up a time to meet at the residence in question to determine a solution to the issues.
- 5.3.2. Any complaint made against a staff member will be investigated by the Superintendent or designee, and the staff member may be disciplined per the Town of Bourne's Employee Handbook if the result of the investigation proves the employee violated the policies set forth in the Employee Handbook.
- 5.3.3. Responses to issues or complaints will be completed in a timely manner by the DPW.



6. Policy Updates

- 6.1. This policy can be updated as changes are needed to better serve the residents of Bourne.
- 6.2. The policy must be updated at least every three (3) years. Updates will be posted to the Recycling in Bourne Website.
- 6.3. The Superintendent or designee is responsible to update the policy.
- 6.4. The Superintendent is responsible to approve all policy changes.

Cannon, Glenn

From: Robert Troy [REDACTED]
Sent: Thursday, February 21, 2019 5:12 PM
To: Guerino, Thomas; Cannon, Glenn
Cc: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter
Subject: Curbside Collection

Town Officials,

This will supplement my Opinion of October 26, 2018. As discussed in paragraph three of my Opinion, curbside collection is offered to residential properties found to have four (4) or fewer units... Condominium complexes ... will not be offered curbside collection under this policy. The language in the Policy reflects a legal distinction: removal of trash from residential properties is a transaction between residents and the Town. Chapter 183A of Massachusetts General Laws requires that Condominiums be established as distinct entities in which the Condominium Association owns the common areas on which trash is stored and from which trash is collected. Please see my Opinion of April 8, 1997 that illustrates the distinction between service to individual residents of the Town and Condominium Associations that are separate and distinct entities under the statute. Consequently, the Town's "Curbside Sanitation and Recycling program" draws a distinction between town residents found to have four (4) units or less and residential complexes with more than four (4) units along with "Condominium complexes and trailer park communities..." The Town has promulgated a Policy reflecting this distinction and I have concluded on several occasions that the Town's policy is a valid exercise of municipal regulation. The Town Administrator suggests that the authority of the Board of Selectmen to set policy – as opposed to day to day administration of the Town's operations – precludes the Selectmen's authority to amend a valid exercise of municipal regulation. The dividing line on this issue is not always clear and it seems that if the Town's policy on curbside collection needs to be modified, it should be done by the Bourne Town Meeting. I respectfully suggest that if the Selectboard decides that the current policy of the Town should be modified, this subject should be referred to the Bourne Town Meeting. I am forwarding previous Opinions on this subject by a separate email. Thank you.

RSTroy

Town Counsel

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Cannon, Glenn

From: Robert Troy [REDACTED]
Sent: Thursday, February 21, 2019 5:21 PM
To: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter
Cc: Guerino, Thomas; Cannon, Glenn
Subject: FW: Additional information - Trash and recycling policy

From: Guerino, Thomas <TGuerino@townofbourne.com>
Sent: Thursday, February 21, 2019 5:09 PM
To: Robert Troy [REDACTED]
Subject: Additional information - Trash and recycling policy

Bob:

This will follow-up our brief discussion of this afternoon. As you are aware, the trash and recycling policy was developed over several months which included multiple meetings of staff with BOS representation at most. The policy was also discussed at public BOS meetings. It was always meant as an internal day to day operational matter, and took into consideration the substantial costs if the Town were to have to pick up trash and recycling from all 30+ - condo associations. This was estimated at approximately 750K – 1,000,000. It was also viewed in reference to what surrounding communities had as standard practice. I see this as the responsibility of Administration to implement the municipal function as governed by the Charter, that being to run the day to day operations and to be mindful of the annual expenditure of Town Meeting approved budgets. Additionally, we see this as a fairness issue. All or none and we cannot afford to service all.

TG

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ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

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ROBERT S. TROY
JOAN M. LeGRAW
BRIAN J. WALL

MARY T. TROY
OF COUNSEL

TO: BOARD OF SELECTMEN

FROM: ROBERT S. TROY *RST*
TOWN COUNSEL

DATE: APRIL 8, 1997

RE: TRASH COLLECTION AND DISPOSAL
AT HIDEAWAY VILLAGE CONDOMINIUM

I have been requested to render an Opinion on the subject of trash collection and disposal at the Hideaway Village Condominium in the Town of Bourne. This Memorandum serves to set forth my Opinion.

The facts upon which this Opinion is based largely come from a letter from Attorney Robert L. Marzelli, who evidently represents the Condominium. My understanding of the situation is as follows:

The Town has for many years collected and disposed of trash generated by the residents of the Town. The Town has funded this service with the general fund, which, as you know, is replenished each year by tax revenue. The town provided this service by collecting trash from the roadway immediately adjacent to single family dwellings and multi-family dwellings. The trash was then transported to the Town landfill where it was disposed. Town owned and operated trucks are used in the provision of this service.

Apparently, trash collection and disposal service was not provided to Hideaway Village residents. Those residents have been transporting their trash to the landfill at their own expense, but have been permitted to dispose the trash without a charge from the landfill.

By a letter dated December 19, 1996, the Board of Selectmen has informed the unit owners of Hideaway Village that, as of March 31, 1997, they will no longer be permitted to dispose of their trash at the Town's landfill. However, it appears as though the Town plans to continue to provide a tax funded program of trash collection and disposal to residents that own single-family dwelling by disposing of the trash at the Otis Transfer Station.

Attorney Marzelli writes in his letter to the Board that: "The residents of Hideaway Village are just as entitled to tax funded municipal services as are the other residents of Bourne." He then requests, on behalf of the residents of Hideaway Village that the Board reconsider its decision and begin providing trash collection and disposal service to them.

The Town may not discriminate amongst its citizens in the provision of municipal services that are paid for by tax dollars. However, a condominium is different than a "citizen" or "resident", and thus, it may be permissible to treat the condominium differently with respect to trash collection and disposal.

Condominiums are authorized by Massachusetts General Laws Chapter 183A, et seq. Under that Chapter, the manner of ownership of a condominium is defined. Without embarking on a long discussion of condominium law, suffice it to say that a condominium owner owns a fee simple interest in the interior of his/her unit, and owns a beneficial interest in the common areas. The legal interest of the condominium is owned by a trust, association or corporation. The common areas of the condominium are managed by the trust, association or corporation. This is the distinguishing feature that is meaningful to the request for opinion.

Customarily, trash collection from a condominium is done by way of central collection and dumpsters and it is usually the trust, association or corporation that institutes rules for the residents and contracts for trash collection.

Thus, the collection of trash from a condominium is usually not directly from the residents, but instead is from the organization charged with maintaining the condominium. This makes the condominiums unlike ordinary residents and like a commercial entity.

The Town does discriminate between commercial and residential when it comes to the provision of trash collection services. Commercial entities throughout the Town are responsible for their own trash disposal. This is a reasonable and permissible distinction. Accordingly, the Town can continue to provide trash collection services to its residents while it does not to condominiums in the Town. However, since the individual unit owners are in fact residents of the Town, and pay taxes to the Town, they should be permitted to dispose of their trash at the transfer station on the same terms as other residents of the Town. So, if other residents are permitted to bring their trash to the transfer station for disposal, and are permitted to do so without charge, the residents of the Hideaway Village should be permitted to do so also.

RST:bjw

Memo

To: Thomas M. Guerino, Town Administrator
From: Robert S. Troy, Town Counsel *RST*
Date: October 26, 2018
Re: Policy PW-2015-02 "Curbside Collection"

This will respond to your request for my Opinion as Town Counsel as to the legality of Policy PW-2015-02.

While there is considerable history to the issues that relate to the current controversy, the scope of my current review is limited to the legality of Policy PW-2015-02. At some point, the Town of Bourne promulgated Policy PW-2015-02. This Policy promulgated standards for "cart based curbside sanitation and recycling program[s]" provided by the Town's Department of Public Works (hereinafter "DPW").

In pertinent part, the Policy defines "Curbside Collection" as follows: The curbside collection program offered by the DPW is only offered to residential properties found to have four (4) or fewer units per property as determined by the Town of Bourne Assessor's office. Condominium complexes and trailer park communities will not be offered curbside collection under this policy."

The Policy also provides that each residence, within the qualifying definition shall be issued two carts; one for household recycling and one for household trash. These carts must be placed at curbside, in a spot easily viewable from the road, but safely out of the travel lane.

It appears that the rules for the carts and the requirements relating to visibility and safety apply to residential properties that have four (4) or fewer units. It can therefore be concluded that the Town has a reasonable and rational basis for limiting its curbside collection policy to the standards that it has promulgated in Policy PW-2015-02.

The provisions of this Policy must be consistently and uniformly applied, without exceptions. Assuming that this requirement is met, the Town has complied with the requirements of law with respect to the promulgation of this Policy. I therefore, conclude, but do not decide, that the Town's policy is lawful.

When citizens object to a policy that is presumed to be valid, their recourse is through the political or judicial process. Under the first route, citizens may petition the Selectboard of a Town or may seek to utilize the Town Meeting process to effectuate their goals. The alternative process is invocation of a legal challenge through the Courts.

It is therefore my Opinion that Policy PW-2015-02 remains in effect until and unless there is a successful modification achieved through the political or judicial process.

RST:geo

ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

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ROBERT S. TROY

TO: WILLIAM R. GRIFFIN
TOWN ADMINISTRATOR

FROM: ROBERT S. TROY *RST*
TOWN COUNSEL

DATE: JULY 11, 2002

RE: MUNICIPAL SERVICES ON PRIVATE WAYS

RECEIVED
JUL 15 2002

CLERK OF THE TOWN
SANDWICH, MASS.

This Memorandum serves to respond to your request for my Opinion as Town Counsel with respect to the question of whether there are any statutory provisions that limit non-emergency municipal services to those streets and ways that are open to public use.

In a previous Opinion, I advised that authority to remove snow and ice from private ways by the Town is limited to those private ways that are "open to public use." That Opinion was predicated upon M.G.L. c. 40, § 6C which specifically provides that a Town which accepts the statute "may appropriate money for the removal of snow and ice from such private ways within its limits and *open to the public use* as may be designated by the ... selectmen." (Emphasis added).

M.G.L. c. 40, § 6C is a specific statute that serves at least two statutory purposes. First, it confirms that a Town can utilize public funds to remove snow and ice from private ways that are "open to public use." Second, it provides that the removal of snow or ice should not be construed to be a repair to a public way. This second part of the statute shields the Town from liability that could arise from the performance of services to a private way. Indeed, without this statutory protection, the Town would be exposed to liability arising from any injury that resulted from the snow removal. See, M.G.L. c. 84.

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Pursuant to a somewhat related statute, M.G.L. c. 40, § 6N, Towns are empowered to enact By-laws that authorize the making of temporary repairs to private ways. Bourne has adopted such a By-law. See, Bourne General By-laws Section 3.1.28. Both the statute and the By-law similarly limit the Town's authority to make such repairs to those private ways that are "open to public use." Bourne's By-law further provides that "the Town shall be held harmless on account of any damages whatever caused by such repairs by agreements executed by the abutters"

These statutes reflect public policy concerns (1) about public funds being utilized for the benefit of private individuals and (2) that the "repair" of a way can be the basis for assertion of a claim of municipal liability.

Other than these two statutes, there are no other statutes that address the provision of municipal services to private ways.

In making the request, you explicated the purpose underlying the request with a specific example regarding collection of trash. You wrote: "For instance, may the Town collect trash on private ways not open for public use? Is the Town obligated to collect trash on private ways that are open to public use?"

The example raises questions that are different from the initial question regarding limitations on municipal authority with respect to provision of services to private ways. Indeed, the example raises questions regarding the provision of municipal services to individuals situated on private ways which are or are not open to public use.

The authority of a municipality to provide particular services to its residents is limited by two fundamental maxims. First, municipalities are restricted in the expenditure of public funds raised by taxation to public purposes sanctioned by the legislature. The collection of trash is such a public function. Baumgardner v. City of Boston, 304 Mass. 100 (1939). Accordingly, the Town may provide trash collection services if it elects to do so.

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Second, the United States Constitution mandates that, when a municipality provides services, it must do so on a non-discriminatory basis. See, 18 Mass. Prac. § 412 (Randall and Franklin, Municipal Law, 1993). Thus, if the Town elects to provide trash collection, it must provide the service to Bourne residents in a non-discriminatory manner.

This Constitutional requirement does not mean that the Town is prohibited from making any distinctions between residents. The Town may discriminate so long as the discrimination is rationally related to a legitimate State interest. This principle was affirmed in the recent case of Flatley v. Malden, 40 Mass. App. Ct. 38 (1996).

In Flatley, the Appeals Court affirmed the city of Malden's works commission's classification system of incrementally increasing rates to consumers for higher consumption of water. The plaintiff – who owned thirteen apartment buildings – challenged the classification system by arguing that it was impermissibly discriminatory to determine the rate for apartment buildings by measuring the total consumption of all units while, for an individual homeowner, the rate was set by measuring flow to just one house. The Appeals Court determined that, in order to prevail, the plaintiff was required to show that the discrimination was “unreasonable.” The Appeals Court ruled that the plaintiff failed to make the required showing because the city had a legitimate basis for creating a tiered system of water rates – water conservation.

In my Opinion, as Town Counsel, there is not a rational distinction or a legitimate basis to distinguish between public ways and private ways open to public use in the context of municipal trash collection. However, there is a rational distinction between public or private ways open to the public and ways which are closed to the public and which contain impediments to access. The Town is entitled to make distinctions based upon these practical, tangible considerations. For example, the Town could develop a set of criteria for eligibility for trash collection service based upon accessibility to the particular property. Such criteria could include:

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- minimum road width
- minimum road grade
- minimum road conditions
- accessibility (i.e., no locked gates)

These criteria are objective and non-discriminatory since they are based upon considerations of being able to provide service in a safe, efficient and cost effective manner.

In summary, whether the Town has authority to provide services to residents on streets and ways is subject to a determination whether the service is a legitimate public function and whether the service will be provided in a non-discriminatory manner. Such an analysis is highly fact dependent and thus, specific questions regarding such municipal activities must be reviewed on a case by case basis.

RST:bjw

Cc: Board of Selectmen

ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

30 ROUTE 6A • SANDWICH, MASSACHUSETTS 02563-1800 • 508-888-5700

ROBERT S. TROY

RECEIVED
JAN 28 2002
TOWN OF BOURNE
BOARD OF SELECTMEN

TO: BOARD OF SELECTMEN

FROM: ROBERT S. TROY *RST*
TOWN COUNSEL

DATE: JANUARY 23, 2002

RE: REMOVAL OF SNOW AND ICE FROM PRIVATE WAYS

This will respond to your request for my Opinion as Town Counsel as to whether the Town of Bourne is lawfully required to plow and spread sand on private ways that are created outside of the aegis of the subdivision control law.

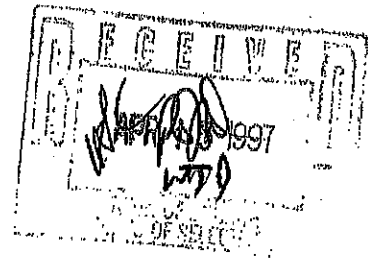
M.G.L. Chapter 40, Section 6C permits a Town to accept statutory authority to allow it to "appropriate money for the removal of snow and ice from such private ways within its limits and open to public use ... as may be designated by the Selectmen". The Town of Bourne has accepted this statute. Clearly, a Town which accepts this statute may, through its Town Meeting, appropriate money for the removal of snow and ice from private ways which are open to public use as designated by the Selectmen.

Clearly, Town officials may not utilize appropriated amounts to maintain private ways that are not open to the public at large for purposes of travel. Hence, private ways not open to the public for its use for travel may not lawfully be maintained by the Town via removal of snow or ice.

ROBERT S. TROY AND ASSOCIATES
ATTORNEYS AND COUNSELLORS AT LAW

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ROBERT S. TROY
JOAN M. LeGRAW
BRIAN J. WALL



MARY T. TROY
OF COUNSEL

TO: BOARD OF SELECTMEN

FROM: ROBERT S. TROY *RST*
TOWN COUNSEL

DATE: APRIL 8, 1997

RE: TRASH COLLECTION AND DISPOSAL
AT HIDEAWAY VILLAGE CONDOMINIUM

I have been requested to render an Opinion on the subject of trash collection and disposal at the Hideaway Village Condominium in the Town of Bourne. This Memorandum serves to set forth my Opinion.

The facts upon which this Opinion is based largely come from a letter from Attorney Robert L. Marzelli, who evidently represents the Condominium. My understanding of the situation is as follows:

The Town has for many years collected and disposed of trash generated by the residents of the Town. The Town has funded this service with the general fund, which, as you know, is replenished each year by tax revenue. The town provided this service by collecting trash from the roadway immediately adjacent to single family dwellings and multi-family dwellings. The trash was then transported to the Town landfill where it was disposed. Town owned and operated trucks are used in the provision of this service.

Apparently, trash collection and disposal service was not provided to Hideaway Village residents. Those residents have been transporting their trash to the landfill at their own expense, but have been permitted to dispose the trash without a charge from the landfill.

By a letter dated December 19, 1996, the Board of Selectmen has informed the unit owners of Hideaway Village the, as of March 31, 1997, they will no longer be permitted to dispose of their trash at the Town's landfill. However, it appears as though the Town plans to continue to provide a tax funded program of trash collection and disposal to residents that own single-family dwelling by disposing of the trash at the Otis Transfer Station.

Attorney Marzelli writes in his letter to the Board that: "The residents of Hideaway Village are just as entitled to tax funded municipal services as are the other residents of Bourne." He then requests, on behalf of the residents of Hideaway Village that the Board reconsider its decision and begin providing trash collection and disposal service to them.

The Town may not discriminate amongst its citizens in the provision of municipal services that are paid for by tax dollars. However, a condominium is different than a "citizen" or "resident", and thus, it may be permissible to treat the condominium differently with respect to trash collection and disposal.

Condominiums are authorized by Massachusetts General Laws Chapter 183A, et seq. Under that Chapter, the manner of ownership of a condominium is defined. Without embarking on a long discussion of condominium law, suffice it to say that a condominium owner owns a fee simple interest in the interior of his/her unit, and owns a beneficial interest in the common areas. The legal interest of the condominium is owned by a trust, association or corporation. The common areas of the condominium are managed by the trust, association or corporation. This is the distinguishing feature that is meaningful to the request for opinion.

Customarily, trash collection from a condominium is done by way of central collection and dumpsters and it is usually the trust, association or corporation that institutes rules for the residents and contracts for trash collection.

Thus, the collection of trash from a condominium is usually not directly from the residents, but instead is from the organization charged with maintaining the condominium. This makes the condominiums unlike ordinary residents and like a commercial entity.

The Town does discriminate between commercial and residential when it comes to the provision of trash collection services. Commercial entities throughout the Town are responsible for their own trash disposal. This is a reasonable and permissible distinction. Accordingly, the Town can continue to provide trash collection services to its residents while it does not to condominiums in the Town. However, since the individual unit owners are in fact residents of the Town, and pay taxes to the Town, they should be permitted to dispose of their trash at the transfer station on the same terms as other residents of the Town. So, if other residents are permitted to bring their trash to the transfer station for disposal, and are permitted to do so without charge, the residents of the Hideaway Village should be permitted to do so also.

RST:bjw

Page 2

January 23, 2002

Board of Selectmen

Examples of this prohibited category include ways which serve certain private properties and which essentially serve as driveways. Included in this category would be access ways into condominium or apartment complexes.

The key question is "whether the private ways are actual roads open to the public for travelling and transportation or are merely driveways, turnarounds, parking lots etc." See my Opinion of October 29, 1986.

In conclusion, for any private way to be plowed and have sand applied to it, the following prerequisites must exist.

- 1.) an appropriation for that purpose by the Town Meeting;
- 2.) a designation by the Board of Selectmen that the way is open to the public for actual use for traveling and transportation.

If you have any questions or wish to discuss this matter further, kindly contact my office. Thank you.

RST:geo

Cc: Town Administrator
DPW Director



TOWN OF BOURNE
BOARD OF SELECTMEN

24 Perry Avenue
BUZZARDS BAY, MA 02532

TEL. 759-4486



ROBERT W. PARADY, CHAIRMAN
MARIE J. OLIVA
JAMES CIVILINSKI

October 22, 1986

Robert S. Troy, Esquire
Bourne Town Counsel
9 St. Margaret's Street
Buzzards Bay, MA 02532

Re: Removal of Snow and Ice From Private Ways

Dear Attorney Troy:

Your opinion as Town Counsel is respectfully sought with respect to the matter set forth herein.

General Laws, Chapter 40, Section 6C, is a local option statute which permits a town to appropriate money for the removal of snow and ice from such private ways within its limits as are open to the public as may be designated by the selectmen. This statute has been accepted by the Town of Bourne, and the Town annually appropriates funds for this purpose.

The selectmen have received inquiries from condominium associations for plowing and sanding of the ways. In most instances, the "ways" connected with a condominium project are not "roads" laid out in accordance with the Subdivision Control Law, but are merely driveways serving condominium units on a single large parcel of land.

The issue is whether or not these "ways" are "private ways" under Section 6C of Chapter 40, or whether the "private ways" contemplated by this statute are "roads" laid out in accordance with the Subdivision Control Law or any predecessor statute?

Very truly yours,

Robert W. Parady
Robert W. Parady

Marie J. Oliva
Marie J. Oliva

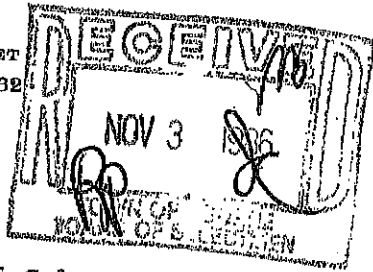
James Civilinski
James Civilinski

TOWN OF BOURNE

OFFICE OF
TOWN COUNSEL

ROBERT SWEENEY TROY
9 ST. MARGARET'S STREET
BUZZARDS BAY, MA 02532

(617) 759-2800
(617) 759-7844



October 29, 1986

Board of Selectmen
Bourne Town Hall
24 Perry Avenue
Buzzards Bay, MA 02532

Re: Removal of Snow and Ice from Private Ways

Ladies and Gentlemen:

Thank you for your letter of October 22, 1986 requesting my Opinion as Town Counsel relative to the above entitled matter. My Opinion is as follows:

QUESTION PRESENTED

Whether the Town of Bourne can plow roads and spread sand on private ways that are not layed out in accordance with the Subdivision Control Law?

BRIEF ANSWER

The Town of Bourne is not required to plow and sand private ways that are not considered roads within the meaning of Massachusetts General Laws, Chapter 40, Section 6C.

DISCUSSION

It is a fundamental principle, conforming to constitutional requirements that "money raised by taxation can be used only for public purposes and not for the advantage of private individuals." Opinion of the Justices, 122 NE 763, 766. See also Constitution, Declaration of Rights Part I art. 10; Part II c.1, §1, art. 4.

Board of Selectmen

Re: Removal of Snow and Ice from Private Ways

Page 2.

Massachusetts General Laws, Chapter 40, Section 6C, however, allows a city or town to "appropriate money for the removal of snow and ice from such private ways within its limits and open to the public use or designated by the city council or selectmen." This statute has been accepted by the Town of Bourne. The remaining question, therefore, is to ascertain whether the private ways at issue are actual roads open to the public for travelling and transportation or are merely driveways, turnarounds, parking lots, etc.

In Opinion of the Justices, 47 NE2d 260 (1943). The Supreme Judicial Court defined the words "open to the public use" as contemplated in Massachusetts General Laws, Chapter 40, Section 6C as applied to private ways to mean:

"[t]hat such way is actually susceptible of use by the general public other than for purposes that are merely incidental to the use of the way by the owner thereof, and also that the way is open to the public at large for purposes of travel, not merely incidental to its use by the owner thereof, in a manner similar to the ordinary use for purposes of travel of a public way of the same general nature." Id. at 263 (Emphasis added).

In the instant case, it appears that the ways at issue do not fall within Massachusetts General Laws, Chapter 40, Section 6C as contemplated by the General Court. Here, the "private ways" are apparently nothing more than driveways, turnarounds, etc., that serve only a handful of individuals. Indeed most of those private ways are access ways into condominium projects. There is no evidence that the ways at issue are "for the accommodation of the public as to means of travel and transportation." Id.

Moreover, the public's benefit would merely be incidental as compared with the direct benefit received by the condominium owners. When the primary purpose of an expenditure is for the benefit of a handful of owners rather than for the benefit of the general public, the constitutional validity of the expenditure will be questioned.

Board of Selectmen

Re: Removal of Snow and Ice from Private Ways

Page 3.

CONCLUSION

The Town of Bourne is not required to plow and sand these "private ways" because they are not open to the general public for purposes of travel and transportation.

If you have any further questions please do not hesitate to contact me.

Trusting this is satisfactory, I am

Very truly yours,


Robert Sweeney Troy

RST/dms

1/6 [unclear]

Guerino, Thomas

From: Robert Troy [REDACTED]
Sent: Friday, February 22, 2019 5:22 PM
To: James L. Potter; Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared
Cc: Guerino, Thomas; Cannon, Glenn
Subject: Re: Additional information - Trash and recycling policy

Jim,

I reviewed the Charter language relative to the DPW. It seems to me that the intent of the Charter is to impose responsibility on the DPW as to "rubbish" removal (section c) but, as happens all too often in the Charter language, the following section (d) creates some ambiguity by referring to the authority of the Select Board and Town Administrator. Looking at all of the language in the Charter and the Special Act, I would have to conclude that this is the primary responsibility of the DPW Director. The issue of how rubbish is collected does not seem to rise to the level of the "policy" responsibilities of the Select Board. Indeed, it appears to be an administrative function of the DPW. As previously noted, my preference is if there is going to be a change in the promulgated policy of the Town on trash to non-residential entities (Chapter 183A renders Condo Associations a distinct entity - and Condo Associations control the common areas where trash is stored and removed -), I think it is one that Town Meeting should address. The property owners have another avenue - a Court challenge - but I think that would be unsuccessful. Please let me know if you need additional response.

Thanks.

Bob

[Get Outlook for iOS](#)

From: James L. Potter <jlpotter@townofbourne.com>
Sent: Friday, February 22, 2019 9:26 AM
To: Robert Troy; Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared
Cc: Guerino, Thomas; Cannon, Glenn
Subject: RE: Additional Information - Trash and recycling policy

Hi Bob,

I realize any discussion about this should take place at an open meeting, but looking for an answer.

The question that I raised at our prior meeting was a little different, and hasn't been answered as it relates

specifically to the Charter (it wasn't asked to you in this way as of yet)-- it was a question as to the authority given to the BOS for policy-making for the DPW. Please see the attached Charter section, and see 5.4(d).

Because of this section, my question centered around who is responsible to change the 'trash pick-up' policy. Does the TA and DPW director, because of their day-to-day administering of the policy, have the ability to change portions of the policy, or does the BOS have the final say about the policy? In other words, are the citizens addressing the correct body to make changes to this policy? With the Charter wording, is the BOS responsible for this policy and any changes to the policy? Town Meeting is always an option to decide any matter. However, I would like to understand 5.4(d) more, especially if there is a larger conflict with responsibility, and if the wording requires change or not.

Thanks,

Jim Potter

Clerk, Bourne Board of Selectmen

Chairman, Bourne Sewer Commissioners

jimpotter@townofbourne.com

From: Robert Troy [REDACTED]

Sent: Thursday, February 21, 2019 5:20 PM

To: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter

Cc: Guerino, Thomas; Cannon, Glenn

Subject: FW: Additional information - Trash and recycling policy

From: Guerino, Thomas <TGuerino@townofbourne.com>

Sent: Thursday, February 21, 2019 5:09 PM

To: Robert Troy [REDACTED]

Subject: Additional information - Trash and recycling policy

Bob:

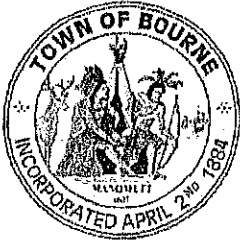
This will follow-up our brief discussion of this afternoon. As you are aware, the trash and recycling policy was

developed over several months which included multiple meetings of staff with BOS representation at most. The policy was also discussed at public BOS meetings. It was always meant as an internal day to day operational matter, and took into consideration the substantial costs if the Town were to have to pick up trash and recycling from all 30+ - condo associations. This was estimated at approximately 750K – 1,000,000. It was also viewed in reference to what surrounding communities had as standard practice. I see this as the responsibility of Administration to implement the municipal function as governed by the Charter, that being to run the day to day operations and to be mindful of the annual expenditure of Town Meeting approved budgets. Additionally, we see this as a fairness issue. All or none and we cannot afford to service all.

TG

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Board of Selectmen Meeting Notice AGENDA



Date

March 12, 2019

Time

5:45 P.M.

Location

Bourne Veterans' Memorial
Community Center
239 Main Street, Buzzards Bay

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

5:45 P.M. – Call Public Session to Order in Open Session

Executive Session: Motion to enter into Executive Session to conduct strategy with respect to threatened litigation regarding the Buzzards Bay Playground. The Chair has declared that an open meeting may have a detrimental effect on the litigating position of the public body.

Roll call Vote to convene in Executive Session for the purposes stated.

The Board will reconvene in a meeting and workshop open session following the Executive Session.

Roll call Vote to reconvene in Open Session.

Selectmen Workshop Agenda

1. Call Meeting to order
2. Tradewinds – response to request for exception/carve out to the existing Trash and recycling policy.
3. Board to conduct a workshop on reviewing Board of Selectmen Policies
4. Adjourn

RECEIVED

2019 MAR -7 PM 3:40

TOWN CLERK BOURNE

**Board of Selectmen
Minutes of Tuesday, March 12, 2019
Bourne Veterans' Memorial Community Center
Buzzards Bay, MA**

.....

TA Tom Guerino
ATA Glenn Cannon

Selectmen

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

RECEIVED
2019 APR 24 AM 11:41
TOWN CLERK BOURNE

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

5:45 PM - Call public session to order in open session

Executive Session: Motion to enter into Executive Session to conduct strategy with respect to threatened litigation regarding the Buzzards Bay Park. The Chair has declared that an open meeting may have a detrimental effect on the litigation position of the public body.

The Board will reconvene in a meeting and a workshop open session following the Executive Session.

Roll Call vote to convene in Open Session.

Meeting Called to Order

Chm. Meier called the meeting to order at 7:16 pm.

Tom Guerino reported on what motions were made in Executive Session.

There were six motions made that were approved by the Board.

- a. Approve the revised documentation related to the Buzzards Bay Playground. The motion was unanimously voted by roll call by the members of the Board.
- b. To approve the actions of the Project Manager as reported to the Board and to authorize the Project Manager to continue to supervise the project as outlined in his report to the Board of Selectmen. That was unanimously voted by roll call vote by the members of the Board.

core challenge but I think that would be unsuccessful. Let me know if you need additional response.

Mr. Guerino said it does come down to the notion that this is in the Policy, the Policy has been deemed to be appropriate. It is within consort with other communities that deal with condos and apartment associations. If the folks at Tradewinds opted to change their deed from a 183 Condominium Master deed to another type of deed, then I think the town could revisit the issue. It is George Sala's and my belief that the policy as it is written should hold.

Rick Howe questioned how many condominium complexes do you plow? George Sala said they don't plow any, years ago they did plow the outer edges of the herring run. Rick Howe said if you weren't providing those services then you didn't take those services away, like you have taken them away from Tradewinds. These are services that have been provided to tax payers, who haven't had their tax bill decrease because of this. We are the only ones that have been deprived of this service that has previously been provided since the place was build.

Gentleman from the audience agreed with Mr. Howe. Out of all the condo associations Tradewinds is the only one that has been affected in a negative way. Object to the language that they are a not residential entity. Spoke about the fact that they have less then 4 units, have proper curb side, roads are in proper condition, none of that matters. They are no different than any other subdivision in town, except for the word condominium. Disagree with Attorney Troy's assessment.

Tom Guerino read the pertinent part of the policy defines curbside collection as offered to residential properties and condominium complexes and trailer communities will not be offered curbside. This was a blanket policy for all 183A units.

Peter Meier said if you want to take no action on this, the motion would be not to take any action and move forward. If you disagree with this and want to find a way to provide services back grant it in the motion. So a motion to not take any action or motion to go to town meeting and take any remedies needed to restore services with trash, plowing, and street sweeping.

Tom Guerino suggested if it goes to Town Meeting it should be a private petition unless the Board brings it to Town Meeting. Mr. Guerino said in his opinion based on Counsels reviews on three separate occasions it is not within the purview of the Board, relative to the day to day operations of the DPW.

Voted James Potter moved and seconded by Judy Froman to take no action.

Judy Froman said she agrees that it is within the day-to-day operation of the DPW. Ms. Froman recommends moving forward that if something is going to affect the financial status of an association or some type of entity that more advanced timeframe needs to be put in place so budget preparations can happen for those entities.

- ii. a plan or course of action, as of a government, political party, or business; intended to influence and determine decisions, actions, and other matters.

3. Review list of policies

- a. Which policies need Board of Selectmen vote
- b. Adopted
- c. Signed
- d. Drafted
- e. To be written

4. Prioritize

5. Plan course of action

- a. Board
- b. Working Groups
- c. Website
- d. Policy Book

I sent the full edited Policy list (excel sheet) to Judy Froman on 3/12/19

The Board members agreed these were the Board of Selectmen Policies:

Beach Parking Sticker
Beach Parking Sticker
Committee Appointments
Community Building
Community Events
Drug & Alcohol
Easements
Electronic Communication
Family Medical Leave Act
Financial Management Policies & Guidelines
Information Technology Resources Use
ISWM Financial Policy
Naming Policy
Policy for Consultation with Town Counsel
Remote Participation
Social Media Use
Special Municipal Employees
Special Permit
Town of Bourne Public Engagement
Town Owned Property Naming
Traffic Rules & Orders
Website Posting

4) Adjourn

Voted Judy Froman moved and seconded by James Potter to adjourn. Meeting adjourned at 9:02 pm. Vote 4-0.

Respectfully submitted – Carole Ellis, secretary.



TOWN OF BOURNE

Department of Public Works

35 Ernest Valeri Drive
Buzzards Bay, MA 02532
Phone 508-759-0600 x 3 - Fax 508-759-0617
Email: dpw@townofbourne.com



Policy PW-2015-02
Number
Effective August 1, 2016
Date
Revision N/a
Dates
Applicable Town Residents
To
Authored By Jonathan Nelson-Director of Public Works and Facilities; George
Sala-Superintendent of Public Works;
Person in Superintendent of Public Works
Charge of
Compliance
Purpose Describe and Define the Town's Curbside Sanitation and Recycling program
Updates As needed, at least every three years
Required

1. **Purpose and Scope**

1.1. This policy will define and describe the cart based curbside sanitation and recycling program provided by the department of Public Works (DPW). It will adequately describe the curbside collection process for town residents, and will provide guidance as to what can and cannot be collected curbside. Residents are reminded that recycling in the town is mandatory (per bylaw 310.01), and compliance is essential to both extend the life the of the landfill, as well as preserve the environment

2. **Procedure Section**

2.1. **Curbside Collection**

2.1.1. The curbside collection program offered by the DPW is only offered to residential properties found to have four (4) or fewer units per property as determined by the Town of Bourne Assessor's office. Condominium complexes and trailer park communities will not be offered curbside collection under this policy.



- 2.1.2. The Superintendent of Public Works (the Superintendent) shall have final approval of all residential properties covered under this policy. If a residence meets the criteria of section 2.1.1 above, and the Superintendent deems curbside service cannot be provided (based on safety issues, access issues or as otherwise provided) the residents at the address will be offered a free sticker to the Residential Recycling center located at 201 MacArthur Boulevard. All decisions of the Superintendent under this section are final.
- 2.1.3. Each residence will be issued two carts; one for household recycling and one for household trash. Carts must be placed at the curbside, in a spot easily viewable from the road, but safely out of the travel lane.
- 2.1.4. Pickup will be based on the schedules developed and issued by the DPW.
- 2.1.5. Carts shall be placed at the curbside by 7am the day of the pickup, and shall not be placed at the curbside earlier than 5pm the day before. Under no circumstances will the DPW will return to pick up carts not placed at the curbside by the designated hours. Truck mounted technology may be used to ensure confirmation of service at all residential addresses.
- 2.1.6. All recycling and trash shall be fully contained in the cart, with the lids closed.
- 2.1.7. Loose bags or trash/recycling in other containers shall not be picked up, and it will the responsibility of the resident to properly dispose of all items not picked up.
- 2.1.8. The DPW staff will be responsible to move the carts from the curb to the truck to dump, ensuring all waste is removed. Staff will then place the carts neatly back at the curbside out of the path of either roadway traffic or driveways.
- 2.2. **Cart**
 - 2.2.1. The recycling cart shall have a blue body and blue lid and the trash cart shall have a blue body and black lid.
 - 2.2.2. The carts will remain the property of the Town of Bourne, and shall be issued only to households, not individuals. The carts shall remain with the household upon sale or transfer of property ownership.
 - 2.2.3. The carts shall be labeled barcoded or tagged by the DPW to both assign the carts to a specific residence and to allow for proof of service. At no time will the data generated from this labeling or tagging be used to track the quantities of trash generated by the residence.
 - 2.2.4. The carts issued by the department shall be of a durable plastic, with 10 inch wheels and solid axles for long term durability.
 - 2.2.5. Each cart will have a town label or seal imprinted on it.
 - 2.2.6. Only carts issued by the DPW shall be used for curbside collection.



2.3. **Damaged Carts: Covered Under Warranty**

- 2.3.1. Residents that notice any damage to a cart must report it immediately to the DPW.
- 2.3.2. Carts will be covered under warranty for reasonable wear and tear. This will include damage incurred while being emptied by town equipment and staff. DPW staff will be required to notify the main DPW office immediately if any cart shall become broken during regular curbside pickup or if they notice an issue considered normal wear and tear. Carts covered under the warranty shall be replaced as soon as possible by the department and delivered to the household by DPW staff.

2.4. **Damaged Carts: Not Covered By Warranty**

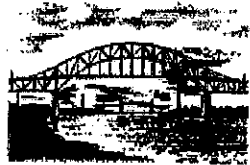
- 2.4.1. Residents that notice any damage to a cart must report it immediately to the DPW.
- 2.4.2. Residents shall be responsible for all damage above regular use or if the originally issued carts are lost and not able to be located. Residents must request replacement carts through the DPW department. Residents must pay a replacement fee, which will be set based on the town's actual replacement cost for the cart (currently approximately \$50.00). Residents must return damaged carts to the department offices, located at 35 Ernest Valeri Road, before being issued a replacement cart.
- 2.4.3. Replacement carts will be available at the DPW facility. Residents will be responsible to pick up the replacement unit.
- 2.4.4. Replacements for stolen carts will only be issued if the resident has filed a police report and is able to provide the department a copy. The fee for replacement carts reported stolen will be waived.
- 2.4.5. The Superintendent reserves the sole right to waive any fees based on the circumstances of the loss.

2.5. **Items Allowed in Curbside Trash Cart**

- 2.5.1. All non-hazardous residential waste shall be placed in the trash carts. The items include plastic bags, shredded paper, and other items not allowed in the recycling cart.

2.6. **Items Allowed in Curbside Recycling Cart**

- 2.6.1. The list of items allowed in the recycling cart may vary as the recycling markets change, however, the list of items allowed are listed below. No trash may be placed in the recycling cart.
 - 2.6.1.1. All fiber: newspapers, magazines, catalogs, cardboard, chipboard/paperboard, cereal boxes, milk cartons, clean pizza boxes, juice cartons, office paper.
 - 2.6.1.2. All plastic containers #1 - #7 (do not crush and keep the lids on): Soda bottles, water bottles, deli tubs, milk jugs, plant pots, yogurt cups, detergent bottles.



2.6.1.3. All metal containers: tin cans, aluminum cans, clean aluminum foil and pie plates.

2.6.1.4. All glass containers: loose glass bottles and containers. Take off the caps.

2.7. Items Not-Allowed in Curbside Recycling Cart

2.7.1. The list of items not allowed in the recycling are listed below. This list is not a complete list, but attempts to cover many items residents may have questions on. If there is a question on whether something is recyclable or not, please place the item in the cart designated for trash.. The following items are not recyclable and can be placed in the curbside trash cart only.

2.7.1.1. No shrink wrap, plastic bags or bubble wrap

2.7.1.2. No hoses

2.7.1.3. No plants, food waste or liquids

2.7.1.4. No dishes, Pyrex glassware

2.7.1.5. No shredded paper

2.7.1.6. No polystyrene/Styrofoam

2.7.1.7. No tires

2.7.1.8. No plastic pouches

2.7.1.9. No textiles

2.7.1.10. No batteries

2.7.1.11. No electronic waste

2.7.1.12. No toys

2.7.1.13. No K-cups

2.7.1.14. No trash

3. Enforcement and Penalties

3.1. Violations of Policy

3.1.1. Residents not following the policy outlined above will flagged and provided a notice of violation left at their door or on their barrels. Violations include the items listed below.

3.1.1.1. Cart lids not fully closed

3.1.1.2. Items left at the curbside not contained in the carts

3.1.1.3. Carts left out prior to 5pm the night before pick up

3.1.1.4. Contamination in the recycling stream

3.1.1.5. No recycling placed at curbside

3.1.1.6. Hazardous materials put out for collection

3.1.1.7. Large, bulky or hazardous items left at the curbside

3.1.1.8. In-proper use of containers (ie. recycling cart being used for trash or vice versa)

3.1.1.9. Additional carts or barrels, not provided by the town, being placed at the curbside for pickup



3.2. Termination of Service

3.2.1. Violations will be tracked by the DPW office. Any residence that accumulates three (3) or more violations in a rolling thirty (30) day period will have their curbside service terminated and the residence will be reported to the Town of Bourne Board of Health. Notification of termination will be sent by certified mail with the address on file with the Town of Bourne Assessor's office.

3.2.2. The DPW will be responsible to collect the carts from residences that have been sent letters of termination. The collected carts will be stored for future use.

3.3. Restoration of Service Process

3.3.1. Residences that have had their curbside service terminated may file a written notice with the DPW requesting their curbside service be restored. The written notice must contain detailed information acknowledging the violations that occurred, and must provide a statement that acknowledges that future policy violations will not occur, and that the residents fully understand the curbside collections policy.

3.3.2. The Superintendent will make the determination if the resident is acting in good faith, and at the Superintendent's sole discretion, may decide to restore curbside service to the residence with in question. The Superintendent must respond to all requests within thirty (30) days from receipt of the written notice.

3.3.3. Residents will be required to go to the DPW site to retrieve their carts upon restoration of curbside service.

3.4. Appeals Process

3.4.1. Any decision by the Superintendent under this section may be appealed in writing to the Town Administrator. The Town Administrator will make the determination if the Superintendent's decision should be overturned, and may decide to restore curbside service to the residence in question. The Town Administrator must respond to all requests within thirty (30) days from receipt of the written notice. All decisions of the Town Administrator are final.

3.4.2. If the Town Administrator denies any appeal, that resident must wait sixty (60) days prior to starting the Restoration of Service Process again as outlined in section 3.3 and 3.4 above.

3.5. Repeat Violations

3.5.1. Any resident that is found to have their curbside service terminated more than twice in one year, and with the Town Administrator upholding the decision of the Superintendent upon appeal, will automatically have their curbside collection service suspended. The effective date of the suspension shall commence on the date of the Town Administrator's



response to the appeal. The Town Administrator, in consultation with the Superintendent, shall determine the length of suspension which shall be at least a minimum of one (1) year and a maximum of three (3) years.

- 3.5.2. The residents may decide to apply for restoration (following section 3.3 and 3.4 of this policy) of curbside services within thirty days of the end of the suspension period. Service will not be automatically restored, and the resident must request restoration of service.

4. Changes in Service

4.1. New Service

- 4.1.1. Newly built residences, or residences currently without service in the town may request to be included in the curbside program. The request must be made directly to the DPW. Upon meeting the requirements of the policy above, the DPW will provide carts to the residence within thirty (30) days of the initial request.

4.2. Cancellation of Service

- 4.2.1. Any residence that wishes to cancel the curbside service must notify the DPW thirty (30) days prior to the date of cancellation. The DPW will be required to pick up the carts from the residence within a week of the cancellation date.

5. Communications, Questions and Concerns or Additional Information

5.1. Communications

- 5.1.1. Any issues or questions about the carts or curbside service should be directed to the DPW. Questions may be emailed to dpw@townofbourne.com or the main DPW number 508-759-0600, extension 3.

5.2. Website

- 5.2.1. All information regarding recycling in Bourne as well as the curbside program can be found at www.townofbourne.com/recycling-committee/pages/recycling-in-bourne

5.3. Resident Issues

- 5.3.1. Any resident having an issues with their carts or with employees of the DPW must call **508-759-0600, extension 3** to report the issues to the DPW supervisory staff. A DPW supervisor will set up a time to meet at the residence in question to determine a solution to the issues.
- 5.3.2. Any complaint made against a staff member will be investigated by the Superintendent or designee, and the staff member may be disciplined per the Town of Bourne's Employee Handbook if the result of the investigation proves the employee violated the policies set forth in the Employee Handbook.
- 5.3.3. Responses to issues or complaints will be completed in a timely manner by the DPW.



6. Policy Updates

- 6.1. This policy can be updated as changes are needed to better serve the residents of Bourne.
- 6.2. The policy must be updated at least every three (3) years. Updates will be posted to the Recycling in Bourne Website.
- 6.3. The Superintendent or designee is responsible to update the policy.
- 6.4. The Superintendent is responsible to approve all policy changes.

Cannon, Glenn

From: Robert Troy [REDACTED]
Sent: Friday, February 22, 2019 5:22 PM
To: James L. Potter; Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared
Cc: Guerino, Thomas; Cannon, Glenn
Subject: Re: Additional information - Trash and recycling policy

Jim,

I reviewed the Charter language relative to the DPW. It seems to me that the intent of the Charter is to impose responsibility on the DPW as to "rubbish" removal (section c) but, as happens all too often in the Charter language, the following section (d) creates some ambiguity by referring to the authority of the Select Board and Town Administrator. Looking at all of the language in the Charter and the Special Act, I would have to conclude that this is the primary responsibility of the DPW Director. The issue of how rubbish is collected does not seem to rise to the level of the "policy" responsibilities of the Select Board. Indeed, it appears to be an administrative function of the DPW. As previously noted, my preference is if there is going to be a change in the promulgated policy of the Town on trash to non-residential entities (Chapter 183A renders Condo Associations a distinct entity - and Condo Associations control the common areas where trash is stored and removed -), I think it is one that Town Meeting should address. The property owners have another avenue - a Court challenge - but I think that would be unsuccessful. Please let me know if you need additional response. Thanks.

Bob

Get [Outlook for iOS](#)

From: James L. Potter <jlpotter@townofbourne.com>
Sent: Friday, February 22, 2019 9:26 AM
To: Robert Troy; Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared
Cc: Guerino, Thomas; Cannon, Glenn
Subject: RE: Additional information - Trash and recycling policy

Hi Bob,

I realize any discussion about this should take place at an open meeting, but looking for an answer.

The question that I raised at our prior meeting was a little different, and hasn't been answered as it relates

specifically to the Charter (it wasn't asked to you in this way as of yet)-- it was a question as to the authority given to the BOS for policy-making for the DPW. Please see the attached Charter section, and see 5.4(d). Because of this section, my question centered around who is responsible to change the 'trash pick-up' policy. Does the TA and DPW director, because of their day-to-day administering of the policy, have the ability to change portions of the policy, or does the BOS have the final say about the policy? In other words, are the citizens addressing the correct body to make changes to this policy? With the Charter wording, is the BOS responsible for this policy and any changes to the policy? Town Meeting is always an option to decide any matter. However, I would like to understand 5.4(d) more, especially if there is a larger conflict with responsibility, and if the wording requires change or not.

Thanks,

Jim Potter

Clerk, Bourne Board of Selectmen

Chairman, Bourne Sewer Commissioners

jimpotter@townofbourne.com

From: Robert Troy [rst@troywallassociates.com]

Sent: Thursday, February 21, 2019 5:20 PM

To: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter

Cc: Guerino, Thomas; Cannon, Glenn

Subject: FW: Additional information - Trash and recycling policy

From: Guerino, Thomas <TGuerino@townofbourne.com>

Sent: Thursday, February 21, 2019 5:09 PM

To: Robert Troy [REDACTED]

Subject: Additional information - Trash and recycling policy

Bob:

This will follow-up our brief discussion of this afternoon. As you are aware, the trash and recycling policy was

developed over several months which included multiple meetings of staff with BOS representation at most. The policy was also discussed at public BOS meetings. It was always meant as an internal day to day operational matter, and took into consideration the substantial costs if the Town were to have to pick up trash and recycling from all 30+ - condo associations. This was estimated at approximately 750K – 1,000,000. It was also viewed in reference to what surrounding communities had as standard practice. I see this as the responsibility of Administration to implement the municipal function as governed by the Charter, that being to run the day to day operations and to be mindful of the annual expenditure of Town Meeting approved budgets. Additionally, we see this as a fairness issue. All or none and we cannot afford to service all.

TG

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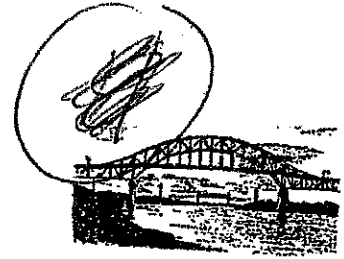
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George M. Sala
Superintendent

TOWN OF BOURNE
Department of Public Works

35 Ernest Valeri Road
Buzzards Bay, Massachusetts 02532
PHONE: 508-759-0600 ext. 3 • FAX: 508-759-0617



MEMORANDUM

August 29, 2016

Dear Mr. Lively,

This letter is a reminder that Tradewinds Condominium Association will not receive curbside collection as of September 1, 2016. On July 26, 2016 the Town Administrator Thomas Guerino informed you that the Town of Bourne is changing our curbside sanitation and recycling collection pickup to a cart based operation to accommodate single stream recycling. At that time Mr. Guerino also extended your services until September 1, 2016 in order for your Association to make arrangement with an outside firm to pick up your curbside collections. We realize that we have been providing your condominium complex with recycling collection services over the years and it has been pleasure to have provided you with this service. This service was originally provided under a grant of which the town no longer receives, and has not for some time. On August 1, 2016 the Town of Bourne no longer provided recycling/sanitation collections services to any of the other condominiums located in the town. No condominium complexes will be serviced under this new collection program.

If you have any questions, please feel free to contact me at 508-759-0600 ex 3.

Sincerely,

George M. Sala,
Superintendent



B

TOWN OF BOURNE

Department of Public Works

35 Ernest Valeri Drive
Buzzards Bay, MA 02532
Phone 508-759-0600 x 3 - Fax 508-759-0617
Email: dpw@townofbourne.com



Policy Number PW-2015-02

Effective Date August 1, 2016

Revision Dates N/a

Applicable To Town Residents

Authored By Jonathan Nelson-Director of Public Works and Facilities; George Sala-Superintendent of Public Works;

Person in Charge of Compliance Superintendent of Public Works

* Purpose Describe and Define the Town's Curbside Sanitation and Recycling program

Updates Required As needed, at least every three years

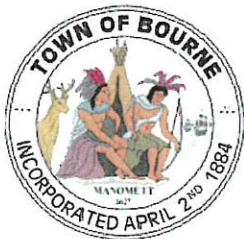
1. Purpose and Scope

1.1. This policy will define and describe the cart based curbside sanitation and recycling program provided by the department of Public Works (DPW). It will adequately describe the curbside collection process for town residents, and will provide guidance as to what can and cannot be collected curbside. Residents are reminded that recycling in the town is mandatory (per bylaw 310.01), and compliance is essential to both extend the life the of the landfill, as well as preserve the environment

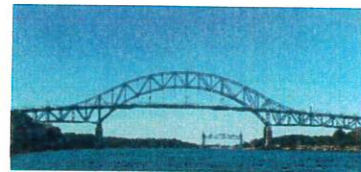
2. Procedure Section

2.1. Curbside Collection

2.1.1. The curbside collection program offered by the DPW is only offered to residential properties found to have four (4) or fewer units per property as determined by the Town of Bourne Assessor's office. Condominium complexes and trailer park communities will not be offered curbside collection under this policy.



Board of Selectmen Meeting Notice **2nd AMENDED AGENDA**



Date

January 16, 2019

Time

6:00 P.M.

Location

Bourne Veterans' Memorial
Community Center
239 Main Street, Buzzards Bay

If anyone in the audience is recording or video-taping, they need to acknowledge such at this time.

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

6:00 P.M. – Call Public Session to Order in Open Session

Executive Session: Motion to enter into Executive Session to conduct strategy with respect to threatened litigation regarding the Buzzards Bay Playground. The Chair has declared that an open meeting may have a detrimental effect on the litigating position of the public body. To conduct strategy with respect to litigation regarding the Haven Center, Inc., et al v. Town of Bourne and Bourne Board of Selectmen – Commonwealth of Massachusetts Land Court, Department of the Trial Court # 19MISC 000009. The Chair has declared that an open meeting may have a detrimental effect on the litigating position of the public body. To conduct strategy with respect to litigation relative to the Fire Department. The Chair has declared that an open meeting may have a detrimental effect on the litigating position of the public body.

Roll call Vote to convene in Executive Session for the purposes stated. The Board will reconvene in a workshop open session following the Executive Session.

Roll call Vote to reconvene in Open Session.

Selectmen Workshop Agenda

1. Call Meeting to order
2. Trash and Recycling Policy and other Municipal Services for Tradewinds Condominiums
3. FY 2020 Budget
4. Adjourn

2019 JAN 15 AM 9:06
TOWN OF BOURNE
CLERK



A

TOWN OF BOURNE
Board of Selectmen

24 Perry Avenue
Buzzards Bay, Massachusetts 02532
759-4486



ROBERT W. PARADY, CHAIRMAN
MARIE J. OLIVA
W. THOMAS BARLOW

October 24, 1988

Mrs. Sue Martin
Board of Managers
Sea Watch Village Condominium Association
P.O. Box 508
Monument Beach, MA 02553-0508

Re: Snow and Ice Removal Services

Dear Mrs. Martin:

In response to your recent telephone conversation with Selectman Parady, and as a follow-up to our letter of October 21, 1988 concerning the Town extending snow and ice removal services to the various multi-family and condominium projects within the Town beginning this winter, please be advised that we have determined the following to be private roads within the meaning of the statute and Town Counsel's opinion:

*Development: Herring Run

Road Names:	Aspen Road	Forsythia Lane
	Beach Plum Lane	Hemlock Road
	Bittersweet Lane	Juniper Lane
	Dogwood Road	Orchard Road

*Development: Seawatch Village

Road Name: Roundhouse Road

*Development: Tradewinds

Road Names:	Carriage Circle	Coach Road
	Heritage Drive	Holly Circle
	Surrey Lane	

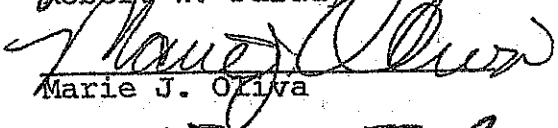
Snow and ice removal services will be provided by the Town on the roads listed above beginning this winter. No services can be furnished on adjacent drives, ways, parking areas, and courts.

The following developments do not have "roads" within the meaning of the statute, and therefore are not eligible

October 24, 1988

for Town snow and ice removal services: Aptucket Village; Canalside; Great Rock Village; Hideaway Village; Hunters Brook and Hunters Brook II; Schooner Pass; Waterview Hill; Harborview Hills. The travelled ways within these developments are not roads laid out in accordance with the subdivision control law, but are merely drives and ways within the development, and therefore are not eligible for snow and ice removal services provided by the Town.

Very truly yours,


Robert W. Parady
Marie J. Oliva
W. Thomas Barlow

RWP/ms

cc: Louis F. Pellegrini,
Highway Surveyor
Finance Committee



TOWN OF BOURNE

Department of Public Works

35 Ernest Valeri Drive

Buzzards Bay, MA 02532

Phone 508-759-0600 x 3 - Fax 508-759-0617

Email: dpw@townofbourne.com



Policy PW-2015-02
Number

Effective August 1, 2016
Date

Revision N/a
Dates

Applicable Town Residents
To

Authored By Jonathan Nelson-Director of Public Works and Facilities; George
Sala-Superintendent of Public Works;

Person in Superintendent of Public Works
Charge of
Compliance

* Purpose Describe and Define the Town's Curbside Sanitation and Recycling program

Updates As needed, at least every three years
Required

1. Purpose and Scope

1.1. This policy will define and describe the cart based curbside sanitation and recycling program provided by the department of Public Works (DPW). It will adequately describe the curbside collection process for town residents, and will provide guidance as to what can and cannot be collected curbside. Residents are reminded that recycling in the town is mandatory (per bylaw 310.01), and compliance is essential to both extend the life the of the landfill, as well as preserve the environment

2. Procedure Section

2.1. Curbside Collection

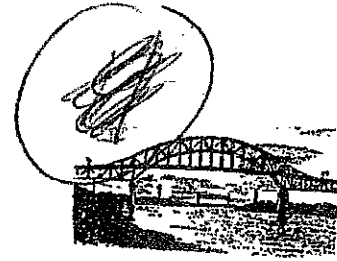
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George M. Sala
Superintendent

TOWN OF BOURNE
Department of Public Works

35 Ernest Valeri Road
Buzzards Bay, Massachusetts 02532
PHONE: 508-759-0600 ext. 3 • FAX: 508-759-0617



MEMORANDUM

August 29, 2016

Dear Mr. Lively,

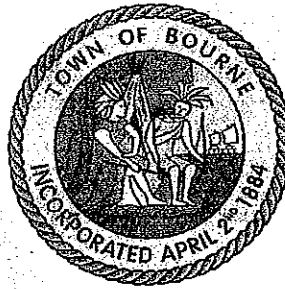
This letter is a reminder that Tradewinds Condominium Association will not receive curbside collection as of September 1, 2016. On July 26, 2016 the Town Administrator Thomas Guerino informed you that the Town of Bourne is changing our curbside sanitation and recycling collection pickup to a cart based operation to accommodate single stream recycling. At that time Mr. Guerino also extended your services until September 1, 2016 in order for your Association to make arrangement with an outside firm to pick up your curbside collections. We realize that we have been providing your condominium complex with recycling collection services over the years and it has been pleasure to have provided you with this service. This service was originally provided under a grant of which the town no longer receives, and has not for some time. On August 1, 2016 the Town of Bourne no longer provided recycling/sanitation collections services to any of the other condominiums located in the town. No condominium complexes will be serviced under this new collection program.

If you have any questions, please feel free to contact me at 508-759-0600 ex 3.

Sincerely,

George M. Sala,
Superintendent

D



Town of Bourne single stream recycling cart and trash cart distribution to start **July 5, 2016** to properties with four or fewer **residential addresses.**

- Each household will receive two (2) large, wheeled carts delivered to your address. **One for all recyclables and one for trash.** Use of these carts is required for curbside collection. Plastic trash bags can be used for your trash. Do not put recyclables into plastic bags.
- The ISWM Enterprise Fund is paying for the carts at no expense to the taxpayer.
- Recyclables and trash must fit into each cart with the lid closed. No separate bags or barrels may be set out for collection. Recycling instructions are imprinted on the lid.
- As a reminder, recycling is mandatory in Bourne.
- Failure to comply may lead to termination of curbside collection service. To help with the transition, there will be a grace period through Veterans Day, November 11, 2016, after which violations may be issued.
- Carts must be at the curbside no later than 7 AM the day of collection and not set out before 5 PM the night before.
- Carts remain the property of the Town but residents are responsible for their care. Report any product damage or malfunctions to the DPW for servicing.
- Questions? Visit the "Recycling in Bourne" quick link at townofbourne.com or call the DPW at 508-759-0600 ext. 3.



Thomas M. Guerino
Town Administrator

TOWN OF BOURNE
Town Administrator
24 Perry Avenue
Buzzards Bay, MA 02532
Phone 508-759-0600 - Fax 508-759-0620



April 20, 2017

Mr. Jonathan Hobill
[Redacted]

Certified mail:

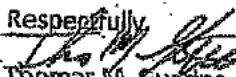
Mr. Hobill:

I am again attempting to provide you with requested materials related to your requests for information. Below and attached please find responses to your queries. I note we have tried to over provide any and all materials. Also, note some of the information is not available as requested. We have not created new documents. Finally, in the spirit of good will, I am not assessing any charges that are otherwise allowed.

1. The policy was put together by a working group of employees. There are no meeting notes.
2. The Trash and recycling policy in an interdepartmental document. Various Selectmen may have attended these work sessions, but never more than one member. Any refinements or edits to the policy was taken at these work sessions. These are not public meetings as provide for by statute, but work between departmental employees.
5. The policy is included in this transmission
6. There was a discussion between the DPW director and I that the term condominium complex should be changed to condominium(s) and the document was changed to reflect that to be consistent that all condominiums were included.
7. There was much discussion related to this amongst the departments that were putting the policy together. The determination was a dwelling or building that has condominium as defined by statute and/or is so noted in the master deed by the Town Administrator and DPW Director.
8. Please again note that this is a departmental policy.

It is my hope that this information will satisfy your informational requests.

Respectfully,


Thomas M. Guerino,
Town Administrator

July 11, 2002
Page 3

Atty Troy

Second, the United States Constitution mandates that, when a municipality provides services, it must do so on a non-discriminatory basis. See, 18 Mass. Prac. § 412 (Randall and Franklin, Municipal Law, 1993). Thus, if the Town elects to provide trash collection, it must provide the service to Bourne residents in a non-discriminatory manner.

This Constitutional requirement does not mean that the Town is prohibited from making any distinctions between residents. The Town may discriminate so long as the discrimination is rationally related to a legitimate State interest. This principle was affirmed in the recent case of Flatley v. Malden, 40 Mass. App. Ct. 38 (1996).

In Flatley, the Appeals Court affirmed the city of Malden's works commission's classification system of incrementally increasing rates to consumers for higher consumption of water. The plaintiff - who owned thirteen apartment buildings - challenged the classification system by arguing that it was impermissibly discriminatory to determine the rate for apartment buildings by measuring the total consumption of all units while, for an individual homeowner, the rate was set by measuring flow to just one house. The Appeals Court determined that, in order to prevail, the plaintiff was required to show that the discrimination was "unreasonable." The Appeals Court ruled that the plaintiff failed to make the required showing because the city had a legitimate basis for creating a tiered system of water rates - water conservation.

In my Opinion, as Town Counsel, there is not a rational distinction or a legitimate basis to distinguish between public ways and private ways open to public use in the context of municipal trash collection. However, there is a rational distinction between public or private ways open to the public and ways which are closed to the public and which contain impediments to access. The Town is entitled to make distinctions based upon these practical, tangible considerations. For example, the Town could develop a set of criteria for eligibility for trash collection service based upon accessibility to the particular property. Such criteria could include:

July 11, 2002

Page 4

- minimum road width
- minimum road grade
- minimum road conditions
- accessibility (i.e., no locked gates)

These criteria are objective and non-discriminatory since they are based upon considerations of being able to provide service in a safe, efficient and cost effective manner.

In summary, whether the Town has authority to provide services to residents on streets and ways is subject to a determination whether the service is a legitimate public function and whether the service will be provided in a non-discriminatory manner. Such an analysis is highly fact dependent and thus, specific questions regarding such municipal activities must be reviewed on a case by case basis.

RST:bjw

Cc: Board of Selectmen

WEDNESDAY, JANUARY 16, 2019 - 7PM

Lady and gentlemen, thank you for the opportunity to meet with you this evening. I am going to attempt to do something that is not easy for me.....that is to be as brief as possible....yet thorough. I ask that you allow me to speak without interruption (unless, you feel the urge to shout out "you're right") and save your comments or questions for after I am finished.

There are 4 issues at hand for Tradewinds. The restoration of street sweeping, catch basin cleaning, snow & ice removal from our streets and trash & recycling pickup services, which were taken away after being provided for 30 years. My emphasis will be on snow & ice removal along with trash & recycling pickup.

Now, as to removing snow and ice from the Tradewinds streets, this one is a no brainer. We have a signed letter dated Oct 24, 1988 from a prior Board of Selectmen which references Tradewinds specifically (and also cites all our streets' names) authorizing/directing the Town of Bourne to provide us with that service. What does the Town have to counteract that order? NOTHING! Does a department head have the right to overrule a Selectmens decision? NO! Some have tried referring to policy #PW-2015-02 as an excuse to deny said service. That is 100% misguided thinking. Why? Because that policy's ONLY purpose is "describe and define the town's curbside sanitation and recycling program". NOWHERE does it relate to snow & ice removal. I'll get back to this policy in a moment. I received a memorandum from the DPW Superintendent dated Aug 29, 2016 regarding solely our trash and recycling. NOWHERE was and has snow & ice removal or anything else been mentioned. Hence, there is nothing the Town of Bourne has that can justify a reason for not providing snow & ice removal from Tradewinds streets. Thus, I contend that service must be restored immediately along with street sweeping and catch basin cleaning.

Next, we come to the picking up of Tradwinds trash and recyclables. I think it is fair to say that you all will agree that Tradewinds layout is NO different than any other subdivision in the Town of Bourne nor is there any problem with the condition of its roads and that we have more than adequate curbside availability.

As we all know, this saga began in the spring of 2016 when the Town sent a mass mailing to all residents. In it, the one and only disqualifier was "to start July 5, 2016 to properties with four or fewer residential addresses" (absolutely no mention of condos). As you now are aware, Tradewinds has but two units per parcel. We were never notified that our services would be discontinued until August 29, 2016. In fact, oddly enough, the

aforementioned policy was dated August 1, 2016, which means it was written after the fact (of July 5th), not before. Meaning the policy effective July 5th wasn't written until Aug 1st. Was something added to exclude Tradewinds? On April 20, 2017 the Town Administrator sent a letter to Jonathan. In it, he stated "The policy was put together by a working group of employees. There are no meeting notes." How convenient. No mention of who or how many employees were involved or when and where these meetings were held. Could have been at the Trading Post Lounge for all we know. He further states that "various selectmen may have attended these work sessions", which also implies that they may not have attended. Again, no written notice of any kind, except for the aforementioned mass mailing and Oct 24, 1988 letter, was ever sent to Tradewinds regarding services until Aug 29, 2016.

On July 11, 2002, the Town of Bourne's Attorney, Robert Troy, sent a letter to the then Town Administrator regarding "Municipal Services on Private Ways". On page 3 of the letter he cautions "the United States Constitution mandates that, when a municipality provides services, it must do so on a non-discriminatory basis... Thus, if the Town elects to provide trash collection, it must provide service to Bourne residents in a non-discriminatory manner". At the very end of his letter, he cautions "Such an analysis is highly fact dependent and thus, specific questions regarding such municipal activities MUST be reviewed on a case by case basis", which is precisely what Tradewinds is trying to accomplish. Yet, the powers that be, to this point, have refused to heed the advice of their own attorney. An argument that it would be costly to provide these services to Tradewinds is not valid and carries no weight whatsoever. In addition, the fact that some documents are years old is of no consequence. They do not have expiration dates and the U.S. Constitution cited by Atty. Troy is over 200 years old.

Let me share with you a definition of discrimination from U.S. Legal: "Discrimination refers to the treatment or consideration of, or making a distinction in favor of or against a person or thing based on the group class, or category to which that person or thing belongs rather than on individual merit". Sure sounds like that is EXACTLY what has happened here.

A point has been made that Tradewinds is a condominium association. It is common knowledge that Tradewinds officially goes by the acronym of T.C.O.T. TCOT stands for "Tradewinds Condominium Owners Trust. In actuality, we are a trust that is an association of individual condominium owners. SURELY, there are a number of other properties (i.e. Wings Neck) in Bourne that are held in trust which receive the services we have been denied. And why do 89 Waterhouse Road residences, under the Bourne Housing Authority, receive this service when there are more than 4 units per parcel?

If the Town is married to using the word condominium in its policy, then be reasonable and make one quick and easy change to the wording on page 1, section 2.1.1. Simply add ONE sentence: "Unless a condominium has less than four units per parcel, roads in good repair and has proper curbside access throughout or the original developer has waived the option of having services provided." Only Tradewinds meets every one of those criteria. There you go....problem solved. Is that so hard to do? I think not.

Considering the description of the manner in which the policy was concocted, by persons and at places unknown, it is not etched in stone, so can be amended in that same fashion. In fact, the infamous policy allows for changes to it on page 1.

FINALLY, in summation, I ask that certain Town Officials voluntarily reverse their original decision and immediately restore the four services in question (snow & ice removal from roads, trash & recycling pickup, catch basin cleaning & street sweeping) that were taken away after 30 years of being provided to Tradewinds. There is nothing wrong with admitting that an honest oversight was made and take steps to correct it. If they are still unwilling to do so, then I respectfully request that, as the ultimate authority, the Board of Selectmen now vote in favor of ordering it to be done in light of the overwhelming evidence justifying such a decision. All that is required is common sense, a modicum of logic and a conscience.

What happens if our services are not restored? Of course, there is always the potential of a law suit. However, I do not have the authority on my own to say there will be.

Tradewinds certainly doesn't prefer that or we would have already done so. Although, it is our right and could be an option. The Town should not want it either because it would be fiscally irresponsible, which is an important consideration. The only one who would benefit is your lawyer who gets paid even when he loses. Another way to look at it is this: if this goes to court, it will absolutely cost Bourne's taxpayers financially for no good reason. Whereas, in essence, it should cost NOTHING if it does not, as these are not new services, they are old ones.

PLEASE do not let this happen. Do what is right and fair. As New England's super bowl winning football coach says, "do your job". We will continue to maintain our own roads. As we have said all along, we are not asking for a single, extra thing, just to have the past services, which we are duly entitled to, provided and restored. We are tired of having to pay out of pocket for these lost services while our taxes go up. And even though they would be nice and we sure would like them, we are not demanding the blue bins. THANK YOU for your time and anticipated consideration and agreement.

Section 5-4: Department of Public Works.

(a) There shall be a department of public works which shall be responsible for those public works functions described in this article and as may be assigned from time to time by the board of selectmen, town administrator or town meeting.

(b) The department of public works shall be under the direct control of a superintendent of public works who shall be appointed by and who shall be directly responsible to the town administrator. The superintendent of public works shall be a registered civil engineer or a person otherwise especially suited by education, training and previous experience to perform the duties of the office. The superintendent of public works shall keep full and complete records of the doings of the superintendent's office and shall render a report of all operations to the town administrator and board

of selectmen as may be required. The superintendent shall keep the town administrator fully advised as to the needs of the town within the scope of the superintendent's duties.

(c) The department of public works shall include, but not be limited to, the following functions: highways and streets; storm drains; tree and park maintenance; public sewers; rubbish collection; and the maintenance and repair of town buildings, except school buildings unless requested by the school committee and approved by the board of selectmen.

(d) The board of selectmen, acting through the town administrator, shall establish priorities and policies to govern the operation of the department of public works.

Cannon, Glenn

From: Robert Troy [REDACTED]
Sent: Thursday, February 21, 2019 5:12 PM
To: Guerino, Thomas; Cannon, Glenn
Cc: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter
Subject: Curbside Collection

Town Officials,

This will supplement my Opinion of October 26, 2018. As discussed in paragraph three of my Opinion, curbside collection is offered to residential properties found to have four (4) or fewer units... Condominium complexes ... will not be offered curbside collection under this policy. The language in the Policy reflects a legal distinction: removal of trash from residential properties is a transaction between residents and the Town. Chapter 183A of Massachusetts General Laws requires that Condominiums be established as distinct entities in which the Condominium Association owns the common areas on which trash is stored and from which trash is collected. Please see my Opinion of April 8, 1997 that illustrates the distinction between service to individual residents of the Town and Condominium Associations that are separate and distinct entities under the statute. Consequently, the Town's "Curbside Sanitation and Recycling program" draws a distinction between town residents found to have four (4) units or less and residential complexes with more than four (4) units along with "Condominium complexes and trailer park communities..." The Town has promulgated a Policy reflecting this distinction and I have concluded on several occasions that the Town's policy is a valid exercise of municipal regulation. The Town Administrator suggests that the authority of the Board of Selectmen to set policy – as opposed to day to day administration of the Town's operations – precludes the Selectmen's authority to amend a valid exercise of municipal regulation. The dividing line on this issue is not always clear and it seems that if the Town's policy on curbside collection needs to be modified, it should be done by the Bourne Town Meeting. I respectfully suggest that if the Selectboard decides that the current policy of the Town should be modified, this subject should be referred to the Bourne Town Meeting. I am forwarding previous Opinions on this subject by a separate email. Thank you.

RSTroy
Town Counsel

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Cannon, Glenn

From: Robert Troy [REDACTED]
Sent: Thursday, February 21, 2019 5:21 PM
To: Meier, Peter; Slade, George; Froman, Judith; MacDonald, Jared; James L. Potter
Cc: Guerino, Thomas; Cannon, Glenn
Subject: FW: Additional information - Trash and recycling policy

From: Guerino, Thomas <TGuerino@townofbourne.com>
Sent: Thursday, February 21, 2019 5:09 PM
To: Robert Troy [REDACTED]
Subject: Additional information - Trash and recycling policy

Bob:

This will follow-up our brief discussion of this afternoon. As you are aware, the trash and recycling policy was developed over several months which included multiple meetings of staff with BOS representation at most. The policy was also discussed at public BOS meetings. It was always meant as an internal day to day operational matter, and took into consideration the substantial costs if the Town were to have to pick up trash and recycling from all 30+ - condo associations. This was estimated at approximately 750K – 1,000,000. It was also viewed in reference to what surrounding communities had as standard practice. I see this as the responsibility of Administration to implement the municipal function as governed by the Charter, that being to run the day to day operations and to be mindful of the annual expenditure of Town Meeting approved budgets. Additionally, we see this as a fairness issue. All or none and we cannot afford to service all.

TG

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TOWN OF BOURNE

Planning Board

Bourne Town Hall
24 Perry Avenue
Buzzards Bay, MA 02532
Phone: (508) 759-0615 Fax: (508) 759-0611



2007 JUN 29 PM 2:56

TOWN CLERK'S OFFICE
BOURNE, MASS.

NOTICE OF DECISION ON AMENDED SPECIAL PERMIT

June 29, 2007

Amended Special Permit #38, 38A

APPLICANT:

Ocean Pines LLC
C/o J. Ford O'Connor
6 MacArthur Blvd.
Bourne MA 02532

OWNER:

Same

PREMISES AFFECTED:

Wildwood Lane, Sagamore Beach, MA 02562, Map 6, Parcels 125, 126, 127, 128 Map 7 Parcels 99, 100

Application submitted:

May 31, 2007

Public Hearing held:

June 28, 2007

Place of hearing:

Bourne Community Building

At the public hearing, the Board determined that the requirements of the Bourne Zoning Bylaws under the following sections will not be met:

1. Sec. 1330: To amend special permit 38 & 38A as amended to modify the condo units to be constructed on site which was approved for open space development with Section 4600 in 1987.

The motion made by Mr. Howarth and seconded by Mr. Meier to DENY Amended Special Permit #38 & 38A approved by roll call vote 4-2.

Roll call vote on Amended Special Permit #38 & 38A was as follows:

Mr. Howarth	-	in favor	Mr. Meier	-	in favor
Mr. DuBerger	-	in favor	Mr. Jensen	-	against
Mr. Doucette	-	against	Mr. DelFavero	-	in favor

The decision was filed with the Town Clerk on this twenty-ninth day of June 2007.

BOURNE PLANNING BOARD

Christopher Farrell, Chairman

IMPORTANT:

Any appeal from the decision of the Planning Board can be made only to the court, and must be made pursuant to M.G.L. Chapter 40A, Section 17 as amended, and must be filed within twenty days after the date of the filing with the Town Clerk.



TOWN OF BOURNE
Planning Board
TOWN HALL
BUZZARDS BAY, MA 02532



Special Permit # 38A amended

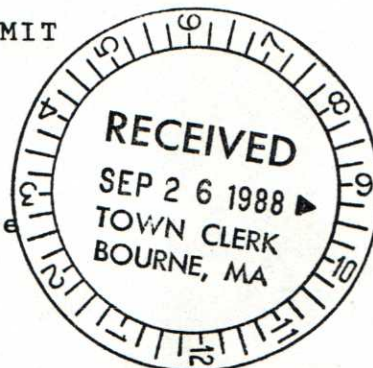
NOTICE OF EXTENSION OF SPECIAL PERMIT

Applicant: Frank J. Nuovo
Pat J. Piscitelli
Ocean Pines at North Sagamore
P.O. Box 1487
Buzzards Bay, MA 02532

Date: August 11, 1988

Owners: Same as applicants

Premises Affected: 74.1 acres of land in North Sagamore
Town of Bourne



On August 11, 1988 to applicants requested a twelve month month extension to their Special Permit granted May 4, 1987 with the Definitive Plan signed by the Clerk of the Planning Board on September 29, 1987.

Under Section 1330 of the Bourne Zoning By-Law, the Special Permit shall expire if construction has not begun, except for good cause, within the twelve months of approval.

The applicants cite the overbuilding of the surrounding area and the present real estate market as good cause.

The approval has been received and the Bourne Planning Board voted 6 members in favor of the extension, 1 member opposed and two members absent. A roll call vote of the Bourne Planning Board was as follows:

Alan Besse - approved
William Norman - approved
William Holden - approved
John Sanna - denied

Steven Mealy - approved
Tom Donovan - approved
Sally Parady - approved
Donald Ellis - absent
Hamilton Whiting - absent

SPECIAL PERMIT WILL BE NULL AND VOID ON MAY 19, 1989.

Decision filed with the Town Clerk: September 26, 1988

BOURNE PLANNING BOARD



TOWN OF BOURNE
Planning Board
TOWN HALL
BUZZARDS BAY, MA 02532



NOTICE OF DECISION ON SPECIAL PERMIT

Applicants: Frank J. Nuovo, Pat J. Piscitelli
P.O. Box 1487
Buzzards Bay, MA. 02532

Date: 28 April 1987 Permit No. 38

Owner: Frank J. Nuovo and Pat J. Piscitelli

Premises Affected:
74.1 Acres of Land in North Sagamore, Bourne MA.
as shown on Wilson Hill Associates plan of
22 December 1987, Book 1478 Page 48.

Special Permit application submitted 6 January 1987.

A public hearing was held on 12 February 1987 and on 23 April 1987 at Bourne Town Hall, Perry Ave., Buzzards Bay Massachusetts.

At the public hearing the Board found that the condistions of Sec. 1330 had been met and that no undue nuisance, hazard or congestion would be created by this project.

The following conditions must be adhered to:

1. Water for domestic and fire fighting purposes must meet ISO requirements for Volume & pressure
2. Entrance to Old Plymouth Road is to have a devider.

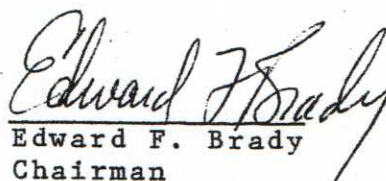
A roll call vote of the Bourne Planning Board was as follows:

Edward F. Brady	Approved
Donald E. Ellis	Approved
Sally Parady	Approved
John Sanna	Approved
Thomas Barlow	Approved
Maureen Jason	Approved
H. Austin Murray	Approved
Hamilton Whiting	Approved

Decision filed with the Town Clerk: 30 April, 1987.

IMPORTANT: Any appeal from the decision of the Planning Board can be made only to the Court and must be made pursuant to Section 17, Chapter 40A (G.L.) as amended, and must be filed within twenty days after the date of filing of the decision with the Town Clerk.

BOURNE PLANNING BOARD


Edward F. Brady
Chairman

INTERMUNICIPAL AGREEMENT

THIS IS AN INTERMUNICIPAL AGREEMENT AMONG THE TOWNS OF FALMOUTH, SANDWICH, MASHPEE AND BOURNE, MASSACHUSETTS FOR THE MAINTENANCE AND OPERATION OF A REGIONAL MUNICIPAL SERVICES FACILITY AT THE JOINT BASE CAPE COD.

The effective date of this Agreement is July 1, 2018. Each of the afore-mentioned Towns (hereafter, "Town", individually, and "Towns", collectively) is a municipal corporation in Barnstable County, Massachusetts. Each Town is acting by its Board of Selectmen, as authorized by Massachusetts General Laws chapter 40, section 4A.

This Agreement, except where the context clearly indicates otherwise, shall be construed as follows:

- a. definitions include both singular and plural;
- b. pronouns include both singular and plural and include both genders; and
- c. fiscal year – beginning July 1st and ending the next June 30th.

WHEREAS, the Towns have jointly constructed, operated and maintained a solid waste rail transfer station known as the Upper Cape Regional Transfer Station (UCRTS) at the Joint Base Cape Cod property (the "Site") pursuant to an Intermunicipal Agreement dated June 3, 1987, as subsequently amended on October 19, 1987, December 31, 1996, June 16, 2008, and June 30, 2015;

WHEREAS, the UCRTS shall cease operations at the Site and the afore-mentioned Intermunicipal Agreement will terminate effective June 30, 2018, unless an extension thereof is executed by the Towns;

WHEREAS each Town agrees that it is in its best interest to maintain an intermunicipal relationship among the subject Towns with the prospective right to occupy, operate and use the Site upon which the UCRTS has existed for such other purpose(s) as the parties may deem beneficial and appropriate; and

WHEREAS, this Agreement has been duly authorized by votes of the Board of Selectmen in each Town, as evidenced by the copies of the respective Board votes appended hereto as Exhibits A, B, C, and D and incorporated herein by reference.

NOW, THEREFORE, in consideration of the foregoing and of the mutual promises and agreements contained herein, the Towns agree as follows.

I

THE FACILITY

Falmouth, Sandwich, Mashpee, and Bourne shall jointly finance, equip, maintain, repair and operate the Site for such purposes as may be determined by the respective Towns, acting by and through their duly authorized representatives on the Board of Managers, referred to in Article III of this Agreement. In addition to the powers and duties described in Article IV of this Agreement, said Board of Managers shall be authorized to act on behalf of the Towns by entering into agreements with the department of the United States government known as Joint Base Cape Cod to enable the United States government to use the Site in the same manner as Falmouth, Sandwich, Mashpee, and Bourne. In this Agreement, Falmouth, Sandwich, Mashpee, and Bourne shall be referred to as a "Town" or collectively as the "Towns", and the Joint Base Cape Cod shall be referred to as "the JBCC".

II

THE JBCC SITE

The Towns currently have a Consent from the United States Department of the Air Force permitting the continued use and occupancy of approximately 18.87 acres of land adjacent to railroad tracks located on the Site "to construct, use, maintain, control, operate and repair a waste and refuse transfer station known as the Upper Cape Regional Transfer Station". In the event of any conflict between the terms of this Agreement and the terms of any consent agreement, the terms of the consent agreement shall control and be dispositive.

III

BOARD OF MANAGERS

The existing Board of Managers, (hereinafter referred to as the "Managers"), consisting of one representative of each Town and a non-voting representative designated by the JBCC or other appropriate governmental entity with control over the Site, shall continue in existence,

until the composition and/or method of appointment thereof is modified by written amendment of this Agreement. Each Town's Board of Selectmen shall appoint a representative to be a member of the Managers who shall serve until the next June 30th. In addition, each Town's Board of Selectmen may select an alternate member to act in the absence of the regular member who shall serve for the same term. Each member shall have one vote and alternates may act only in the absence of the regular member.

IV

GENERAL DUTIES AND RESPONSIBILITIES OF BOARD OF MANAGERS

- A. The Managers shall have the care, custody, management, and control of the Site and any facilities/improvements constructed, installed or operated thereon. They shall continue to operate, equip, repair, and maintain the Site for authorized purposes in compliance with this Agreement and all requirements of local, state and federal law, rule, and regulation governing the use of the Site.
- B. The Managers may assign the right to use, occupy and access all or a portion of the Site to one or more third parties in exchange for payment of user fees or other consideration sufficient to cover at least the assignee's proportional share of the operational, maintenance and capital costs of the Site, said user fees/ consideration to off-set the Towns' obligations to fund the Site and/or to supplement Site revenue and operational reserves.
- C. No substantial changes may be made in the location, use, design, layout, improvement, engineering or equipment of the Site, without the approval of the Managers.
- D. In the operation and maintenance of the Site, the Managers shall make no expenditure and shall incur no indebtedness in an amount in excess of available Town Meeting appropriations.
- E. The Managers' approval, by majority vote of its voting members, is required to adopt any rule, regulation or policy governing use of the Site.
- F. The Managers may also make general policy recommendations to the Towns concerning the operation of the Site as they shall deem fit.

- G. The Managers shall ensure that complete and accurate books and records pertaining to the operation of the Site are maintained.
- H. The Managers shall prepare or cause to be prepared an annual financial report of the management and operation of the Site no later than sixty (60) days after the end of each fiscal year and shall make such report available for public review in each respective Town Hall upon its completion.
- I. The Managers shall act as the sole representatives of all Towns in dealing with any and all state and federal regulatory agencies concerning the use, operation and maintenance of the Site.
- J. The Managers shall manage the Site consistent with the terms of the lease/consent agreement referenced in Article II, and shall ensure the execution of each Town's obligations under the lease/consent agreement and any other operating agreement. The Managers will ensure that each Town and each Town's employees, agents and /or contractors comply with the terms of the lease/consent agreement, operating agreements, and any bylaws, regulations or policies adopted by the Towns relating to the use of the subject property. When the Managers "execute" each Town's obligations, it does so in the agency sense, acting on behalf of the respective member Towns.

V

LEAD TOWN

For purposes of facilitating implementation of this Agreement, the Town of Falmouth will act as the Lead Town. The Lead Town shall act on behalf of and as agent for the other Towns to further the purposes of this Agreement, to the extent authorized by the Managers. The powers, duties and responsibilities of the Lead Town shall include but not be limited to the following when duly authorized by the Managers:

- A. To enter into contracts, agreements and leases relating to the Site;
- B. To borrow funds for the capital purposes of this Agreement in its own name;
- C. To hold legal rights, title or other interests in and to the Site, facilities thereon and all equipment relating thereto in its own name;

- D. To act as custodian of all funds relating to this Agreement which funds will be spent at the direction of the Managers; and
- E. To procure policies of insurance as set forth in Article VIII of this Agreement.

VI

APPORTIONMENT OF COSTS AND REVENUES

- A. Classification of Costs. For purposes of apportioning responsibility for the costs incurred for Site capital , operating and maintenance expenses, including such reserves as the Managers may deem appropriate, among the respective Towns, such costs shall be divided into the following categories:
 - 1. Capital Costs. Capital costs shall include, but not be limited to, all costs for reconstructing or adding fixtures and improvements to the Site, to replace original equipment and furnishings thereof, and for remodeling or making extraordinary repairs thereto. Capital costs shall also include payment of all principal and all interest on bonds, notes, or other obligations issued at the request of the Board of Managers to finance such capital costs.
 - 2. Operating Costs. Operating costs shall include, but not be limited to, all costs other than capital costs, as defined in Article VI.A.1 above, including any costs incurred for maintenance, repairs, rent, or administration.
- B. Financing. In order to pay Capital Costs and/or the Operating Costs, the Town of Falmouth, acting as the Lead Town, may borrow such funds when authorized by the Managers and the legislative body of each Town.
- C. Apportionment of Capital Costs and/or the Operating Costs. All capital costs and operating costs shall be apportioned and shared equally by the Towns, pursuant to an Annual Assessment determined by the Managers in accordance with subparagraph E, below, unless and until this Agreement is amended as provided in Article XIII to change the apportionment ratio. No costs shall be incurred unless and until sufficient funds have been appropriated by the legislative bodies of each Town. Each Town and any other user of the

Site so obligated shall timely pay to the Treasurer of the Town of Falmouth its share of all costs as required by the Managers.

- D. Budget. An annual budget for the operation and management of the Site shall be prepared by the Managers for the next fiscal year in conjunction with the annual financial report specified in Article IV.H. The Managers shall adopt the annual budget, with such changes as it deems appropriate and necessary, and file a copy of said budget with the Board of Selectmen of each Town and with any other person designated by any Town. The budget shall delineate all anticipated revenues and costs for the following fiscal year and shall include an accounting of all monetary receipts and expenditures from the previous fiscal year. The budget shall delineate each Town's Annual Assessment as set forth below. Upon receipt of the budget, each Town shall request, if/as proposed in the budget, that its legislative body appropriate sufficient funds to cover the Town's Annual Assessment.
- E. Annual Assessment. If the Managers determine that anticipated revenues from grants, gifts, user fees, and/or rent or performance fees will not be sufficient to fund the capital expenses, operation and maintenance of the Site for the approaching fiscal year, the estimated excess capital expenses, operations and maintenance cost figure shall be determined and apportioned equally among the Towns, unless this Agreement is amended as provided in Article XIII to change the apportionment ratio. Each Town shall, upon its appropriation of the funds, pay to the Treasurer of Town of Falmouth its share of said excess annual costs, which shall be referred to as the Annual Assessment. Said Annual Assessment shall include each Town's share of the debt service on any capital expenses previously authorized in accordance with this Agreement.
- F. Accounting. Any funds received by the Managers and/or the Lead Town, including but not limited to amounts paid by the Towns pursuant to this Agreement, shall be deposited with the treasurer of the Lead Town and held as a separate account to be expended, upon the approval of the Managers, under the provisions of G.L. c. 44, §53A, for purposes authorized by this Agreement. Annually, after appropriation and/or receipt by the Managers of all sums necessary to fund the annual budget, the Lead Town shall disperse any funds in said account in excess of the budget equally among the Towns.

VII

USE OF SITE

- A. Except as may otherwise be provided herein, any facilities and/or operations at the Site shall be operated and maintained for the mutual benefit of the Towns.
- B. In the event that any Town's legislative body shall fail to appropriate and fund its Annual Assessment, or in the event that any Town shall fail to pay the monies due from it in accordance with the provisions of this Agreement, such Town shall be deemed to be in default hereof and its right to use the facilities on the Site and to otherwise benefit, financially or otherwise, under the terms of this Agreement may be terminated upon vote of the Managers; provided however, that said defaulting Town shall, nevertheless, remain liable for all obligations, financial or otherwise, undertaken by it pursuant to this Agreement prior to the effective date of its termination. It is expressly understood and agreed by the Towns that the remaining non-defaulting Towns shall be entitled to reimbursement for all costs and expense obligations incurred prior to the effective date of termination and assumed by them as a result of any default, and the Towns reserve any and all rights and recourse in this regard.

VIII

PROTECTION AGAINST LIABILITY

- A. For the duration of this Agreement, the Town of Falmouth shall purchase and maintain policies or riders on existing policies of insurance providing, as follows:
 - 1. The Town of Falmouth shall maintain adequate and appropriate insurance for such risks as the Managers deem appropriate which shall include general comprehensive liability insurance and shall name each Town as a co-insured party. Risks shall include, without limitation, any risk or potential liability arising out of the operation of any facility on the Site pursuant to any lease, contract or other operating agreement.
 - 2. All insurance costs shall be included in the operating budget each year.

3. The Managers shall at all times require adequate and appropriate insurance from all third parties engaged in the maintenance, operation and use of the Site, evidenced by a certificate of insurance to be satisfactory to and furnished to the Board of Managers.
- B. In the case of any unplaced insurance or self-insurance, the Towns further agree that all damages, costs, charges, judgments, expenses, as well as the cost of investigating and defending claims against any of the four Towns and Site users, including attorneys' fees and expenses, that each Town may incur by reason of any alleged act, neglect, omission, or default on its part or that of its employees, agents, or contractors, or the Managers or its agents or contractors, in any way arising out of the maintenance and/or operation of the Site shall be shared by the member Towns in proportion to each Town's then current Annual Assessment, regardless of fault, to the extent that such expenses shall not be covered by insurance and to the extent permitted by law.

IX

TAXATION

To the extent permitted by law, all property used in connection with the operation of the Site shall be exempt from taxation by any Town.

X

EFFECTIVE DATE

This Agreement shall become effective upon the execution of this instrument as duly authorized by each party hereto in accord with the provisions of G.L. Ch. 40, Sec. 4A.

XI

TERM

Unless sooner terminated as provided elsewhere in this Agreement, this Agreement shall expire on December 31, 2022 and may be extended by mutual agreement through June 30, 2026.

XII

TERMINATION

- A. Withdrawal. During the term of this Agreement, any Town may withdraw from the Agreement at the end of any fiscal year provided that notice of such withdrawal is given to each of the other Towns and the Managers at least one year prior to the effective date of withdrawal. Then, in such event:
1. No Town which shall have withdrawn its engagement herein, hereinafter referred to as the "Terminating Town", shall be entitled to any further use of facilities located on the Site or revenues generated from use and/or operation of the Site effective the date of termination.
 2. The Terminating Town shall pay to the Falmouth Treasurer any amounts that may have been due as of the date of such termination on account of the current operating costs of the Site within thirty (30) days after such amount shall have been determined by the Managers and certified to the Falmouth Treasurer. Such amount may subsequently be adjusted and become payable as provided in this Agreement.
 3. The Terminating Town shall to pay to the Falmouth Treasurer any amounts that may have been due as of the date of such termination on account of the capital costs of the Site facilities within thirty (30) days after such amount shall have been determined by the Managers, and shall continue to pay any amount of capital cost obligations incurred prior to the date of termination that may become due in the future, as such payment shall become due. Any such amount may subsequently be adjusted and become payable as provided in this Agreement.
 4. The remaining Towns shall thereupon have the right to continue this Agreement with their proportional shares of interest and obligation adjusted accordingly.
- B. Final Termination. In the event that the Towns do not extend the term of this Agreement or if it shall become impossible to operate the facility for reasons beyond the control of the Towns, or if the Towns shall determine by majority vote of the Board of Selectmen of each member Town to cease use and operation of the Site for any reason, the Managers shall,

upon expiration of the term of this Agreement, or at such earlier date as the Towns shall determine by agreement, obtain an appraisal of the value, if any, of existing Site improvements, excluding the land but including all structures, equipment, supplies, and materials associated therewith, by a qualified appraiser selected by a majority vote of the Managers, and said improvements shall thereupon be disposed of as follows:

1. The Site facilities/ improvements shall be disposed of with the approval of the Managers as follows:
 - a. Any member Town, or combination of Towns, shall have a right of first option to purchase any asset jointly purchased pursuant to this Agreement at the appraised value determined in compliance with this Agreement, said right of first refusal to be exercised within one hundred and twenty (120) days of the Managers' acceptance of the appraisal of the jointly purchased assets. If more than one Town exercises a right of first option for the same asset, the asset will be awarded to the Town chosen by a secret drawing witnessed by the Managers;
 - b. If no party exercises its right of first option and the assets have market value, the assets (excluding the land) shall be sold by the Managers and the net proceeds shall be divided among the Towns and, if applicable, the users in the same proportion that the Towns and users shared the capital costs incurred for acquisition of the asset, as provided under this Agreement;
 - c. If said assets/improvements shall be deemed to have no market value, or if the Managers shall determine that they constitute a nuisance or liability, the Managers may demolish and dispose of the same. The cost of such demolition/ disposition, after any credit for salvage value, shall be borne among the Towns and, as applicable, users in the same proportion the Towns and users shared the original acquisition costs, as provided under this Agreement.
 - d. In any other manner which may be authorized by vote of the Managers.
- C. Upon termination of this Agreement, the obligations of any one Town to the other or to the Towns, collectively, under this Agreement shall cease, except for any reimbursement or

adjustments that may be due for any operating costs up to and including the date of termination and any outstanding indebtedness or obligations due as a result of capital costs incurred during the term of this Agreement.

XIII

AMENDMENT

This Agreement may be amended by written instrument executed by the Towns from time to time, provided that no such amendment shall become effective until approved by vote of a majority of the Boards of Selectmen of each member Town.

XIV

FILING

A copy of this Agreement and all amendments thereto shall be filed with the Town Clerk of each member Town as a public document.

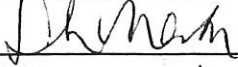
XV


NOTICE


Any notice, demand, or request required to be given hereunder shall be deemed sufficiently given or served on any of the parties hereto if mailed, postage prepaid, to their respective Boards of Selectmen, or to such other address as shall be designated by the parties in writing for that purpose.

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Falmouth Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

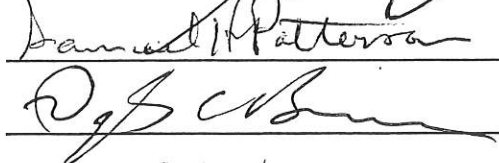
TOWN OF FALMOUTH







Daniel Patterson



Date: 6/4/18



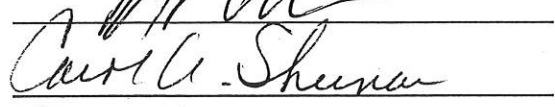
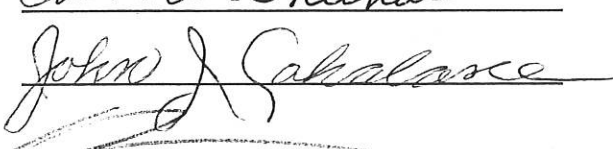
Approved as to form:



Falmouth Town Counsel

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Mashpee Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF MASHPEE

Date:

April 9, 2018

Approved as to form:


Mashpee Town Counsel

IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Sandwich Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

TOWN OF SANDWICH

Susan R. James
[Signature]
[Signature]
Wm. Mills
[Signature]


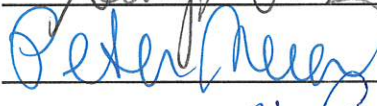
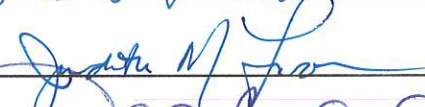
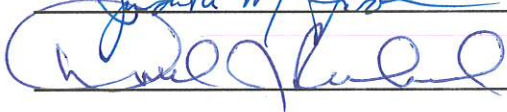
Date: 5/17/18

Approved as to form:

[Signature]
Sandwich Town Counsel

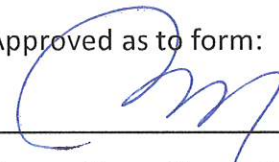
IN WITNESS WHEREOF, the parties have hereto set their hands and seals, the Bourne Board of Selectmen, all thereunto duly authorized, who, however, incur no personal liability by reason of the execution hereof or anything herein contained, in duplicate, effective the date and year first above written.

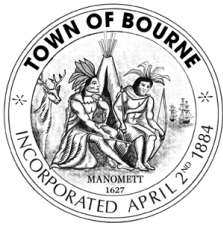
TOWN OF BOURNE

Date: _____

Approved as to form:


Bourne Town Counsel



Department of Natural Resources

Memorandum

To: Board of Selectmen
From: Chris Southwood
Date: November 1, 2022
Subject: **DNR Proposed Fee Increases**

Selectmen,

The Department of Natural Resources is requesting the proposed fee increases for the Town of Bourne dinghy docks, dinghy racks, kayak racks and new storage fees. These proposed fees are not enough of a revenue generator to ever cover the costs of building and maintaining all the dinghy docks and racks in town but rather is a convenience to the local waterways.

These fees have not been increased within the last 15-20 years. The proposed fee increases would still be lower and more consistent with neighboring towns. Currently you are allowed to store your vessel from May 1st - November 1st annually on the towns' docks and racks.

Currently there is no storage fee related to abandoned vessels/non permitted vessels on the Town docks or racks. When this department has to take custody of these vessels we are responsible for their security. This requires additional labor and secure storage locations such as the old police station garage or DPW facility to be potentially utilized. If these vessels are not claimed within a year they shall be deemed abandoned and then disposed of at will.

The Town of Bourne Shore and Harbor Committee recommended the approval of these proposed fee increases at their September 13th public meeting.

DNR FEES

TYPE	CURRENT FEE	PROPOSED NEW FEE	SPOTS
------	-------------	------------------	-------

Dinghy Dock

• Monument Beach	\$100	SAME	18
• Barlows Landing	\$25	\$50	70
• Hen Cove	\$25	\$50	66

Dinghy Rack

• Monument Beach A	\$25	\$35	18
• Monument Beach B	\$25	\$35	18
• Monument Beach C	\$25	\$35	18
• Pocasset River	\$25	\$35	8
• Electric Avenue	\$25	\$35	18

Kayak Rack

• Monument Beach	\$25	\$35	12
• Pocasset River	Installation 2023	\$35	12
• Barlows Landing	\$25	\$35	12
• Squeteague Harbor A	\$25	\$35	12
• Squeteague Harbor B	\$25	\$35	12

Abandoned vessels/Non Permitted (Storage) **NEW FEE**

• Vessel (over 10')	\$0	\$100	
• Dinghy (under 10')	\$0	\$50	
• Kayak, Canoe, SUP	\$0	\$50	

Permits

All permits issued under 527 CMR 1.00	(includes inspection)	\$50
Open Burning Permit	MGL48, s.13	\$10

Residential Resale Inspections - MGL148, s. 26f

Residential Resale and CO (single family)	\$50
Residential Resale (two family)	\$100
Residential Resale (three-six units)	\$150
Residential Resale (more than six units)	\$500

Annual Inspections

Schools, Day Care Centers, Liquor Licenses, Summer Camps	\$50
--	------

Quarterly Inspections – MGL148 s.4

DPH – Skilled Nursing Facilities	\$50/per quarter
DPH- Clinics	\$25/per quarter
Innkeeper less than 20 units	\$25/per quarter
Innkeeper 20-49 units	\$50/per quarter
Innkeeper 50-99 units	\$75/per quarter
Innkeeper 100+ units	\$100/per quarter

Plans Review - 780 CMR

Residential plans	(1+2 units)	\$50/per set
Residential Plans	(3+ units)	\$100/per set
Fire Suppression Systems (alarms, sprinklers hoods)		\$50/per set
Commercial building permit plans review and final inspection		
1,000sf -19,999sf		\$100
20,000sf-49,999sf		\$200
50,000sf +		\$500

**Board of Selectmen
Minutes of Tuesday, June 21, 2022
Bourne Veterans' Community Center
Buzzards Bay, MA
Or virtually (see information below)**

TA Marlene McCollem

Board of Selectmen

Peter Meier, Chair
Jared MacDonald, Vice Chair
Melissa Ferretti, Clerk
Judith Froman
Mary Jane Mastrangelo

Others: Jean Hills (Virtual), Debi Oliviere (Virtual), Philip Goddard (Virtual), Erin Perry, Alisa Magnotta (Virtual), Jason (Virtual), Barbara Scott, Karen Girouard (Virtual), Barry Johnson (Virtual), Rosanne Bottaro (Virtual), Cheryl Milliken (Virtual), and Andrew Gottlieb (Virtual).

This is a hybrid meeting. Note this meeting is being televised, streamed, or recorded by Bourne TV.

If anyone from the public wishes to access the meeting, they can do so by calling the following conference line: **1-929-205-6099 Meeting ID: 852 9837 4926 Password: 810793.**

If you already have the Zoom App downloaded to your device or computer, you may simply join the meeting by entering the Meeting ID and Password noted above or go to <https://zoom.us/meetings> and look for the Join Meeting button. Please MUTE your phone/microphone upon entry. Participants wishing to speak should click the "Participants" icon on the lower toolbar and then click "Raise Hand" in the dialog box to notify the Chair. For participants who are calling into the meeting and wishing to speak should press *9 to notify the Chair. The Chair will recognize participants.

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

7:00 PM Call Public Session to Order in Open Session

- 1. Moment of Silence to recognize our Troops and our public safety personnel.**
- 2. Salute to the Flag.**
- 3. Vision:** Bourne is a proud 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 and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
- 4. 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 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.

5. **Public Comment on Non-Agenda Items** – Public Comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.

Erin Perry, of the Cape Cod Commission, wanted to let all know that the Cape Cod Commission is holding their 8th Annual OneCape Summit on August 1st and 2nd in Harwich. She left some invitations with more detail on them for the Board.

6. **Appointments and Licenses**

- a. **Annual Committee Appointments.**
- b. **Discussion and possible vote to appoint B. Scott to the Council on Aging.**
- c. **Discussion and possible vote to appoint J. Fraher to the Open Space Committee.**

6.a. **Annual Committee Appointments.**

Voted: Jared MacDonald moved, and Peter Meier seconded to reappoint **Rich Libin** to the **Barnstable County Dredge Subcommittee** for a one-year term expiring on June 30, 2023.

To appoint **JoAnn Johnson** as the regular member to the **Barnstable County Human Rights Commission** for an indefinite term without expiration.

To reappoint **Chris Pine** to the **Board of Appeals** for a five-year term expiring on June 30, 2027.

To appoint **Harold Kalick** to the **Board of Appeals** to fulfill a one-year unexpired term through on June 30, 2023.

To reappoint **Karl Spilhaus** as an associate member to the **Board of Appeals** for a one-year term expiring on June 30, 2023.

To appoint **James J. Donoghue, Robert Frangieh, Terri Guarino, ex officio, Susan Ross, Jennifer Copeland, ex officio, and Kara Garcia, ex officio** to the **Bourne Housing Partnership Committee** for one-year terms expiring on June 30, 2023.

To reappoint **Dr. Ryan Place** to the **Bourne Human Services Committee** to fulfill a one-year unexpired term through on June 30, 2023.

To appoint **Stanley Andrews, Robert E. Schofield, and Shawn T. Patterson, ex officio** to the **Bourne Landfill Business Model Working Group** for one-year terms expiring on June 30, 2023.

To appoint **Stephanie Fitch, ex officio** to the **Buzzards Bay Action Committee** for a one-year term expiring on June 30, 2023.

To appoint **Franchesha Ferguson and M. Elizabeth Brown** to the **Bylaw Committee** for three-year terms expiring on June 30, 2025.

To appoint **Janice Marks** to the **Cape and Vineyard Electric Cooperative** for a one-year term expiring on June 30, 2023.

To appoint **Shawn Patterson, ex officio, and Timothy Lydon, ex officio (alternate)** to the **Cape Cod Joint Transportation Committee** for one-year terms expiring on June 30, 2023.

To appoint **Robert E. Schofield** to the **Cape Light Compact Committee** for a one-year term expiring on June 30, 2023.

To reappoint **Carol Lynch** to the **Capital Outlay Committee** for a three-year term expiring on June 30, 2025.

To appoint **Victoria Carr, Nathan Carr, Lori Cooney, and Patricia Morley** to the **Commission on Disabilities** for three-year terms expiring on June 30, 2025.

To appoint **Susan J. Weston and Paul S. Szwed** to the **Conservation Commission** for three-year terms expiring on June 30, 2025.

To appoint **Charles T. Devlin, Russell H. McAllister, and Paul Shastany** as **Constables** for one-year terms expiring on June 30, 2023.

To appoint **Beverly Armando and Jean F. Hills** to the **Council on Aging** for three-year terms expiring on June 30, 2025.

To appoint **Marlene McCollem, ex officio** as the **Ethics Liaison** for a one-year term expiring on June 30, 2023.

To appoint **Carl Georgeson, Neil F. Langille, and Judith A. Riordan** as regular members to the **Historic Commission** for three-year terms expiring on June 30, 2025.

To appoint **Judith House, Rich Kantor, Karl Spilhaus, and Toni Dering** as associate members to the **Historic Commission** for one-year terms expiring on June 30, 2023.

To appoint **Charles Noyes, David S. Cody, Stephanie Fitch, Philip Goddard, Joseph Gordon, Terri Guarino, Jordan Geist, Timothy Lydon, Debora Oliviere, Shawn Patterson, David Pelonzi, John Pribilla, Anne Marie Riley, Paul Shastany, Chris Southwood, and John Stowe** to the **Local Emergency Planning Committee** for one-year terms expiring on June 30, 2023.

To appoint **Peter Meier, Selectmen's Representative, and Jennifer Copeland, ex officio** to the **MBTA Advisory Committee** for an indefinite term without expiration.

To appoint **Stephanie Fitch, Timothy Lydon, and Jennifer Copeland** as staff members to the **Open Space Committee** for one-year terms expiring on June 30, 2023.

To appoint **Marlene McCollem, ex officio** as the **Parking Hearing Clerk** for an indefinite term without expiration.

To appoint **Roger J. Maiolini, George Sala, and Karen Wilson** to the **Recreation Committee** for three-year terms expiring on June 30, 2025.

To appoint **Rosanne Bottaro and Jean Hills** to the **Recycling Committee** for three-year terms expiring on June 30, 2025.

To appoint **Penny Bergeson** to the **Registrar of Voters** for a three-year term expiring on June 30, 2025.

To appoint **Timothy Lydon, ex officio, Joseph J. Carrara, Jr, ex officio, John R. Stowe, Jr, ex officio, Shawn Patterson, ex officio, Christopher Farrell, Mandy Holway, Rich Libin, and Matt Smith** to the **Roadway Traffic Safety Committee** for one-year terms expiring on June 30, 2023.

To appoint **Carl Georgeson, Janice Marks, Robert E. Schofield, and Robert Wheeler** to the **Selectmen's Energy Advisory Committee** for one-year terms expiring on June 30, 2023.

To appoint **Andrew G. Campbell and Richard Libin** to the **Shore and Harbor Committee** for three-year terms expiring on June 30, 2025.

To appoint **Elizabeth Bohacs, Susan E, Cronin, Don Rhodes, and Judith Shorrock** to the **Special Works Opportunity Program** for one-year terms expiring on June 30, 2023.

To appoint **Dan Barrett, ex officio and Phillip Goddard, ex officio (alternate)** to the **Upper Cape Regional Transfer Station Board of Managers** for one-year terms expiring on June 30, 2023.

Judith Froman asked if as an ex-officio if they can or cannot vote. Town Administrator McCollem said that in many cases ex-officio members are voting members. It will be denoted if it is a non-voting appointment.

Vote: 5-0-0.

6.b. Discussion and possible vote to appoint B. Scott to the Council on Aging.

Barbara Scott introduced herself and said that she has been a resident of Sagamore Beach since 1999. She said she has been volunteering for the past six years and she enjoys helping people. She wants to take the opportunity to be on the Board.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded to appoint Barbara J. Scott to the Council on Aging for a three-year term expiring on June 30, 2025.

Vote: 5-0-0.

6.c. Discussion and possible vote to appoint J. Fraher to the Open Space Committee.

Ms. McCollem said there are no issues with this request.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded to appoint Joseph Fraher to the Open Space Committee for a three-year term expiring on June 30, 2025.

Vote: 5-0-0.

7. Selectmen's Business

- a. Discussion and possible vote on Library Director Irja Finn's request to reprint coloring book of the Centennial Quilt.**
- b. Discussion and possible vote on request of Barry Johnson to reduce Open Space Committee membership from 9 to 7 people.**

- c. **Discussion and possible vote on request of C. Cumiskey to hold a baby shower in the BB Park gazebo on 7/23/22.**
- d. **Discussion and possible vote on request of Wings Neck Trust to have a fire truck and police cruiser participate in their 4th of July parade on 7/2/22.**
- e. **Discussion and possible vote on request of Lauren DeGregorio to use Buzzards Bay Park for a community art and gathering event on 7/2/22.**
- f. **Discussion and possible vote to approve the donation of \$2000 to DNR's Shellfish Program.**
- g. **Grow Smart Cape Cod – affordable housing presentation.**
- h. **Discuss Board of Selectmen's retreat.**

7.a. Discussion and possible vote on Library Director Irja Finn's request to reprint coloring book of the Centennial Quilt.

Chair Meier said that the Library Board of Trustees supports this proposal.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded to approve the Library Director's request to revise and reprint the Centennial Quilt coloring book.

Ms. Mastrangelo asked for a point of order to check the status of Karen Girouard's appointment. Ms. McCollem said that she is holding off on this appointment until the next meeting because she wants to double-check the dates.

7.b. Discussion and possible vote on request of Barry Johnson to reduce Open Space Committee membership from 9 to 7 people.

Barry Johnson explained that the Open Space Committee would like to reduce the membership to 7 members.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded to reduce the number of members on the Open Space Committee from 9 to 7.

Vote: 5-0-0.

7.c. Discussion and possible vote on request of C. Cumiskey to hold a baby shower in the BB Park gazebo on 7/23/22.

Ms. McCollem said that everything for this request is in order, and she can recommend it.

Voted: Melissa Ferretti moved, and Jared MacDonald seconded to approve the application for a baby shower, Caitlin Cumiskey, organizer, at Buzzards Bay Park Gazebo on July 23, 2022, from 11:00 am to 3:00 pm.

Vote: 5-0-0.

7.d Discussion and possible vote on request of Wings Neck Trust to have a fire truck and police cruiser participate in their 4th of July parade on 7/2/22.

Cheryl Milliken said that this will be the 20th annual 4th of July parade for Wing's Neck, and they would like to have a fire truck and/or a police cruiser at the event.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo to approve the request of Wings Neck Trust, Cheryl Milliken, organizer, for the use of a fire truck and police cruiser during a neighborhood parade on July 2, 2022, from 10:45 – 11:30 am, as conditioned by the Fire Department comments dated June 15, 2022, and availability depends on the situation.

Vote: 5-0-0.

7.e. Discussion and possible vote on request of Lauren DeGregorio to use Buzzards Bay Park for a community art and gathering event on 7/2/22.

Ms. McCollem said that everything for this request is in order, and she can recommend it.

Voted: Jared MacDonald moved, and Melissa Ferretti to approve the application for a Community Art and Gathering Event, Lauren DeGregorio, organizer, at Buzzards Bay Park Gazebo on July 2, 2022, from 10:00 am to noon, as conditioned by the Building Inspector comments dated June 3, 2022, and DPW comments dated June 6, 2022.

Vote: 5-0-0.

7.f. Discussion and possible vote to approve the donation of \$2000 to DNR's Shellfish Program.

Ms. McCollem said that the letter that the Board received from Chris Southwood speaks for itself, and she has nothing to add.

Voted: Mary Jane Mastrangelo moved, and Jared MacDonald seconded to accept a gift in the amount of \$2,000 from Mr. and Mrs. Wagner to the Shellfish Donation Fund.

Vote: 5-0-0.

7.g. Grow Smart Cape Cod – affordable housing presentation.

Chair Meier took item 7.h. out of order because the presenters for item 7.g. did not respond when prompted.

7.h. Discuss Board of Selectmen's retreat.

Chair Meier asked the Board if it would be easier to do the retreat on a Monday or a Friday, and there was a discussion about the day that it was held last year. It was decided that Friday, August 12 would be the best day for all, and at 9 AM. The location will be determined based on availability at Mass Maritime. The content is to be determined. Ms. Mastrangelo asked if they should have a facilitator so they can talk about goals and the Board agreed that a facilitator would be good to have.

7.g. Grow Smart Cape Cod – affordable housing presentation.

Andrew Gottlieb and Alisa Magnotta showed a slide presentation. Ms. Magnotta said that the two agencies, Association to Preserve Cape Cod (APCC) and Housing Assistance Corporation (HAC) have joined together to bring natural resource protection and housing needs together. This joint venture is called Grow Smart Cape Cod. She said that the two agencies come together to decide on criteria that they both agree to and look at ways to protect our natural resources, and our water resources, and identify areas to reduce the housing shortage.

Ms. Magnotta said this process took about two years, and they are funded by the Barnstable County Economic Committee. They have ended up with a tool that is a map that looks at the priorities in every town on the Cape for housing and natural resources. She said purple is for housing and green is for environmental concerns. Mr. Gottlieb said that this project is intended to do things differently. He said that they are here tonight to give an overview, and they would like to come back to go over their program in more detail at another time. Chair Meier said that July 26th would be a good day for them to come back, and Mr. Gottlieb and Ms. Magnotta said they will check their calendars and get back to the Board.

8. Town Administrator

Ms. McCollem said the only item she has is what Ms. Perry spoke about earlier about the 8th Annual One Cape Summit on August 1st and 2nd in Harwich by the Cape Cod Commission. She said that if anyone on the Board is interesting in attending to let her know and she will make sure everyone is registered.

9. Minutes of 4/19/22 and 5/10/22

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded to approve the minutes of April 19, 2022.

Vote: 4-0-1. Melissa Ferretti abstained.

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded to approve the minutes of May 10, 2022.

Vote: 4-0-1. Melissa Ferretti abstained.

10. Correspondence

Melissa Ferretti read aloud the correspondence:

- Letter from DEP
- Minutes from Upper Cape Tech from 5/12/22.
- Taylors Point Improvement Association Scholarships.
- S. Weston appoint request – Conservation Commission.
- J. Larkowski – Talend Bank Form for various committees.

These are all on the Town's website.

Chair Meier read aloud a card that he received from Mary Jo Coggeshall thanking the Board of selectmen for a citation that she recently received regarding her upcoming retirement.

11. Committee Reports

Ms. Mastrangelo said that at both the June 2nd Cape and Islands Water Protection Fund Management Board meeting and at the June 10th Cape and Islands Municipal Leaders Association meeting, they reviewed the proposed changes to the SRF ranking that would create a special category for Cape Cod and 208 plans that would help get those projects approved under the intended use plan more easily because of the recognized importance of moving forward with water quality issues on the Cape.

Ms. Mastrangelo said that they also talked about the proposed DEP changes to Title V that would be applicable to all areas covered by 208, which is basically Cape Cod. They identified the areas to have a TMDL, and in Bourne, there are two areas that have a TMDL. She talked about these changes for Bourne and Mass DEP. There was some discussion about the training involved with the Title V changes.

Ms. Mastrangelo said that she and Ms. Forman met for their first Policy Sub-Committee meeting, and it was a productive meeting.

Ms. Forman said that there will be a Community Engagement Committee meeting tomorrow night. She said there is an opening on the Committee.

12. Next Meeting – July 5, 2022

Chair Meier said that he would like 95 Old Plymouth Road and 1 Eldridge Ave. Extension in Buzzards Bay, to be on the agenda for the next meeting on July 5, 2022.

13. Adjourn

Voted: Jared MacDonald moved, and Mary Jane Mastrangelo seconded to adjourn.

Vote: 5-0-0.

This meeting of the Bourne Board of Selectmen was adjourned at 8:00 PM.

Respectfully Submitted,

Kim Johnson, Recording Secretary

**Board of Selectmen
Minutes of Tuesday, October 4, 2022
Bourne Veterans' Community Center – Rm 2
Buzzards Bay, MA**

TA Marlene McCollem

Board of Selectmen

Jared MacDonald, Vice Chair
Melissa Ferretti, Clerk
Judith Froman
Mary Jane Mastrangelo

Others: Janine Aversing, Carol Spinale, Robert Williams, Sarah Hannon, Barry Johnson (virtual), Attorney Bryan Bertram (virtual), Erica Flemming (virtual 7:30), Andrew Driscoll, Dan Barrett, Jennifer Copeland, Ken Murphy (virtual), Susan Ross, Chris Southwood, David O'Connor, Chris Farrell, and Cheryl Green.

Note this meeting is being televised, streamed, or recorded by Bourne TV.

Zoom Meeting ID: 869 5775 5505 Password: 529740

Vice Chair Jared MacDonald said that Chair Peter Meier is excused. All items within the meeting agenda are subject to deliberation and vote(s) by the Board of Selectmen.

7:00 PM Call Public Session to Order in Open Session

- 1. Moment of Silence to recognize our Troops and our public safety personnel.**
- 2. Salute to the Flag.**
- 3. Vision:** Bourne is a proud 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 and the amenities that it affords. Bourne embraces excellent education, and offers to citizens a healthy, active lifestyle.
- 4. 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 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.

Vice Chair MacDonald took a point of personal privilege. He said that Jonathan Nelson recently passed away. He said he wanted to recognize him this evening as he was a member of the community and was the Facilities Director for the Town of Bourne for some time.

- 5. Public Comment on Non-Agenda Items** – Public Comments are allowed for up to a total of 12 minutes at the beginning of each meeting. Each speaker is limited to 3 minutes for comment. Based on past practice, members of the Board are not allowed to comment or respond.

Janine Aversing and Carol Spinale of Gray Gables Girls Inc. said they are having their second annual Witches Walk scheduled for October 22nd at 5 PM. She said they are trying to get the word out, and they have brought flyers to share about the walk. They said that the walk starts at Gray Gable's Beach and ends at the Lobster Trap for a reception. Ms. Spinale said that with funding from the Community Engagements Committee, they can continue forward with Gray Gables Girls, Inc. to hold 3 events a year in which they choose different charities to help in the Bourne area. The charity recipient for this year's Witches Walk is Kind Hearts for Kids, a charity started by Nicole Mitchell.

6. Appointments and Licenses

- a. Discussion and possible vote to grant a common victualler license to Seaweed Shack as concessions at Gallo Ice Arena.**

- b. Discussion and possible vote to appoint J. Dateo to the Council on Aging Committee.**

- 6.a. Discussion and possible vote to grant a common victualler license to Seaweed Shack as concessions at Gallo Ice Arena.**

Robert Williams and Sarah Hannon introduced themselves and Ms. Hannon said that they are the owners of Seaweed Shack, and that they had the opportunity to run the concession stand last Winter at the Gallo Ice Arena through the Rec. Authority. She said that this year they put in an RFP and their bid was accepted so they are here for a common victualler license. Barry Johnson, Town Clerk, said that he is pleased with the Seaweed Shack, and hopes the Board of Selectmen will support their request. Town Manager Marlene McCollem said that everything is in order.

Voted: Judith Froman moved, and Melissa Ferretti seconded to grant a common victuallar license to HLW Twenty-Two, Inc. dba The Seaweed Shack at the Gallo Ice Arena Snack Bar at 231 Sandwich Road, Robert Williams, Jr., applicant, per the conditions noted by the Building, Health, and Fire Departments.

Vote: 4-0-0.

- 6.b. Discussion and possible vote to appoint J. Dateo to the Council on Aging Committee.**

Ms. Froman said that Julie Dateo's letter of interest indicates that she is a nurse practitioner and is eager to be involved in community activities and she moved to Bourne a year ago. Ms. Dateo also indicated that she believes that the senior population is an undervalued and underserved population.

Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to appoint Julie Dateo to the Council of Aging for a 3-year term, ending June 30, 2025.

Vote: 4-0-0.

7. Selectmen's Business

- a. Discussion and possible vote to allow B. Hartz to host a birthday party at BB Park.
- b. Discussion and possible vote to allow A. Driscoll of Inebri-Art to organize and oversee a weekly Farmers Market at BB Park.
- c. Discuss and adopt the amended "Recycling Center Policy" – waive 2nd and 3rd readings.
- d. Accept proposed amendments to the Bourne Home Rule Charter (H5476).
- e. Discuss and adopt the proposed "Code of Conduct Policy" – waive 2nd and 3rd readings.
- f. Presentation & Discussions – Articles for Fall Town Meeting.
 - i. Article 10 – Community Preservation Projects
 - ii. Article 12 – amend Section 3.1.43 of the General Bylaw – Property Maintenance
 - iii. Article 13 – amend Section 3.1.29 (a) and (f) – Licensing and Control of Dogs.
 - iv. Article 14 – amend Sections 3210 and 2888 of the Bourne Zoning Bylaw – signs not permitted.
 - v. Article 15 – amend Section 2854 (b) of the Bourne Zoning Bylaw – Downtown Parking Regulations.
 - vi. Article 16 – amend Section 2842 (3) (a) and (b) – Performance Standards for Residential Uses – by petition.
- g. Discussion and vote to Execute and Post the October 24, 2022, Town Meeting Warrant.
- h. Discussion and vote on *Essential* and *Non-Essential* Articles for the October 24, 2022, Town Meeting.
- i. Discussion and vote on the possible necessity of a second night for the October 24, 2022, Town Meeting (Tuesday, October 25, 2022).
- j. Debrief annual retreat, held on August 12, 2022, and vote to confirm annual goals.
- k. Discussion and possible ratification of LIUNA, Unit B Memorandum of Agreement – FY 23-25.

7.a. Discussion and possible vote to allow B. Hartz to host a birthday party at BB Park.

Ms. McCollem said that everything is in order

Voted: Melissa Ferretti moved, and Judith Froman seconded to approve the application of Brittany Hartz, organizer, for a birthday party on October 15, 2022, from 3-6 pm at the Buzzards Bay Park, as conditioned by the DPW comments.

Vote: 5-0-0.

7.b. Discussion and possible vote to allow A. Driscoll of Inebri-Art to organize and oversee a weekly Farmers Market at BB Park.

Andrew Driscoll, one of the founders of Inebri-Art, said that his group was running a monthly Farmers Market in North Plymouth and that venue has gone away. Mr. Driscoll said that he reached out to the Bourne Community Engagement Committee, and they suggested a weekly Farmers Market. Ms. Froman said that she is familiar with their events and the Farmers Market, and they are professional and good.

Ms. McCollem said that everything is in order

Voted: Judith Froman moved, and Mary Jane Mastrangelo seconded to approve the request of Inebri-art, Andy Driscoll, organizer, to hold a weekly Farmer's Market at the Buzzards Bay Park on Wednesdays in 2023 from April through September, from noon to 7 pm to allow for set up and clean up, as conditioned by the Building, DPW, Recreation, Police, and Health Department comments.

Vote: 4-0-0.

7.c. Discuss and adopt the amended "Recycling Center Policy" – waive 2nd and 3rd readings.

Dan Barrett, General Manager of Integrated Solid Waste Management (ISWM), said that he is there for the annual renewal of the Board of Selectmen's "Recycling Center Policy". He said that last Wednesday evening they went before the Board of Health, and they unanimously approved it. Mr. Barrett listed and explained the changes. Mr. Barrett said Household Hazardous Waste Day is October 22nd. There was some discussion on the recycling of small appliances and textiles.

Voted: Mary Jane Mastrangelo moved, and Melissa Ferretti seconded to approve the request of the ISWM Manager to waive the 2nd and 3rd reading of the *Recycling Center Policy – Calendar Year 2023*, and to further approve the proposed changes as presented and amended in the presentation.

Vote: 4-0-0.

7.d. Accept proposed amendments to the Bourne Home Rule Charter (H5476).

Ms. McCollem said that recently a draft of the Charter was returned to them from the legislature with some floor amendments. She said that Attorney Brian Bertram has gone through them all and figured out where things were moved and reinserted some items that were inadvertently removed.

Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to approve the proposed amendments to the Bourne Home Rule Charter (H5476) as presented and to return the same to the General Court.

Vote: 4-0-0.

7.e. Discuss and adopt the proposed "Code of Conduct Policy" – waive 2nd and 3rd readings.

Ms. Mastrangelo said that last Fall there was a Board of Selectmen meeting where they looked at two different drafts of Code of Conduct policies, which was something that the Board had talked

about implementing over the prior few months. At that time, it was decided to refer the drafts to the Policy Sub-committee for review and discussion. She said that last year she and George Slade were the members of the Policy Sub-committee, and they had a draft that was almost ready to be presented, then she and Ms. Froman made some changes to the draft over this past summer, and then it went to the Town Administrator and Town Counsel, where some more changes were made, and it went back the Policy Sub-committee.

She said that she does not think that they should waive the 2nd and 3rd readings at this time, since this is a policy that is for all of the boards and committees to utilize, and she feels it would be a good idea for all of those boards and committees to have a chance to look at the policy. She talked about a few of the highlights of the policy. The Board decided that they would have the draft of the Code of Conduct Policy sent to the chairs of the boards and committees in the Town of Bourne.

Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to move the proposed *Code of Conduct Policy*, to the 2nd reading.

Vote: 4-0-0.

7.f. Presentation & Discussions – Articles for Fall Town Meeting.

Vice Chair MacDonald said that at the request of the Town Administrator, he is moving vi. Article 16, to the top, due to a change.

vi. Article 16 – amend Section 2842 (3) (a) and (b) – Performance Standards for Residential Uses – by petition.

Ms. McCollem said that this is a petitioner's article within the Zoning bylaw, specifically to deal with an issue that has arisen with making sure that a project complies with the Zoning bylaw and can be granted occupancy permits when it is finished. She said that based on a discussion at the Finance Committee meeting last night, and a comment that the Town Planner, Jennifer Copeland, brought up. Counsel, Ms. Copeland, and she have been discussing this since last night, and what they have determined is that the project - based on the date it applied for the special permit by the Planning Board and was granted the special permit by the Planning Board, the current rules were not yet in place. She said that they are confident in saying that the project is proceeding and can proceed without this zoning amendment because the zoning bylaw in place when the special permit was granted did not require certain things that the bylaw now requires.

She said that she recommends that the Board of Selectmen and the Finance Committee take no motion on this article. The Building Commissioner can proceed under the terms of the 2017 prior zoning bylaw.

Cheryl Green, General Counsel for the developer of Calamar introduced herself and thanked Ms. McCollem, Town Planner Jennifer Copeland, and the others that really looked at this issue because it has created a lot of angst amongst

approximately 200 seniors in this community. She gave an outline of where they are in the process.

i. Article 10 – Community Preservation Projects

Barry Johnson said that after advertising and reaching out to all departments, the CPC only received two applicants for this Town Meeting. One is from the Bourne Housing Partnership and one from the Bourne Historical Society and the funding from both would come from their reserves of the Community Preservation Fund. He said that the CPC has voted to recommend both requests.

Sue Ross, Chairperson of Bourne Affordable Housing Partnership, said that they are requesting funds to hire someone to do a housing production plan, which the State would like every Town to do every five years. Their request is for \$13,500. There was some discussion about how important this plan is.

Mr. Johnson said the second request from the Bourne Historical Society, is for the restoration and repairs of the Aptuxcet Windmill. He said that the original request was for \$15,280. and the Historical Society, through its membership fund, is donating \$2,000. for a total of \$17,280. He said there is a balance of \$1,035 from an earlier Town Meeting article to repair the windmill that will also be used toward this project. He said that after a lot of discussions, The CPC decided that because of the nature of the project, more funds may be needed than was requested, so they voted for a recommendation of \$20,000.

ii. Article 12 – amend Section 3.1.43 of the General Bylaw – Property Maintenance

Ms. McCollem said that this article is to increase enforcement ability for properties by the Building Inspector. She said that this bylaw has not yet been reviewed by the Bylaw Committee, therefore they are going to recommend that they withdraw it from this Town Meeting warrant and return to it in the Spring.

Ken Murphy, Building Inspector, explained that the amendment would give him some enforcement ability for any complaints that are filed against property owners about the amounts of abandoned vehicles and other large numbers of articles on people's properties.

Ms. Mastrangelo said that she spent a lot of time looking over the bylaw and the proposed amendment and they are vastly different. She thinks that this article should be withdrawn and that there needs to be more conversation about the goals and to be more definitive.

iii. Article 13 – amend Section 3.1.29 (a) and (f) – Licensing and Control of Dogs.

Chris Southwood, Natural Resources Director, said that he is requesting an amendment in dog licensing in the Town. He said that the Clerks' office deals with the licensing and his department deals with the enforcement. He said that residents have 3 options to license their dog – online, by mail, and in person. He said that the current rule is that every year residents are required to license their dogs by June 30th. He said the amendment would expedite the licensing and citation process if the date were changed to March 31st each year. He said that this amendment is for public health and safety. He said that the quicker a dog is licensed in Town, the quicker they can get information to access if they are lost or if they bite someone.

Barry Johnson reiterated that the change in the bylaw would expedite the process and ease the burden in the Clerk's office.

iv. Article 14 – amend Sections 3210 and 2888 of the Bourne Zoning Bylaw – signs not permitted.

David O'Connor of the Planning Board and the Design Review Committee said that are moving to amend the signage law, section 3210, General Sign Regulations, and section 2888, The Downtown District Signs Not Permitted. Mr. O'Connor said that they would like these sections to apply townwide and not just downtown. There was some discussion about the types of signs.

v. Article 15 – amend Section 2854 (b) of the Bourne Zoning Bylaw – Downtown Parking Regulations.

Chris Farrell of the Planning Board said that the Planning Board voted unanimously to push forward with this amendment. He said that it applies to mixed-use properties downtown.

7.g. Discussion and vote to Execute and Post the October 24, 2022, Town Meeting Warrant.

Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to remove article 12, to amend bylaw 3.1.43, from the warrant, re-number the warrant accordingly, and execute and post the October 24, 2022, Special Town Meeting Warrant as amended.

Vote: 4-0-0.

7.h. Discussion and vote on *Essential* and *Non-Essential* Articles for the October 24, 2022, Town Meeting.

Ms. McCollem said she would recommend articles 2 3, 5,6, and 11 as essential articles. There are no contingent articles.

7.i. Discussion and vote on the possible necessity of a second night for the October 24, 2022, Town Meeting (Tuesday, October 25, 2022).

Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to continue Town Meeting to Tuesday, October 25, 2022, if a 2nd night is deemed necessary.

Vote: 4-0-0.

7.j. Debrief annual retreat, held on August 12, 2022, and vote to confirm annual goals.

Ms. McCollem said there is a set of minutes that will be coming soon. She said that she wanted to pull out an excerpt from the minutes of the goals that were identified. The Board agreed that they would like to have the minutes and the full committee present to vote to confirm the annual goals.

7.k. Discussion and possible ratification of LIUNA, Unit B Memorandum of Agreement – FY 23-25.

Ms. McCollem said she is still at the table with several groups. She said that although they did discuss this in Executive Session, they still need to have the materials remain privileged. She does recommend that the Board ratify the MOA for FY 23-25 with Unit B.

Voted: Judith Froman moved, and Melissa Ferretti seconded to ratify the FY23-25 Memorandum of Agreement between the Town of Bourne and LIUNA, Unit B as discussed earlier in the executive session (materials to remain privileged due to ongoing negotiations).

Vote: 4-0-0.

8. Town Administrator Report: staffing update

Ms. McCollem said that except for the Assistant Town Administrator position, all the other vacant positions in Town Hall have been filled. She wanted to give credit to Kathleen and Elisa and the others who have conducted interviews and have taken the time to review applications.

Ms. McCollem said that the Town is not fully staffed. There are still positions vacant in the DPW, ISWM, Police Department, and Fire Department. Ms. Froman said that credit is also due to Ms. McCollem for taking the lead on the hiring, and Mr. MacDonald said she has moved quickly and did it well.

9. Minutes: 07/19/22; 09/13/22

Voted: Judith Froman moved, and Mary Jane Mastrangelo seconded to approve the minutes of July 19th, 2022, with a spelling correction.

Vote: 4-0-0.

Voted: Melissa Ferretti moved, and Mary Jane Mastrangelo seconded to approve the minutes of September 13th, 2022.

Vote: 4-0-0.

10. Correspondence

Clerk Melissa Ferretti read aloud the correspondence:

- 4 Letters from DEP.
- Talent Bank Form from J. Detale for COA.
- Talent Bank Form from K. Riley for Human Services.
- Letter of resignation from the Bylaw Committee from Esip.

These are all on the Town's website.

11. Committee Reports

None.

12. Other Business

None.

13. Upcoming meetings

There will be a meeting on October 11, 2022.

14. Adjourn

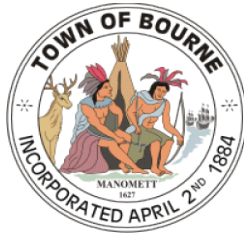
Voted: Mary Jane Mastrangelo moved, and Judith Froman seconded to adjourn.

Vote: 5-0-0.

This meeting of the Bourne Board of Selectmen was adjourned at 8:32 PM.

Respectfully Submitted,

Kim Johnson, Recording Secretary



Selectmen's Correspondence

November 1, 2022

- A. DEP Letter – Draft Community Involvement Plan
- B. DEP Letter – Draft KD Range Completion of Work Report
- C. DEP Letter – Draft Technical Memorandum
- D. Bourne Manor – Notice of Change of Ownership
- E. MassDOT Public Information Meeting on Cape Cod Bridges
- F. Xfinity Letter – TV service update
- G. DEP Letter – Draft Five-Year Review 2017-2021
- H. DEP Letter – Draft Skeet Range Remedial Investigation
- I. Wareham letter regarding Holtec discharge
- J. Upper Cape Regional Tech 9.8.22 meeting minutes



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

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Martin Suuberg
Commissioner

October 12, 2022

Air Force Civil Engineer Center/JBCC
Attn: Rose Forbes
Remediation Program Manager
322 East Inner Road
Otis ANG Base, Massachusetts 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0000037
Joint Base Cape Cod (JBCC)
Draft Community Involvement Plan, MOR,
Comments

Dear Ms. Forbes:

The Massachusetts Department of Environmental Protection (MassDEP) has received the Air Force Civil Engineer Center Memorandum of Resolution (MOR) dated September 30, 2022, for the document “**Draft Community Involvement Plan**” dated April 2022 (the Draft CIP). The Draft CIP details the types of public involvement activities that will take place to keep the community informed and involved in remedial activities of the Installation Restoration Program at Joint Base Cape Cod.

MassDEP has no comments on the MOR for the Draft CIP.

Please incorporate this letter into the Administrative Record for the Installation Restoration Program Community Involvement Program. If you have any questions regarding this matter, please contact me at (508) 946-2871 or Ellie Donovan at (508) 946-2866.

Sincerely,

Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

P/ed

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region



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September 28, 2022

Impact Area Groundwater Study Program
ATTN: Mr. Shawn Cody, Program Manager
1807 West Outer Road
Camp Edwards, MA 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0015031
Joint Base Cape Cod (JBCC)
**Draft KD Range Confirmatory Geophysical
and Soil Investigation Completion of Work
Report, Comments**

Dear Mr. Cody:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed the document **“Draft KD Range Confirmatory Geophysical and Soil Investigation Completion of Work Report”** (Draft Report) dated September 2022. The Draft Report documents the findings of confirmatory intrusive geophysical and soil investigations at KD Range located on Camp Edwards at JBCC. The investigations were performed in accordance with the *Final KD Range Post-DD Confirmatory Geophysical and Soil Investigation Project Note* (2018) and the *Final KD Range Post-DD Primary Target APC Soil Excavation Project Note* (2019), as required under the *Training Areas Operable Unit Decision Document* (2019) (Training Areas DD). The Training Areas DD required the removal of remaining munitions debris and targets, and soil sampling at the location of the former primary target. MassDEP offers the following comment on the Draft Report.

1. Page 5, Section 2.2 Source Area Investigations, 1999 Soil Sampling:

The text states **“A field investigation of the KD Range began in 1999. Composite and discrete soil samples were collected at 10 firing point grid locations. Samples were collected from these locations at both the front and back of the firing points. Sample grids were located at two rocket-firing points and at the former 90mm, former Dragon and former TOW missile firing points.”** In addition, **“Both composite and discrete soil samples were collected from three depths (0 to 3 inches, 3 to 6 inches and 6 to 12 inches below the ground surface) at 22-foot by 22-foot grids established around each location. The composite samples were submitted for a full suite of analyses including explosives, volatile organic compounds (VOCs), semi-volatile organic compounds (SVOCs), pesticides/polychlorinated biphenyls, herbicides, target analyte list (TAL) metals and miscellaneous parameters (ammonia, nitrate/nitrite, total phosphorous and total organic carbon). All discrete samples were submitted for explosives analysis; the discrete samples collected from the firing points were also submitted for SVOC analysis.”**

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

Please revise the Draft Report to include a figure or figures like Figure 5, KD Range Primary Target Soil Grid Locations which shows the firing points with data boxes where sampling was conducted. In addition, please revise the Draft Report to include a data table for soil sample results for the firing points like Table 1, KD Range Primary Target Area Ample Results.

2. Page 6, Section 2.2 Source Area Investigations, 2000 Rapid Response Action:

The text states **"A Rapid Response Action (RRA) was completed on KD Range in 2000 to reduce the explosives, pesticide and metals contaminant concentrations in soil."** In addition, **"Soil grid locations with elevated concentrations of nitroglycerin, RDX, HMX, TNT, dieldrin, and/or lead were excavated in September and October 2000 from the rocket firing positions..."**. Please revise the Draft Report to include a figure like Figure 5, KD Range Primary Target Soil Grid Locations which shows the firing points with data boxes where sampling was conducted. In addition, please revise the Draft Report to include a data table for soil sample results for the firing points like Table 1, KD Range Primary Target Area Ample Results.

3. Page 8, Section 3.2, Soil Sampling:

The text states, **"After anomaly removal, soils sample were collected from a 20-foot by 20-foot grid centered on the former location of the primary target."** On page 8, Section 3.3 *Soil Excavation and Post-Excavation Sampling* the text states, **"This grid fully encompassed the 25-foot by 25-foot grid (SSKD0004), where concentrations of RDX and HMX were reported above MassDEP S-1/GW-1 standards."** In addition, the legend on Figure 5 *KD Range Primary Target Soil Grid Locations* illustrates the sampling grid (SSKD0004) centered on the location of the former primary target, measures 25-feet by 25-feet in area. Please clarify the size of the sampling grid (SSKD0004) and revise the text as necessary.

Please incorporate this letter into the Administrative Record for the KD Range and the Training Areas Operable Unit. If you have any questions regarding this letter, please contact me at (508) 946-2871 or Kendall Walker at (508) 946-2846.

Sincerely,



Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

P/kw

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region



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Bethany A. Card
Secretary

Martin Suuberg
Commissioner

October 7, 2022

Impact Area Groundwater Study Program
ATTN: Mr. Shawn Cody, Program Manager
1807 West Outer Road
Camp Edwards, MA 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0015031
Joint Base Cape Cod (JBCC)
**Draft Technical Memorandum Former E
Range Post-DD Confirmatory Geophysical
and Sampling Program, Comments**

Dear Mr. Cody:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed the document **“Draft Technical Memorandum Former E Range Post-DD Confirmatory Geophysical and Sampling Program”** (Draft Tech Memo) dated September 2022. The Draft Tech Memo presents the findings of Phase 2 of the confirmatory geophysical and soil investigation performed during January 2020 through August 2021 at the Former E Range located on Camp Edwards at JBCC. MassDEP offers the following comments on the Draft Tech Memo.

Please add the filler type codes (i.e., HE, IPS, LE etc.) for the MEC items to the legend of Figure 2, Former E Range EM-61 Survey (PH 2) Follow Up MEC Finds. In addition, please include a figure, like Figure 2, that illustrates the range features (i.e., bunkers, cables etc.) and the discovery locations of all the munitions and explosives of concern (MEC) recovered at the Former E Range to date.

Please incorporate this letter into the Administrative Record for the Former E Range Operable Unit. If you have any questions regarding this letter, please contact me at (508) 946-2871 or Kendall Walker at (508) 946-2846.

Sincerely,

Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

P/kw

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

TTY# MassRelay Service 1-800-439-2370

MassDEP Website: www.mass.gov/dep

Printed on Recycled Paper

October 6, 2022


Executive Office of Elder Affairs
State Long Term Care Ombudsman
1 Ashburton Place, 5th Floor
Boston, MA 02108

Re: Notice of Pending Change of Ownership

To All Interested Parties¹:

Enclosed please find a copy of the public announcement that was published on 10/06/2022, in the *Cape Cod Times*, regarding a corporate reorganization of Bourne Manor Extended Care Facility. This reorganization is considered a transfer of ownership under the Massachusetts Department of Public Health regulations and we are required to distribute the enclosed public announcement to stakeholders and publish it in the newspaper and on the facility's website.

Sincerely,



Elisha Thapa

Enclosure

cc: Elder Services of Cape Cod & the Islands
68 MA-134, South Dennis, MA 02660

Senator Susan L. Moran
24 Beacon St. Room 506
Boston, MA, 02133

Representative David T. Vieira
24 Beacon St. Room 167
Boston, MA, 02133

Glenn D. Cannon
Acting Town Administrator
Rochester Town Hall
1 Constitution Way
Rochester, MA 02770

¹ Interested Parties pursuant to 105 CMR 153.022(B)(2): (a) each resident of the facility and, where applicable, the resident's legal representative; (b) the designated family member of each resident; (c) the facility's resident council; (d) the facility's family council; (e) each staff member of the facility; (f) every labor organization that represents the facility's workforce during the period of the transfer of ownership; (g) the Office of the State Long-term Care Ombudsman; (h) the Office of the Local Long-term Care Ombudsman; (i) the members of the General Court who represent the city or town where the facility is located; and (j) a representative of the local officials of the city or town where the facility is located.

PUBLIC ANNOUNCEMENT CONCERNING

Bourne Manor Extended Care Facility

146 MacArthur Boulevard

Bourne, MA 02532

Bourne Management Systems, Inc., 75 North Street, Ste. 210, Pittsfield, MA 01201 (the "Buyer") has submitted an application to the Department of Public Health, Division of Health Care Facility Licensure and Certification (the "Department") for the proposed change in ownership of Bourne Manor Extended Care Facility, 146 MacArthur Boulevard, Bourne, MA 02532 (the "Facility"). The Buyer currently leases the Facility from, and manages the Facility on behalf of, the current owner, Bourne Manor Nursing, LLC, c/o Chakalos Management, LLC, 135 South Road Farmington, CT 06032 (the "Seller"). The Buyer, if deemed suitable by the Department, intends to purchase the Facility from the Seller and will continue to manage and operate the Facility after the change in ownership. There will be no changes in the bed capacity or the services provided by the Buyer at the Facility. A public hearing may be requested upon a petition by any group of ten adults. Such petition shall include the name, address and signature of each adult. Written comments concerning the Buyer's ability to provide quality long-term care services and petitions for a public hearing may be addressed to the Department of Public Health, Division of Health Care Facility Licensure and Certification, 67 Forest Street, Marlborough, MA 01752, or HFLLicenseAction@state.ma.us, for a period of 14 days following the publication of this notice. All written or oral comments submitted to the Department may be posted on the Department's website and released in response to a request for public records.



PUBLIC INFORMATION MEETING

Cape Cod Bridges Program

What is happening?

Two live, identical virtual public information meetings will be hosted on Zoom to provide updates on the Cape Cod Bridges Program. MassDOT will present on the status of the Program, bridge types for consideration, and next steps. There will be an opportunity for public comments and questions following the formal presentation. Public input will be reviewed and considered to the maximum extent possible.

How will this affect you?

The Program proposes the replacement of the Bourne and Sagamore bridges and improvements to the approach roadway networks to address the structural and multimodal deficiencies within the Cape Cod Canal area.

When

Tuesday, November 15th, 2022
Thursday, November 17th, 2022
6:00 PM EST

Attend

www.mass.gov/massdot-highway-design-public-hearings



Please note this meeting will be transcribed by a stenographer.

Visit www.mass.gov/cape-bridges for more information.



This meeting is accessible to people with disabilities and those with limited English proficiency. MassDOT provides reasonable accommodations and/or language assistance free of charge upon request, as appropriate. To request accommodation or language assistance, please contact MassDOT's Chief Diversity and Civil Rights Officer by phone (857) 368-8580, fax (857) 368-0602, relay 7-1-1, or by email to MassDOT.CivilRights@dot.state.ma.us. Requests should be made as soon as possible prior to the meeting, and for more difficult to arrange services including sign-language, CART or language translation or interpretation, requests should be made at least ten business days before the meeting.

Project inquiries may also be emailed to DOTHighwayDesign@dot.state.ma.us.

Please submit any written statements regarding the proposed undertaking to: **Carrie A. Lavallee, P.E., Chief Engineer, MassDOT, 10 Park Plaza, Boston, MA 02116, Attention: Highway Division, PROJECT FILE NO. 608020**

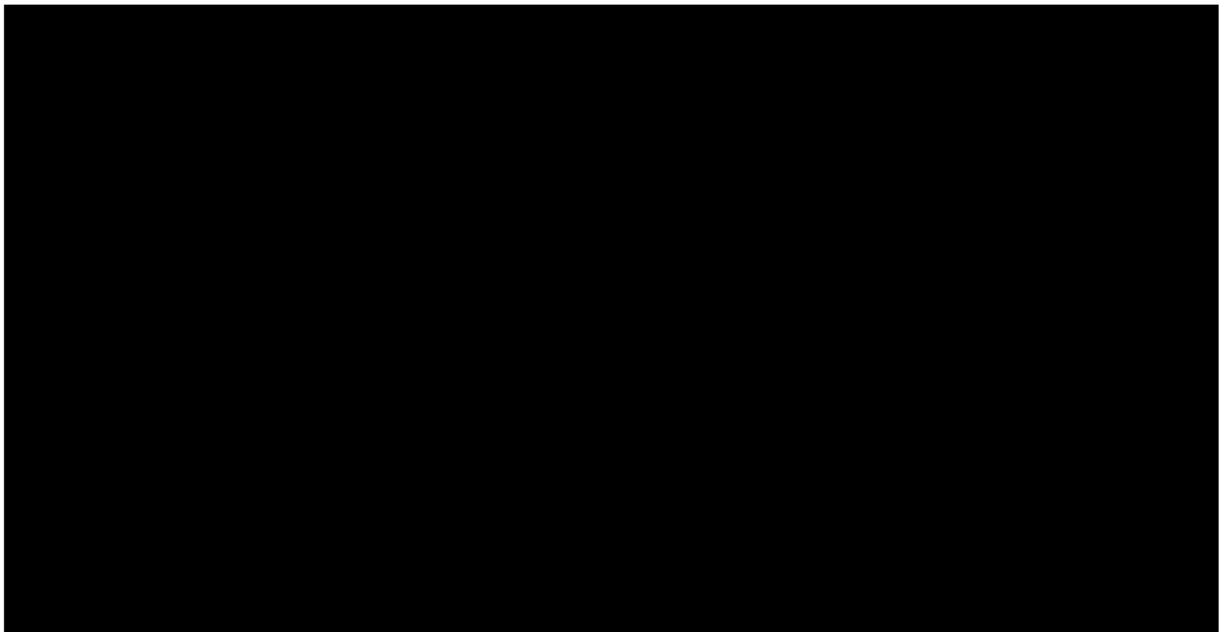


October 10, 2022

Board of Selectmen
Town of Bourne
24 Perry Avenue
Buzzards Bay, MA 02532

Dear Chairman and Members of the Board:

We are committed to keeping you and our customers informed about changes to Xfinity TV services. Accordingly please note on November 15, 2022, FXX will be removed from the Digital Economy package, but will continue to be available on Entertainment. Customers are receiving this information via bill message.



Sincerely,

Michael Galla

Michael Galla, Sr. Manager
Government & Regulatory Affairs



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Martin Suuberg
Commissioner

October 19, 2022

Impact Area Groundwater Study Program
ATTN: Mr. Shawn Cody, Program Manager
1807 West Outer Road
Camp Edwards, MA 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0015031
Joint Base Cape Cod (JBCC)
Draft Five-Year Review 2017–2021,
Comments

Dear Mr. Cody:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed the document “**Draft Five-Year Review 2017-2021**” (Report) dated August 2022. The Report evaluates the performance of the cleanup remedies conducted by the Impact Area Groundwater Study Program at JBCC to determine if the remedies are protective of human health and the environment. MassDEP offers the following comments on the Report.

General Comment:

On October 2, 2020, MassDEP published final regulations establishing a Massachusetts Maximum Contaminant Level (MMCL) for drinking water, for the sum of six per- and polyfluoroalkyl substances (PFAS) including: perfluorooctanesulfonic acid (PFOS), perfluorooctanoic acid (PFOA), perfluorohexane sulfonic acid (PFHxS), perfluorononanoic acid (PFNA), perfluoroheptanoic acid (PFHpA), and perfluorodecanoic acid (PFDA). The MMCL is 20 nanograms per liter (ng/L, or parts per trillion (ppt)) for the sum of the six PFAS compounds that the regulations call PFAS6.

During the period covered by the Report, soil and groundwater investigations were conducted for PFAS6 at Demolition Area 1, J-1 Range, J-2 Range and J-3 Range. An overall discussion of the PFAS6 investigations is provided in Section 12 of the Report. However, MassDEP recommends that the Report also include a discussion of the results of the PFAS6 investigation in the sections of the Report evaluating the performance of the J-2 Range Northern and J-3 Range Sites. PFAS6 was identified in the groundwater at these sites at concentrations greater than the MMCL and the Massachusetts Contingency Plan (MCP) Method 1 S-1/GW-1 standards. Although PFAS6 have not yet been identified as contaminants of concern (COCs) at any Army National Guard Sites at JBCC and remedial investigations for PFAS6 are currently ongoing, the occurrence of PFAS6 compounds at concentrations above the MMCL/MCP GW-1 standard in

This information is available in alternate format. Contact Glynis Bugg at 617-348-4040.

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the groundwater at these Sites may impact the Report's conclusions regarding the protectiveness of the remedies. This is particularly the case at the J-2 Range Northern Site where PFAS6 was detected at Gibbs Road, downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Water Supply Co-operative WS-2 public water supply well.

Page-specific Comments:

1. Page xiii, Abbreviations and Acronyms:

Please include the Environmental Management Commission (EMC).

2. Page 1-2, Section 1.1, Land Use and Site History:

The text states **"Chapter 47 of the Acts of 2002 established the Upper Cape Water Supply Co-operative to protect the water supply and wildlife habitat. An Upper Cape Regional Water Co-op operates several water supply wells in the area."** Please revise the text to *'Chapter 47 of the Acts of 2002 (c.47) established the Environmental Management Commission (EMC) and the Upper Cape Water Supply Reserve. The Upper Cape Water Supply Reserve is co-located with Camp Edwards' 15,000-acre northern training area at JBCC and was established by c.47 as public conservation land dedicated to three primary purposes: water supply and wildlife habitat protection; the development and construction of public water supply systems; and the use and training of military forces of the Commonwealth provided that such military use and training is compatible with the natural resource purposes of water supply and wildlife habitat protection. An Upper Cape Regional Water Co-op operates several water supply wells in the area.'*

3. Page 1-11, Section 1.8.1.2, Review of Updated Screening Criteria and Standards:

The Report states **"MCP Method 1 S-1/GW-1 Standards (MassDEP, 2020a); unchanged since last FYR" and "For groundwater, there have been no changes in MCLs or MassDEP Method 1 GW-1 standards from those in the previous two FYRs."** Please qualify these statements to indicate that they pertain only to the legacy contaminants of concern (COCs), since a MMCL and MCP Method 1 S-1/GW-1 standards were promulgated for PFAS6 during the reporting period. PFAS6 has been detected at concentrations above the MMCL/MCP GW-1 standard in the groundwater at the J-2 Northern Range and J-3 Range sites and PFAS investigations are currently ongoing at these and at other Army National Guard Sites at JBCC.

4. Page 1-12, Section 1.8.1.3, Identification of COCs:

The Report indicates **"For this FYR, the identification of COCs was updated where necessary by identifying whether any contaminants were detected at higher concentrations in more recently collected data, such that a contaminant not previously identified as a COC might now need consideration as a COC based on more recent data and 2021 screening criteria, if not previously ruled out for other reasons such as not being associated with site activities or being addressed as part of another site. This situation of possibly needing to consider additional analytes as COCs, that were not already being addressed by the selected remedy or by another site's remedy, did not arise for any of the sites evaluated."** PFAS6 has been detected at concentrations above the MMCL/MCP GW-1 standard in the groundwater at the J-2 Northern Range and J-3 Range sites and PFAS6 investigations are currently ongoing at these and at other Army National Guard Sites at JBCC. Please state in the text that PFAS6 will need to be considered as additional COCs based upon detections of PFAS6 in groundwater.

5. Page 1-13, Section 1.8.3.1, Groundwater Remedial Actions:

The Report states **“The sites discussed in this FYR were evaluated for impact to groundwater. Based upon groundwater monitoring results and/or the application of leaching-based screening criteria, explosives and/or perchlorate were identified as potential COCs in groundwater at eight sites: Demolition Area 1, Demolition Area 2, J-1 Range, L Range, Northwest Corner, Central Impact Area, J-2 Range, and J-3 Range. No groundwater COCs were identified at the Small Arms Ranges of the Training Areas.”** Perchlorate and/or RDX are identified as COCs in groundwater, not as potential COCs, at the eight sites listed above. Please correct the text. Please change the last sentence to *‘No groundwater COCs were identified at the Small Arms Ranges or the Training Areas’*.

6. Page 2-7, Section 2.4.2, Demolition Area 1, Remedy Implementation:

The Report indicates **“This Enhanced Alternative 5 included the five well groundwater extraction system provided in Alternative 5 and added a contingency to add additional extraction wells if the plume was found to migrate further than the design model had predicted. The Decision Document states that if USEPA determines, based on monitoring data or revised modeling, that plume migration is substantially different than predicted by the modeling conducted in the FS, the IAGWSP will conduct a detailed analysis to determine, as accurately as possible, the current and projected future plume location. The Decision Document also states that if groundwater modeling suggests that contamination is above applicable federal or state regulatory or risk-based levels an additional active groundwater treatment system will be designed and built within 12 months.”** The Environmental Protection Agency issued a letter dated November 15, 2010, to the Impact Area Groundwater Study Program, that invoked the contingency remedy for the installation of the Demolition Area 1 Base Boundary extraction, treatment, and infiltration system to prevent further off-base migration of the Demolition Area 1 groundwater plume. Please mention this action and provide the system startup date for the Demolition Area 1 Base Boundary extraction, treatment, and infiltration system in Section 2.4.2, Remedy Implementation of the Report.

7. Page 4-4, Section 4.3.2, J-1 Range, Soil Investigations:

The Report states **“The investigation was conducted based on groundwater modeling indicated a small plumelet on the eastern side of the J-1 sough plume may have originated at a location (girds L1-2.M1-2) where a burial pit and a burn pit were found during previous investigations (IAGWSP, 2017a).”** Please revise **“J-1 sough”** in the text to *‘J-1 south’*.

8. Page 5-3, Section 5.3.4, L Range, Remedial Alternatives:

The Report indicates **“For the L Rage the alternatives were: ...”** Please revise **“L Rage”** to *‘L Range’*.

9. Page 6-6, Section 6.5, Northwest Corner, Progress Since the Last Five-Year Report:

The Report states **“There are no other COCs in soil or groundwater within the Norwest Corner OU.”** Please revise **“Norwest Corner OU”** to *‘Northwest Corner OU’*.

10. Page 6-10, Section 6.6, Northwest Corner, Technical Assessment:

The Report indicates **“However, groundwater contaminants remain at the site above levels that allow for UU/UE. Continued implementation of LUCs for groundwater and groundwater monitoring are necessary to ensure long term protectiveness.”** This conclusion seems to contradict the statement made in Section 6.7, Issues of the Report, which indicates **“There are no issues associated with the site. The residual risk assessment presented in the Draft Northwest Corner Demonstration of Compliance Report (USACE, 2020) supports the conclusion that the response action at the Northwest Corner groundwater OU is complete.”** Furthermore, the Report states in Section 6.8,

Recommendations and Follow-Up Actions **“Long-term groundwater monitoring for perchlorate should be discontinued at the Northwest Corner as perchlorate concentrations have decreased below 2 µg/L since May 2013 and the residual risk assessment presented in the Draft Northwest Corner Demonstration of Compliance Report (USACE, 2020) supports the conclusion that the response action at the Northwest corner groundwater OU is complete.”** Please reconcile the text highlighted from Section 6.6, Technical Assessment with the numerous other characterizations made in the Report that groundwater contaminants have been below the perchlorate MMCL since 2013.

11. Page 7-4, Section 7.4.1, Central Impact Area (CIA), Decision Document:

The Report states **“The selected remedy for the CIA groundwater was Alternative 4 (Modified) – Focused Extraction with Three Wells. The key aspects of this remedial alternative included: Two extraction wells with a cumulative pumping rate of 550 gpm would be installed along Burgoyne Road; The southern well would be turned off (estimated) in 2035, at which time a third, northern well, would begin operation; Contaminated water would be piped to the Demolition Area 1 treatment facility...”** The description of the selected Central Impact Area groundwater remedy in the Decision Document varies considerably from the implemented Central Impact Area remedy described in Section 7.4.3.2, Groundwater Remedy of the Report, which states **“During 2014, the groundwater extraction systems were implemented to remove contaminant mass from the groundwater and control plume migration. The first two extraction wells (CIA-EW1 and CIA-EW2) became operational in January 2014 and the third extraction well (CIA-EW3) became fully operational in late June 2016. Prior to that, CIA-EW3 was used for a start-up pump test in April 2016. The extraction well locations are depicted in Figure 7-4. All extraction wells pump at a rate of 250 gpm and the extracted groundwater is treated in MTUs; there is one MTU for each well for a total of three MTUs. Each of the three MTUs consist of IX to remove perchlorate followed by GAC adsorption to remove explosives. Each MTU contains two pressurized IX vessels followed by two primary and then two secondary pressurized GAC vessels. The lead GAC vessels provide the initial stage of treatment for the removal of explosives, and the secondary, or guard GAC vessels provide backup capacity, ensuring that any contaminants that breakthrough the first two stages of treatment (IX and GAC) will be removed prior to discharge. Treated groundwater is discharged to infiltration basins located beyond the Main Plume’s northeast and southwest edges.”** Please indicate in the Report the basis for the change in the Central Impact Area groundwater remedy specified in the Decision Document, the implemented remedy for the Central Impact Area groundwater, and the document that presents this change in remedial strategy for the Central Impact Area groundwater.

12. Page 7-5, Section 7.4.1, Central Impact Area (CIA), Decision Document:

The Report states **“RDX concentrations are expected to decrease below the risk-based level of 6 ppb by 2027, the health advisory of 2 ppb by 2047, the 10⁻⁶ risk-based level (0.6 µg/L) by 2055, and background by 2110.”** Please indicate if the Decision Document included an estimated cleanup time for perchlorate, which is also a COC for Central Impact Area groundwater. Perchlorate is much more limited in magnitude and extent than RDX in the Central Impact Area plume, but the cleanup time for perchlorate should be provided in the Report if there has been modeling performed for perchlorate. Also, if any additional modeling has been performed for perchlorate, please discuss these results in Section 7.4.3.6, Modeling Update and Cleanup Time Predictions.

13. Page 8-15, Section 8.5, J-2 Range, Progress Since the Last Five-Year Report–Groundwater Investigations: Section 8.4.2, Response Action Objectives states **“...for the J-2 Northern groundwater plume, to protect the current water supply by preventing groundwater in excess of HAs, DWELs, applicable State standards or an unacceptable excess lifetime cancer risk or non-cancer-Hazard**

Index from migrating past Gibbs Road located on Camp Edwards.” The Report should include a discussion in Section 8.5, Progress Since the Last Five-Year Report on the PFAS groundwater investigation that was performed at the J-2 Range Northern area during the reporting period. PFAS6 has been detected downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Cod Regional Water Supply Cooperative WS-2 public water supply well, at Gibbs Road, at concentrations exceeding the MMCL/MCP GW-1 standard.

14. Page 8-19, Section 8.6, J-2 Range, Technical Assessment—Changes in Standards and To Be Considered in Groundwater: The Report states **“Since the 2012 groundwater risk screening, there have been no changes to Federal and State MCLs or to MCP Method 1 GW-1 standards that would change the conclusions of that risk screening. These standards for perchlorate and RDX have not changed, nor have they changed for other analytes detected in groundwater that were determined not to be COCs based on the 2012 risk screening.”** A MMCL and a MCP Method 1 GW-1 standard were promulgated for PFAS6 during the reporting period. PFAS6 has been detected at concentrations above the MMCL/MCP GW-1 standard in J-2 Northern Range groundwater. Please include a discussion regarding PFAS6 in Section 8.6.
15. Pages 8-19 and 8-20, Section 8.6, J-2 Range, Technical Assessment—Changes in Exposure Pathways: The Report indicates **“An Upper Cape Cod Regional Water Supply Cooperative operates two water supply wells (WS-1 and WS-2) downgradient of the J-2 Range. Water supply well WS-2 is located approximately 0.6 mile downgradient of the J-2 Range Northern plume and water supply well WS-1 is located approximately 0.55 mile down-gradient of the J-2 Range Eastern plume. Since COCs in groundwater exceed their established clean-up criteria, unacceptable human health risks could result from drinking the groundwater associated with the J-2 Range, if that were to occur. However, the on-going groundwater extraction and treatment remedy is designed to intercept and capture the northern and eastern groundwater plumes and maintain the integrity and quality of the downgradient water supplies. Since the Decision Document was issued for the J-2 Range in September 2013, there has been no change in the general physical condition, the current and potential future land usage, or the reasonably anticipated potential exposure pathways at the J-2 Range that would affect the human health protectiveness of the selected remedy.”** PFAS6 has been detected downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Cod Regional Water Supply Cooperative WS-2 public water supply well, at Gibbs Road, at concentrations exceeding the MMCL/MCP GW-1 standard. While PFAS6 has not yet been designated as a COC for J-2 Range Northern groundwater and a PFAS6 investigation is in progress in the J-2 Range Northern groundwater area, the results of the PFAS6 investigation performed to date should be discussed in Section 8.6.
16. Page 8-20, Section 8.6, J-2 Range, Technical Assessment—Review of RAOs: The Report states **“Question C: Has any other information come into light that could call into question the protectiveness of the removal/remedial action? No, there is no other information at this time that calls into question the short-term protectiveness of the groundwater treatment remedies for the Northern Plume and Eastern Plume at the J-2 Range based on land use as of 2021 (i.e., military training activities).”** PFAS6 has been detected downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Cod Regional Water Supply Cooperative WS-2 public water supply well, at Gibbs Road, at concentrations exceeding the MMCL/MCP GW-1 standard. While PFAS6 has not yet been designated as a COC for J-2 Range Northern groundwater and a PFAS6 investigation is in progress in the J-2 Range Northern

groundwater area, the results of the PFAS6 investigation performed to date should be discussed in Section 8.6.

17. Page 8-21, Section 8.7, J-2 Range, Issues:

The Report indicates **“As noted above, groundwater contaminants may remain at the site above levels that allow for UU/UE. There are no issues at this time with respect to operation and maintenance of the ETR systems for the Northern Plume and Eastern Plume or LUCs that could potentially affect protectiveness.”** PFAS6 has been detected downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Cod Regional Water Supply Cooperative WS-2 public water supply well, at Gibbs Road, at concentrations exceeding the MMCL/MCP GW-1 standard. While PFAS6 has not yet been designated as a COC for J-2 Range Northern groundwater and a PFAS6 investigation is in progress in the J-2 Range Northern groundwater area, the results of the PFAS6 investigation performed to date should be discussed in Section 8.7.

18. Page 8-21, Section 8.9, J-2 Range, Protectiveness Statement:

The Report states **“The groundwater remedy is protective in the short-term because there is a treatment system in place that is being operated, monitored, and optimized, and LUCs for groundwater and security measures are in place to prevent exposures to groundwater, soil, and UXO.”** PFAS6 has been detected downgradient of the capture zone for the J-2 Range Northern groundwater extraction system and upgradient of the Upper Cape Cod Regional Water Supply Cooperative WS-2 public water supply well, at Gibbs Road, at concentrations exceeding the MMCL/MCP GW-1 standard. While PFAS6 has not yet been designated as a COC for J-2 Range Northern groundwater and a PFAS6 investigation is in progress in the J-2 Range Northern groundwater area, the results of the PFAS6 investigation performed to date should be discussed in Section 8.9.

19. Page 9-16, Section 9.5, J-3 Range, Progress Since the Last Five-Year Report–Groundwater:

PFAS6 has been detected in the groundwater at concentrations exceeding the MMCL/MCP GW-1 standard in the J-3 Range area groundwater. The PFAS6 contamination detected in groundwater at the J-3 Range to date is likely within the capture zone of the J-3 groundwater extraction system. The Report should include a discussion in Section 9.5 on the PFAS6 investigation that was performed for J-3 Range area groundwater during the reporting period.

20. Page 9-18, Section 9.6, J-3 Range, Technical Assessment–Changes in Standards and To Be Considered in Groundwater: A MMCL and a MCP Method 1 GW-1 standard were promulgated for PFAS6 during the reporting period. PFAS6 has been detected at concentrations above the MMCL/MCP GW-1 standard in J-3 Range area groundwater. The results of the PFAS6 investigation performed to date for J-3 Area Groundwater should be discussed in Section 9.6.

21. Page 10-1, Section 10.1, Small Arms Ranges, Background:

The text states **“The 40 ranges were divided into three categories: operational and active (6), operational but inactive (14) and non-operational ranges (20). A number of the ranges have overlapped the same areas over time; Operational Ranges (6 Active): These are ranges where firing is permitted and an Operations, Maintenance and Monitoring Plan is in place (J, K, Sierra East/Sierra West, T, and I Ranges).”** In addition, the text states **“Operational Ranges (14 Inactive): These are ranges that are not in use, but given their configuration and location, could be used again for small arms firing. They would need to go through an approval process to resume firing, including the development and implementation of an Operations, Maintenance and Monitoring Plan. Some of**

these ranges will require monitoring and maintenance in order to retain their Operational (Inactive) status (A, B, C, D, E, G, H, KD East, N, O, P, Former N, Q and Former R Ranges)." Ranges Juliet (J) and Kilo (K) are Operational but Inactive ranges. Range Echo (E) is an Operational Active range. Please correct the text.

22. Page 10-2, Section 10.2, Small Arms Ranges, Initial Response:

The text states **"The excavated soil remains stockpiled on K Range."** and **"Over 4,000 cubic yards of soil was excavated and screened with the screened soil transported to Current D Range for beneficial reuse off-site."** Excavated soil stockpiled on K Range has been used for range maintenance. Soil transported and stockpiled at D Range has been removed and disposed off-site. Please correct the text.

Please incorporate this letter into the Administrative Record for the Five-Year Review 2017-2021. If you have any questions regarding this matter, please contact me at (508) 946-2871 or Ellie Donovan at (508) 946-2866.

Sincerely,

A handwritten signature in black ink, appearing to read 'L. Pinaud', enclosed within a circular scribble.

Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region



Commonwealth of Massachusetts
Executive Office of Energy & Environmental Affairs

Department of Environmental Protection

Southeast Regional Office • 20 Riverside Drive, Lakeville MA 02347 • 508-946-2700

Charles D. Baker
Governor

Karyn E. Polito
Lieutenant Governor

Bethany A. Card
Secretary

Martin Suuberg
Commissioner

October 17, 2022

Air Force Civil Engineer Center/JBCC
Attn: Rose Forbes
Remediation Program Manager
322 East Inner Road
Otis ANG Base, Massachusetts 02542

RE: **BOURNE – BWSC**
Release Tracking Number: 4-0000037
Joint Base Cape Cod (JBCC)
Draft Remedial Investigation
Report Skeet Range Munitions
Response Area, MOR, Comments

Dear Ms. Forbes:

The Massachusetts Department of Environmental Protection (MassDEP) has reviewed the Air Force Civil Engineer Center “**Draft Remedial Investigation Report Skeet Range Munitions Response Area Memorandum of Resolution 2**” (Memorandum of Resolution) dated October 5, 2022, for MassDEP comments on the document “**Draft Remedial Investigation Report Skeet Range Munitions Response Area, Joint Base Cape Cod, Massachusetts**” dated August 2022.

MassDEP has no comments on the Memorandum of Resolution.

Please incorporate this letter into the Administrative Record for the Skeet Range Munitions Response Area at Joint Base Cape Cod. If you have any questions regarding this letter, please contact me at (508) 946-2871.

Sincerely,

Leonard J. Pinaud, Chief
Federal Site Management
Bureau of Waste Site Cleanup

Ec: Upper Cape Select Boards
Upper Cape Boards of Health
JBCC Cleanup Team
MassDEP Boston/Southeast Region



Town of Wareham

54 Marion Road
Wareham, MA 02571

SELECTMEN'S OFFICE
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E-mail: selectmen@wareham.ma.us

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BOURNE BD OF SELECTMEN
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Board of Selectmen

Judith Whiteside, Chair
Patricia A. Wurts, Clerk
Ronald S. Besse
Jared S. Chadwick
Alan H. Slavin

September 28, 2022

Attorney General Maura Healey
One Ashburton Place
Boston, MA 02108-1698

Dear Attorney General Healey,

The Board of Selectmen of the Town of Wareham write to share our concern of the proposed discharge of 1.1 million gallons of radioactive wastewater remaining from Plymouth's Pilgrim Nuclear Power Station into Cape Cod Bay by Holtec, the company overseeing the project. This illegal act will not only violate the Massachusetts Ocean Sanctuaries Act that explicitly prohibits discharge of any commercial or industrial waste, but it will also violate Pilgrim's Clean Water Act that prohibits the discharge of polluted spent-fuel pool water and wastewater generated by the decommissioning process into Cape Cod Bay.

Any radioactive wastewater discharged into Cape Cod Bay will eventually reach the waters of the South Shore, the Cape Cod Canal, Wareham and beyond. Contamination of these waters will severely harm Wareham's seafood industry, our tourism, our property values, and our public health, as well as that of our neighboring towns.

According to the spokesperson from your office, we understand that you "will do everything possible to hold Holtec accountable and ensure public health and safety throughout this decommissioning process." And that you "are prepared to take action to halt any violations of state and federal water discharge permits."

Our concern is that you prevent the discharge of any remaining radioactive wastewater. Therefore, we ask you to enforce the laws that Holtec agreed to when they signed the settlement agreement now to protect the waters of Cape Cod Bay and the surrounding Massachusetts coast.

Sincerely,


Judith Whiteside, Chair
Wareham Board of Selectmen

cc **Bourne Town Administrator, Marlene McCollem**
Plymouth Town Manager, Derek Brindisi
Wareham Land Trust
Wareham Town Counsel
Buzzards Bay Coalition
Wareham Town Administrator
Director of Planning
Conservation Commission

UPPER CAPE COD REGIONAL TECHNICAL SCHOOL DISTRICT COMMITTEE
SEPTEMBER 8, 2022 MEETING HELD AT THE SCHOOL
220 SANDWICH ROAD, BOURNE, MA 02532

PRESENT: Robert Fichtenmayer, Chair; Ellen Barber; Dominic Cammarano; Thomas Corriveau; Mary Crook; Michael Degan; Christine Marcolini; David P. Sampson; Roger Forget; Josh Greeley; Sharon Brito, Recording Secretary.

ABSENT: Maryann Smith.

The meeting was called to order at 6:16 p.m. followed by the Pledge of Allegiance to the Flag. Mr. Fichtenmayer announced that the meeting was being recorded via an audio device.

STUDENT ADVISORY REPRESENTATIVE: No student representative was present.

STUDENT SPOTLIGHT / CURRICULUM UPDATE: None.

PUBLIC PARTICIPATION: None.

APPROVAL OF MINUTES: A motion was made by Mr. Degan, seconded by Ms. Crook, for approval of the minutes of the July 14, 2022 regular meeting. Motion passed unanimously.

COMMUNICATIONS: The Superintendent read several thank you notes for scholarships awarded to graduates of the Class of 2022 including Heather DiCarlo, Allison Sciaraffa and Isabella Fusco.

REPORT OF COMMITTEES:

Budget – The first Budget Sub-Committee meeting of the school year will be held on Monday, October 3rd at 5 p.m.

TREASURER'S REPORT: Mr. Degan distributed the Treasurer's Report for warrants #2, 4, 6, 8 and 10 highlighting the larger expenditures on the warrants including student accident insurance, workers' compensation insurance, technology supplies, transportation contracts, health insurance costs, and the purchase of textbooks, a GPS

line robot, security cameras and engineering equipment. He also discussed revenue received from the wind turbine with ConEd and net metering credits from the solar canopies.

SUPERINTENDENT'S REPORT: Mr. Forget shared that the Early Learning Center has been voted as one of the top three childcare / pre-schools on the Upper Cape. He informed the committee that representatives from the Massachusetts School Building Authority will be visiting the school on October 11th to conduct a senior survey regarding the district's application for funding for a new roof and a new gymnasium. MSBA has requested that community members be involved in the visit so Mr. Forget asked committee members to let Ms. Brito know if they are able to attend on the 11th. The Superintendent updated the committee on some of the community projects that the shops are working on including the cabins at Bourne Scenic Park, the Marion Walkway, attendant booths for the town of Falmouth, and the gazebo and community garden in Sandwich. Mr. Forget met recently with the Executive Director of Joint Base Cape Cod and the Installation Commander of Camp Edwards to walk the area where the second means of egress will be constructed. It was a productive meeting with the base officials agreeable to forming a partnership to accomplish this endeavor. The Bourne Department of Public Works continues to be an extremely helpful partner in this initiative as well.

PRINCIPAL'S REPORT: Mr. Greeley reported that there are currently 232 freshmen, 207 sophomores, 187 juniors, and 157 seniors which makes for a very full campus. The summer camps went extremely well and the fall athletic teams are very active with over 200 students participating in a fall sport. The Principal updated the committee on the results of the spring MCAS tests which showed improvement over the previous year's scores. This is the twelfth year in a row with no failures in ELA. There were seven failures in Mathematics and thirteen in Biology. The Leadership Team has been strategizing for remediation for those who have failed the exam and have expanded after school programs and added to the late bus schedule. There are several new staff members this year and a New Teacher Orientation was held prior to the start of the school year. There was also two days of professional development for all teaching staff prior to the students returning to school. There is a new attendance policy in place as well as an increased presence of staff in the hallways throughout the school day. The Grade 9 Barbecue and the Chromebook rollout were both very well-attended. The Chromebook rollout included a presentation to parents around social media and excessive screen time. Mr. Greeley concluded his report by informing the committee that the Meet the Teachers Night will be held on September 22nd and the Homecoming football game and dance will take place on October 1st.

NEW BUSINESS:

Construction Update – The Superintendent reported that the Engineering students began the school year in their newly-constructed building. All of the internal work has been completed; however, there is still work to be done outside such as walkways and


hardscapes. Gates have been installed to enclose all of the athletic fields. The sod has been laid and the irrigation has been installed in the new terraced area around the baseball field. Trees have been cut down and the stumps removed in preparation for construction of the new football stadium. The new teacher in Engineering, who is a civil engineer, will be working on plot plans with the students. Air conditioning units have been installed in all of the second-floor classrooms that did not yet have them. Repairs have been made to the walkways outside of the Wellness Center. Finally, the Superintendent informed the committee that two new granite signs have been installed on campus. The first one is at the top of the driveway with the school name and the bridge logo inscribed on it. The second sign is by the athletic fields and reads "The Barry J. Motta Athletic Complex." Ms. Marcolini inquired as to what the old Engineering shop will be used for. Mr. Forget explained that it is not a very usable space as there is a lot of electrical components coming up out of the floor. Some work will need to be done to get it in usable shape but it could be available for overflow from student lunches in the cafeteria if necessary. He also updated the committee on the status of the stairlift stating that the company came to the school four times to measure for the new lift only to discover that one of the rails is still too short. They have put a rush on the order for a new bottom section and expect to install it on October 1st.

Annual School Committee Conferences – The Superintendent reminded the committee that the Massachusetts Association of School Committees annual conference will be held from November 2nd through the 5th in Hyannis. A voting delegate for the annual Business Meeting will be appointed at the October meeting. He asked committee members to inform Ms. Brito if they would like to be registered. He then discussed the options for the members to attend a national conference. Last year the committee attended the National School Boards Association (NSBA) annual conference. This year, the committee has the option to attend either the Association for Career and Technical Education's annual conference in Las Vegas or the National School Boards Association annual conference in Orlando. Committee members agreed that the NSBA program offerings were not as worthwhile as they have been in the past and that they may be better suited to attend a conference that focuses on technical education. Mr. Degan made a motion, seconded by Ms. Crook, that committee members attend the Association for Career and Technical Education's annual conference in Las Vegas from November 30th through December 3rd. Motion passed unanimously. Mr. Forget asked committee members to inform Ms. Brito as soon as possible if they would like to attend as it is not that far off.

Ms. Crook made a motion, seconded by Ms. Degan, to adjourn the regular meeting at 7:13 P.M. Motion passed unanimously.

A True Copy Attest

Date: 10-13-2022
(Seal)


Sharon R. Brito, Secretary

Documents reviewed / referred to:

- 09/08/2022 School Committee Packet
- Thank You Note from UCT Graduate, H. DiCarlo
- Thank You Note from UCT Graduate, A. Sciaraffa
- Thank You Letter Dated 08/25/2022 from UCT Graduate, I. Fusco
- Treasurer's Notes Dated 09/08/2022