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## Sundman, Nancy

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**From:** Sundman, Nancy  
**Sent:** Wednesday, January 29, 2020 4:49 PM  
**To:** Cannon, Glenn  
**Subject:** FW: 34 Diandy Road  
**Attachments:** SKM\_454e20012213570.pdf

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**From:** David Coppola [mailto:David@coppolalaw.us]  
**Sent:** Wednesday, January 22, 2020 12:54 PM  
**To:** Sundman, Nancy <NSundman@townofbourne.com>  
**Subject:** Re: 34 Diandy Road

Hi Nancy:

I am emailing you with a draft letter to be sent to Francis Coffey. Please review the letter to ensure all of the information contained in the letter is accurate regarding the Board of Selectman's wishes. I was not present at the meeting.

Additionally as we discussed, Francis Coffey has filed a motion to vacate the foreclosure judgment. He filed the motion on June 28, 2019. When he filed the motion he did not schedule a hearing on his motion. A tactic to ensure he meets the 90 day redemption deadline imposed by the board is for the Town is schedule a hearing on his motion to vacate for shortly after the redemption deadline, March 3rd. As you can see from the attached letter, the final paragraph states that the Town is scheduling the hearing and will be opposing his motion. This means that if he does not comply with the Board's request to show he is a legal heir of the former owner and redeem the property within 90 days, the Town's position regarding redemption will change and the Town will oppose redemption at that hearing by requesting the court deny his motion. Please let me know if you would like me to keep this language in the letter. If you would like to keep this language in the letter, then I can also schedule the hearing now so he is aware of the looming deadline.

Please let me know if you would like any changes to the letter. I would be happy to tailor it to the Town's approval.

Dave

David J. Coppola, Esq.  
Coppola & Coppola, P.C.  
40 South Street, Suite 204  
Marblehead, MA 01945  
Tel: (781) 639-0140  
Fax: (781) 639-4416  
Email: [david@coppolalaw.us](mailto:david@coppolalaw.us)

BA

**COPPOLA AND COPPOLA**  
ATTORNEYS AND COUNSELLORS-AT-LAW  
40 SOUTH STREET, MARBLEHEAD, MA 01945

JAMES E. COPPOLA, JR.  
DAVID J. COPPOLA  
ELAINE A. BYRNE

PH (781) 639-0140  
FAX (781) 639-4416

January 31, 2020

Francis J. Coffey, Esq.  
Attorney at Law  
P. O. Box 103  
North Chelmsford, MA 01863

Re: Town of Bourne v. Leona M. Warsowick  
Land Court Case No. 16 TL 001769  
34 Diandy Road Map 7.3, Parcel 106.00

Dear Attorney Coffey:

I represent the Town of Bourne ("the Town") in the above referenced matter concerning the property located at 34 Diandy Road in Bourne, Massachusetts ("the property"). The Town foreclosed on the property on June 28, 2018. Subsequently, in April of 2019 the Town sent you, as a potential heir of the former owner, a thirty notice to vacate the premises.

At a meeting of the Board of Selectmen ("the Board") held on December 3, 2019, the Board requested you provide verified information showing you have a former legal interest in the property. This information was required to be submitted to the Board for their review on January 9, 2020. It is my understanding that in order to provide the Board with this information the estates of Leona M. Warsowick and Robert F. Regan must be filed for adjudication in the probate court in Barnstable County. As of the date of this letter, the estates of Leona M. Warsowick and Robert F. Regan have not been filed for probate in Barnstable County. You have not complied with the Board's request.

Furthermore if you can provide verified information that you are a legal heir of the former owner, the Town has given you a deadline to make payment in-full of all amounts owed to the Town within ninety days from the Dec. 3, 2019 Selectmen's meeting. Ninety days from the Dec. 3<sup>rd</sup> meeting is approximately, Tuesday, March 3, 2020.

The Town has been reasonable with you regarding the property by not proceeding with further eviction action and refraining from opposing the motion to vacate you filed in the foreclosure case on June 28, 2019. Furthermore your delays in this matter have caused the Town considerable expense regarding the maintenance of the property.

To ensure you comply with the Town's requests, I am scheduling a hearing on your motion to vacate for Thursday, March 5, 2020 in the Land Court. If you have not complied with the Board's requests by the March 3, 2020 deadline, it will be the Town's position to oppose your motion and request the court not allow redemption.

Please do not hesitate to contact me with any questions.

Very truly yours,

David J. Coppola, Esq.

Judge, Debbie

8B

From: Guerino, Thomas  
Sent: Thursday, May 9, 2019 5:10 PM  
To: 'Peter Meier'  
Cc: Judge, Debbie; All Selectmen; Cannon, Glenn  
Subject: RE: Future agenda item 5/28/19

Peter:

I will. Section 22 1/2 ( A) of what general law chapter?

tg

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

From: Peter Meier [mailto:petermeier0606@gmail.com]  
Sent: Thursday, May 9, 2019 5:06 PM  
To: Guerino, Thomas <TGuerino@townofbourne.com>; Cannon, Glenn <gcannon@townofbourne.com>; All Selectmen <Selectmen@townofbourne.com>  
Subject: Future agenda item 5/28/19

Please add this to the 5/28/19 agenda

tion 22A¾. (a) A municipality may designate a parking space at the city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90. The parking space shall be available during the normal business hours of the city or town hall for use by such veteran without charge. The municipality shall erect and maintain a sign designating such a parking space that shall bear the words "Veteran Parking Only – this space is reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense". The parking space shall only be used by a veteran that meets the requirements of this subsection.

Sent from my iPhone X from Verizon.

Peter J Meier  
54 Academy Drive  
Buzzards Bay, MA 02532  
PeterMeier0606@gmail.com  
508-759-7809- Home  
508-274-7184- Cellular

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This email has been scanned for spam and viruses by Proofpoint Essentials. Visit the following link to report this email as spam:

[https://gdsprotect.cloud-protect.net/index01.php?mod\\_id=&mod\\_option=gitem&mail\\_id=57435991-CD7fPGDj5-\\_address=uerino%40townofbourne.com&report=](https://gdsprotect.cloud-protect.net/index01.php?mod_id=&mod_option=gitem&mail_id=57435991-CD7fPGDj5-_address=uerino%40townofbourne.com&report=)



SECTION 9. Chapter 40 of the General Laws is hereby amended by inserting after section 22A½ the following section:-

Section 22A¾. (a) A municipality may designate a parking space at the city or town hall for the parking of a veteran in a motor vehicle that is owned and operated by the veteran and that displays a veteran registration plate issued pursuant to section 2 of chapter 90. The parking space shall be available during the normal business hours of the city or town hall for use by such veteran without charge. The municipality shall erect and maintain a sign designating such a parking space that shall bear the words "Veteran Parking Only – this space is reserved for those who have served. Unauthorized Vehicles May Be Removed At The Vehicle Owner's Expense". The parking space shall only be used by a veteran that meets the requirements of this subsection.

(b) A violation of subsection (a) shall be punished by a fine of \$100 and the city or town may provide for the removal of a vehicle in the manner provided in section 22D. The penalty shall not be a surchargeable offense under section 113B of chapter 175.

SECTION 10. Section 5 of chapter 59 of the General Laws, as appearing in the 2016 Official Edition, is hereby amended by inserting after clause Seventeenth E the following clause:-

8C

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

To either of the Constables in the Town of Bourne: Greetings

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Bourne qualified to vote in Primaries to vote at:

PRECINCTS 1 and 3

BOURNE VETERANS MEMORIAL COMMUNITY CENTER, 239 Main Street, Buzzards Bay, MA 02532

**TUESDAY, THE THIRD DAY IN MARCH, 2020**, from 7:00 o'clock a.m. until 8:00 p.m. for the following purpose:

To cast their votes in the Presidential Primary for the candidates of political parties for the following offices:

|                              |                       |
|------------------------------|-----------------------|
| PRESIDENTIAL PREFERENCE..... | FOR THIS COMMONWEALTH |
| STATE COMMITTEE MAN.....     | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| STATE COMMITTEE WOMAN.....   | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| TOWN COMMITTEE.....          | TOWN OF BOURNE        |

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4th day of February, 2020.

BOARD OF SELECTMEN

\_\_\_\_\_  
Judith MacLeod Froman

\_\_\_\_\_  
James L. Potter

\_\_\_\_\_  
George G. Slade, Jr.

\_\_\_\_\_  
Peter J. Meier

\_\_\_\_\_  
Jared P. MacDonald

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

To either of the Constables in the Town of Bourne: Greetings

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Bourne qualified to vote in Primaries to vote at:

PRECINCT 2

SAGAMORE BEACH FIRE STATION 3, 51 Meetinghouse Lane, Sagamore Beach, MA 02562

**TUESDAY, THE THIRD DAY IN MARCH, 2020**, from 7:00 o'clock a.m. until 8:00 p.m. for the following purpose:

To cast their votes in the Presidential Primary for the candidates of political parties for the following offices:

|                              |                       |
|------------------------------|-----------------------|
| PRESIDENTIAL PREFERENCE..... | FOR THIS COMMONWEALTH |
| STATE COMMITTEE MAN.....     | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| STATE COMMITTEE WOMAN.....   | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| TOWN COMMITTEE.....          | TOWN OF BOURNE        |

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Jared P. MacDonald

COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

To either of the Constables in the Town of Bourne: Greetings

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Bourne qualified to vote in Primaries to vote at:

PRECINCTS 4 and 7  
BOURNE MIDDLE SCHOOL, 77 Waterhouse Road, Bourne, MA 02532

**TUESDAY, THE THIRD DAY IN MARCH, 2020**, from 7:00 o'clock a.m. until 8:00 p.m. for the following purpose:

To cast their votes in the Presidential Primary for the candidates of political parties for the following offices:

|                              |                       |
|------------------------------|-----------------------|
| PRESIDENTIAL PREFERENCE..... | FOR THIS COMMONWEALTH |
| STATE COMMITTEE MAN.....     | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| STATE COMMITTEE WOMAN.....   | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| TOWN COMMITTEE.....          | TOWN OF BOURNE        |

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Given under our hands this 4th day of February, 2020.

BOARD OF SELECTMEN

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\_\_\_\_\_  
Jared P. MacDonald



COMMONWEALTH OF MASSACHUSETTS

Barnstable, ss.

To either of the Constables in the Town of Bourne: Greetings

In the name of the Commonwealth of Massachusetts, you are hereby directed to notify and warn the inhabitants of the Town of Bourne qualified to vote in Primaries to vote at:

PRECINCTS 5 and 6  
ST. JOHN'S PARISH CENTER, 841 Shore Road, Pocasset, MA 02559

**TUESDAY, THE THIRD DAY IN MARCH, 2020**, from 7:00 o'clock a.m. until 8:00 p.m. for the following purpose:

To cast their votes in the Presidential Primary for the candidates of political parties for the following offices:

|                              |                       |
|------------------------------|-----------------------|
| PRESIDENTIAL PREFERENCE..... | FOR THIS COMMONWEALTH |
| STATE COMMITTEE MAN.....     | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| STATE COMMITTEE WOMAN.....   | PLYMOUTH & BARNSTABLE |
|                              | SENATORIAL DISTRICT   |
| TOWN COMMITTEE.....          | TOWN OF BOURNE        |

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4<sup>th</sup> day of February, 2020.

BOARD OF SELECTMEN

\_\_\_\_\_  
Judith MacLeod Froman

\_\_\_\_\_  
James L. Potter

\_\_\_\_\_  
George G. Slade, Jr.

\_\_\_\_\_  
Peter J. Meier

\_\_\_\_\_  
Jared P. MacDonald

8C

COMMONWEALTH OF MASSACHUSETTS  
WILLIAM FRANCIS GALVIN  
SECRETARY OF THE COMMONWEALTH

**Barnstable, SS.**

To either of the Constables of the Town of Bourne

**GREETING:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town of Bourne who are qualified to vote in Primaries to vote at

**PRECINCTS 1 and 3**  
**Bourne Veterans Memorial Community Center**  
**239 Main Street, Buzzards Bay, MA 02532**

on **TUESDAY, THE THIRD DAY OF MARCH, 2020**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the Special State Primary for the candidates for the following office:

**SENATOR IN GENERAL COURT. . . . PLYMOUTH & BARNSTABLE DISTRICT**

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4th day of February, 2020

Board of Selectmen

\_\_\_\_\_  
Judith MacLeod Froman

\_\_\_\_\_  
James L. Potter

\_\_\_\_\_  
George G. Slade, Jr.

\_\_\_\_\_  
Peter J. Meier

\_\_\_\_\_  
Jared P. MacDonald

**COMMONWEALTH OF MASSACHUSETTS**  
**WILLIAM FRANCIS GALVIN**  
**SECRETARY OF THE COMMONWEALTH**

**Barnstable, SS.**

To either of the Constables of the Town of Bourne

**GREETING:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town of Bourne who are qualified to vote in Primaries to vote at

**PRECINCT 2**

**Bourne Fire Station 3, 51 Meetinghouse Lane, Sagamore Beach, MA 02562**

on **TUESDAY, THE THIRD DAY OF MARCH, 2020**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the Special State Primary for the candidates for the following office:

**SENATOR IN GENERAL COURT. . . . . PLYMOUTH & BARNSTABLE DISTRICT**

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4th day of February, 2020

Board of Selectmen

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James L. Potter

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George G. Slade, Jr.

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Jared P. MacDonald

**COMMONWEALTH OF MASSACHUSETTS  
WILLIAM FRANCIS GALVIN  
SECRETARY OF THE COMMONWEALTH**

**Barnstable, SS.**

To either of the Constables of the Town of Bourne

**GREETING:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town of Bourne who are qualified to vote in Primaries to vote at

**PRECINCTS 5 and 6  
ST. JOHN'S PARISH CENTER , 841 Shore Road, Pocasset, MA 02559**

on **TUESDAY, THE THIRD DAY OF MARCH, 2020**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the Special State Primary for the candidates for the following office:

**SENATOR IN GENERAL COURT. . . . . PLYMOUTH & BARNSTABLE DISTRICT**

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4th day of February, 2020

Board of Selectmen

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James L. Potter

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George G. Slade, Jr.

\_\_\_\_\_  
Peter J. Meier

\_\_\_\_\_  
Jared P. MacDonald

**COMMONWEALTH OF MASSACHUSETTS**  
**WILLIAM FRANCIS GALVIN**  
**SECRETARY OF THE COMMONWEALTH**

**Barnstable, SS.**

To either of the Constables of the Town of Bourne

**GREETING:**

In the name of the Commonwealth, you are hereby required to notify and warn the inhabitants of said Town of Bourne who are qualified to vote in Primaries to vote at

**PRECINCTS 4 and 7**  
**Bourne Middle School**  
**77 Waterhouse Road, Bourne, MA 02532**

on **TUESDAY, THE THIRD DAY OF MARCH, 2020**, from 7:00 A.M. to 8:00 P.M. for the following purpose:

To cast their votes in the Special State Primary for the candidates for the following office:

**SENATOR IN GENERAL COURT. . . . . PLYMOUTH & BARNSTABLE DISTRICT**

Hereof fail not and make return of this warrant with your doings thereon at the time and place of said voting.

Given under our hands this 4th day of February, 2020

Board of Selectmen

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Judith MacLeod Froman

\_\_\_\_\_  
James L. Potter

\_\_\_\_\_  
George G. Slade, Jr.

\_\_\_\_\_  
Peter J. Meier

\_\_\_\_\_  
Jared P. MacDonald



**Schiavi, Anthony**

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**From:** Paul O'Keefe <pokeefe@maritime.edu>  
**Sent:** Monday, December 30, 2019 4:54 PM  
**To:** Schiavi, Anthony  
**Cc:** Froman, Judith; Francis Mc Donald  
**Subject:** MMA Tower Lane/Beach Title Search  
**Attachments:** MMA Ownership Plan.pdf; MMA Title Search.pdf

Hi Tony,

I have attached a color keyed map showing ownership of the beach and Tower Lane adjacent to the Beachmoor. I also included the title report from the legal firm. This information was forwarded to Tom Guerino on 12/10/15 and discussed at a meeting on 12/22. I recall Tom, Tim Lydon, George Sala, the past Conservation Agent Brendan Mullaney and past Natural Resources Director Tim Mullen were there. The purpose of the meeting was to discuss the loop road construction north of our existing baseball field and share the title search results.

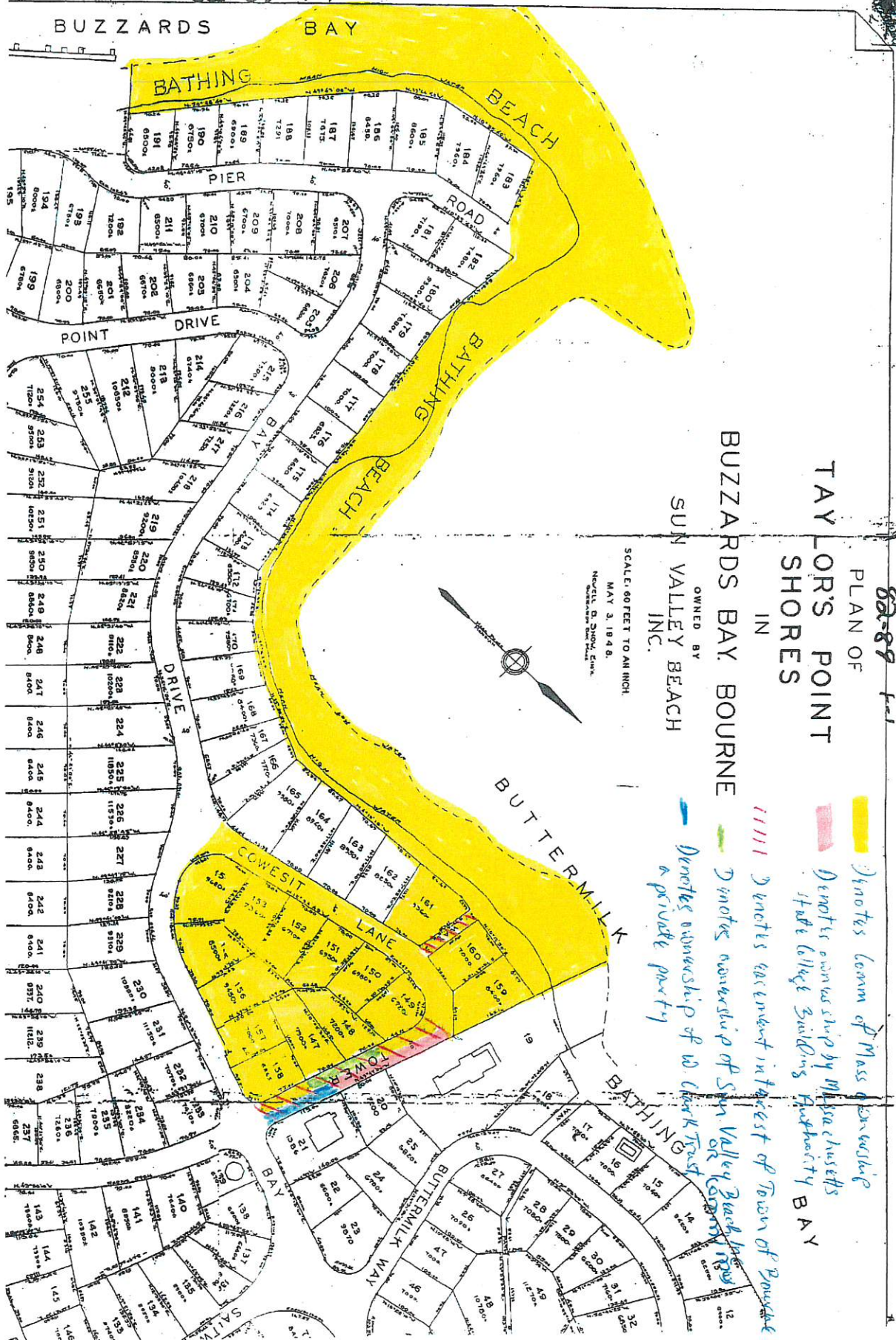
As background, at a previous meeting at the loop road site, Tom Guerino was concerned that the road would cross the town easement to the beach and would therefore need to go before town meeting. Because of this we hired a legal firm specializing in title searches to establish ownership and demarcations of the area in question. As a result of state ownership findings, it did not go before town meeting before constructing the road. The easement to the beach was relocated to its original location per plan and improved as part of the road project.

I believe the town (Tom Guerino) discussed the findings with town counsel, Bob Troy. You would have to confirm this.

Happy New Year!

Paul O'Keefe  
Vice President of Operations  
Massachusetts Maritime Academy  
101 Academy Drive  
Buzzards Bay, MA 02532  
508-830-5063  
fax 508-830-5057





**MARSH, MORIARTY, ONTELL & GOLDER, P.C.**

ATTORNEYS AT LAW  
18 TREMONT STREET, SUITE 900  
BOSTON, MASSACHUSETTS 02108  
(617) 778-5100  
TELECOPIER (617) 720-2565

MICHAEL H. MARSH  
ROBERT J. MORIARTY, JR.  
JEFFREY L. ONTELL  
RICHARD M. GOLDER

EDWARD A. ACTON  
JOSEPH D. CONWAY†  
LAURA L. FITZGERALD  
LAURA J. NEWCOMB  
MICHAEL BUONICONTI  
KATHERINE E. MCGARR

OF COUNSEL  
JOSEPH T. RUBINSTEIN  
† ALSO ADMITTED IN NEW HAMPSHIRE

November 3, 2015

**Via Email and Federal Express**

Peter Turowski  
T2 Architecture, Inc.  
313 Wareham Road  
Marion, Massachusetts 02738

Pedro Hernandez, Project Manager  
Mass Maritime Academy / Facilities Department  
101 Academy Drive  
Buzzards Bay, Massachusetts 02532

- Re: 1. Determination of Record Ownership of the "Flats" (Tidal Lands), "Taylor's Point,"  
"Buttermilk Bay," Buzzards Bay, Bourne (Mass Maritime Academy)  
2. Determination of Record Ownership of the "Way to the Beach," "Tower Lane,"  
"Cowesit Lane," Lots 159, 160, and 161 (Revised Report)

Dear Mr. Turowski and Mr. Hernandez:

You have asked me to report on two matters regarding the Mass Maritime Academy Site located in Bourne. The first task is to report on record ownership and encumbrances regarding certain Tidal Lands located in Buttermilk Bay. The second task is to report on record ownership of a Way Leading to the Beach, Tower Lane, and Cowesit Lane, as further detailed in this Report.

**Tidal Lands (Task #1)**

Reference is made to the plan attached as Exhibit A to this letter, which plan shows the "Tidal Lands" (herein after referred to as the "Subject Tidal Lands") located in the vicinity of The Mass Maritime Academy Campus located in the Town of Bourne. Said Subject Tidal Lands are color-coded yellow on said Exhibit A. Exhibit A is a copy of a portion of the plan recorded at Plan Book 82 Plan 89 which is the 1948 Subdivision Plan of "Taylors Point Shores". The "Subject Tidal Lands" area also referred to as the "Flats" or "Bathing Beach." The Flats or Tidal Lands are historically identified as the land areas between the low and high water marks.

There also exists an area of the beach which extends from the westerly bounds of the subdivision lots to the high water mark. So as not to leave gap between the tidal lands and the subdivision lots, this letter also reports on said area. This portion of the site is color-coded orange on Exhibit A (Plan Book 82, Plan 89) and is hereinafter identified as the "Subject Dry Beach Area."

**Marsh, Moriarty, Ontell & Golder, P.C.**

You have asked us to determine record ownership of the Subject Tidal Lands and to also report on record encumbrances that encumber said Subject Tidal Lands. Our findings are as follows:

**I. Record Ownership / Sources of Title**

As of September 23, 2015, the Board of Trustees of State Colleges acting on behalf of the Commonwealth of Massachusetts is the record owner of the Subject Tidal Lands and Subject Dry Beach Area by virtue of the following documents:

1. Eminent Domain Taking dated June 4, 1959 and recorded at Book 1007, Page 427
2. Eminent Domain Taking dated January 17, 1959 and recorded at Book 1030, Page 33
3. Eminent Domain Taking dated June 9, 1959 and recorded at Book 1046, Page 207
4. Eminent Domain Taking dated August 8, 1962 and recorded at Book 1171, Page 51
5. Eminent Domain Taking dated December 12, 1968 and recorded at Book 1424, Page 419

**Eminent Domain Takings**

For your information and convenience, we have also provided color-coded plans attached as Exhibits B, C, D, E and F, which plans detail the specific areas of the Subject Tidal Lands and Subject Dry Beach Area that were taken by each Eminent Domain Taking.

A. Eminent Domain Taking dated June 4, 1959 and recorded at Book 1007, Page 427 took the following relevant property:

"The fee and soil, together with all easements therein and thereover, in a parcel bounded as follows:"

Northeasterly by Lot No. 190 and 191, on plan hereinafter described;

Southeasterly by southerly line of Lot 191 aforesaid extended southwesterly to low water mark in Buzzards Bay;

Southwesterly by low water mark in said Buzzards Bay; and

Northwesterly by the northerly line of Lot 190 aforesaid extended southwesterly to low water mark in Buzzards Bay.

Reference is made to plan entitled "Town of Bourne Land to be Acquired by Commonwealth of Massachusetts, to be used for Massachusetts Maritime Academy, Scale 1" - 60', August 19, 1953" Revised January 10, 1958, drawn by James L Tyson, Town Engineer, and duly recorded with Barnstable Registry of Deeds.



**Marsh, Moriarty, Ontell & Golder, P.C.**

That portion of the above described property, the bathing beach adjacent to Lots 190 and 191 to the low water mark of Buzzards Bay is color coded blue on a copy of Plan Book 82 Page 89 attached as Exhibit B.

**B. The Eminent Domain Taking at Book 1030, Page 33 took the following relevant property:**

Description

"The land and buildings and private ways, all situated in that part of Bourne, Barnstable County, called Buzzards Bay and any rights therein and thereover obtained by grant, prescription or otherwise, said land and ways being more particularly bounded and described as follows:"

Northeasterly by Lots numbered 187, 188 and 189, inclusive;  
Southeasterly by the southeasterly line of Lot 189 extended southwesterly to low water mark on Buzzards Bay;  
Southwesterly by low water mark of Buzzards Bay to the northwesterly line of Lot 187 extended southwesterly to low water mark;  
Northwesterly by the northwesterly line of Lot 187 extended southwesterly to low water mark.

Being all of the bathing beach on the shores of Buzzards Bay lying between the aforesaid lot lines and low water mark as shown on a plan of land entitled "Plan of Taylor's Point Shores in Buzzards Bay, Bourne owned by Sun Valley Beach, Inc., Scale 60' to an inch, May 3, 1948, Newell B. Snow, Engr., Buzzards Bay, Mass." duly recorded in Barnstable County Registry of Deeds in Plan Book 82, Page 89.

The portion of the above described property, the bathing beach adjacent to Lots 187-189 to the low water mark of Buzzards Bay is color-coded purple on a copy of the plan at Plan Book 82, Page 89 attached as Exhibit C.

**C. The Eminent Domain Taking at Book 1046, Page 207 took the following relevant property:**

Description

"The land and buildings and private ways, all situated in that part of Bourne, Barnstable County, called Buzzards Bay and any rights therein and thereover obtained by grant, prescription or otherwise, said land and ways being more particularly bounded and described as follows:"

Northeasterly by Lot 186;  
Southeasterly by the southeasterly line of Lot 187 extended to southwesterly to low water mark on Buzzards Bay;  
Southwesterly by low water mark of Buzzards Bay to the northwesterly line of Lot 186 extended southwesterly to low water mark;  
Northwesterly by the northwesterly line of Lot 187 extended southwesterly to low water mark.



**Marsh, Moriarty, Ontell & Golder, P.C.**

Being all of the bathing beach on the shores of Buzzards Bay lying between the aforesaid lot lines and low water mark as shown on a plan of land entitled "Plan of Taylor's Point Shores in Buzzards Bay, Bourne owned by Sun Valley Beach, Inc., Scale 60' to an inch, May 3, 1948, Newell B. Snow, Engr., Buzzards Bay, Mass." duly recorded in Barnstable County Registry of Deeds in Plan Book 82, Page 89.

That portion of the above described property, the bathing beach adjacent to Lot 186 to the low water mark of Buzzards Bay is color coded green on copy of the plan at Plan Book 82 Page 89 attached as Exhibit D.

D. The Eminent Domain Taking at Book 1171, Page 51 took the following relevant property:

Description

The land and buildings and private ways, all situated in that part of Bourne, Barnstable County, Massachusetts called Taylor's Point, Buzzards Bay, and any rights therein or thereover obtained by grant, prescription or otherwise, said land and ways particularly described as follows:

A parcel of land bounded on the Northwest and Northeast by the mean low water mark on Buzzards Bay.

Bounded on the Southeast by Lot 182 and the beach in front of said Lot 182.

Bounded on the Southwest by Lot 183 and the beach in front of said Lot 183.

All of the above parcels are shown on plan entitled "Plan of Taylor's Point Shores in Buzzards Bay, Bourne, owned by Sun Valley Beach, Inc., Scale 60' to an inch, May 3, 1948, Newell B. Snow, Engr. Buzzards Bay, Mass." duly recorded in Barnstable County Registry of Deeds in Plan Book 82, Page 89.

Lots and a portion of the beach to the low water mark of Buzzards Bay, opposite Lots 182 and 183, were taken. This portion of the above described land is color coded pink on Exhibit E. (Note that land extending from Pier Road to the low water mark was not taken.) Note the subsequent Taking at Book 1424, Page 419 takes the Tidal Flats located at the end of Pier Road.

E. The Eminent Domain Taking at Book 1424, Page 419 took the following relevant property:

Description

"The land hereby taken is shown on a plan entitled "Plan of Taylor's Point Shores in Buzzards Bay, Bourne, owned by Sun Valley Beach, Inc." dated May 3, 1948, by Newell B. Snow, Eng'r., Buzzards Bay, Mass., recorded with Barnstable County Registry of Deeds in Plan Book 82, Page 89, and is described as follows:

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The "Bathing Beach," as shown on said plan, lying between the Westerly boundaries of Lots 159 and 160 and the Westerly end of a "way," and the low water line of Buttermilk Bay, between the Westerly, Northwesterly and Northerly boundaries, as the case may be, of Lots 161 through 182, inclusive and the Northerly end of Pier Road and said low water line between the Northerly boundary of Lot 183 and said low water line and between the Westerly boundaries and Southwesterly boundaries, as the case may be, of Lots 183 through 191, all according to said plan, and the low water line of Buzzards Bay."

Note: This Taking overlaps with the previous Eminent Domain Takings, and appears to be a Confirmatory Taking of the lands taken by the previous Takings.

"All land between Lots 159 to and including Lot 191 between the lots and the end of the ways to the low water mark are taken by the Commonwealth by this Taking and are color coded orange on Exhibit F.

### Town of Bourne Eminent Domain Taking

A review of the above-referenced Eminent Domain Takings disclosed that all of the Subject Tidal Lands and Subject Dry Beach Area were taken from the Town of Bourne, who was named as the record (assessed) owner. Finding that a bit unusual that the Town would have been the predecessor in title to the Subject Tidal Lands, we examined further back in the chain of title, which disclosed that the Town of Bourne took the same Subject Tidal Lands by Eminent Domain Taking dated February 28, 1958 and recorded at Book 998, Page 241.

Said Town of Bourne Taking took the following property:

Two parcels of land in said Bourne, being all of the bathing beach on the shores of Buttermilk Bay and Buzzards Bay and lying between the lot lines and low water mark of Buttermilk Bay and Buzzards Bay, owned by Sun Valley Beach, Inc., a New Hampshire corporation with a usual place of business in Boston, Suffolk County, Massachusetts, as shown on a plan entitled "Plan of Taylor's Point Shores in Buzzards Bay, Bourne, owned by Sun Valley Beach, Inc., Scale 60 feet to an inch, May 3, 1948. Newell B. Snow, Engineer, Buzzards Bay, Mass." duly recorded in the Barnstable County Registry of Deeds in Plan Book 82, Page 89, bounded and described as follows:

#### Parcel One

Bounded: Easterly, Southeasterly and Southerly by lots numbered 159 to 180 inclusive, and by Lot 182, as shown on the above-described plan, 1510 feet more or less; Southerly by the northerly end of Pier Road and the northerly line of Lot 183, and this northerly line extended westerly to the low water line of Buzzards Bay; Westerly, Northwesterly, Northerly and Westerly again by the low water mark of Buzzards Bay and Buttermilk Bay to the northerly boundary of Lot 159 extended northwesterly to low water mark of Buttermilk Bay; and Northerly by the northerly line of Lot 159 extended northwesterly to low water mark of Buttermilk Bay.

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### Parcel Two

Bounded: Easterly and Southeasterly by lots numbered 183 to 191 inclusive; Southeasterly by the southerly line of Lot 191 extended southwesterly to low water mark of Buzzards Bay; Southwesterly and Westerly by lot water mark of Buzzards Bay about 676 feet more or less; and Northerly by the northerly line of Lot 183 extended southwesterly to low water mark of Buzzards Bay.

The above described parcels to include all of the beach in front of Lots 159 to 180-182, and in front of Lots 183 to 191 inclusive, as shown on said plan.

"The said land is taken for the municipal purpose of public bathing beaches, recreational and public purposes generally."

### II. Encumbrances

The above described Subject Tidal Lands and Subject Dry Beach Area is encumbered by the following record documents:

1. License No. 4043 to construct a bulkhead and wharf in Buzzards Bay issued by the Commonwealth of Massachusetts Department of Public Works on January 27, 1958 and recorded at Book 998, Page 207.
2. License No. 512 to construct and maintain two breasting platforms and dredge in Buzzards Bay issued by the Commonwealth of Massachusetts Department of Environmental Quality Engineers on November 9, 1978 and recorded at Book 2846, Page 36.
3. License No. 3717 to construct and maintain a pile-held float system with ramp and mooring dolphin issued by the Commonwealth of Massachusetts on February 23, 1994 and recorded at Book 9092, Page 1.
4. License No. 8851 to reconstruct and maintain a bulkhead and wharf and to construct and maintain floating docks, utilities, a marine operations building and a storm water collection system issued by the Commonwealth of Massachusetts on June 1, 2001 and recorded at Book 13959, Page 276.
5. Order of Conditions under M.G.L. C. 130 S105 issued by Commonwealth of Massachusetts Department of Environmental Management dated July 10, 1980 at Book 3133, Page 289.
6. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-337 acknowledged May 29, 1985 and recorded at Book 4671, Page 108.
7. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1353 issued on December 21, 2000 and recorded at Book 13576, Page 274.

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8. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1354 issued on February 8, 2001 and recorded at Book 14067, Page 209.
9. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1382 issued on August 23, 2001 and recorded at Book 14450, Page 210.
10. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1412 issued on December 28, 2001 and recorded at Book 15863, Page 250.
11. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1469 issued October 2, 2003 and recorded at Book 17773, Page 287.
12. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1581 issued November 21, 2005 and recorded at Book 20544, Page 154, as affected by Certificate of Compliance acknowledged June 20, 2006 and recorded in Book 21132, Page 1.
13. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1693 issued December 20, 2007 and recorded at Book 22595, Page 106.
14. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1587 issued November 21, 2005 and recorded at Book 20571, Page 75.
15. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1693 and recorded at Book 23140, Page 196, as affected by Certificate of Compliance dated November 6, 2008 and recorded at Book 23294, Page 93.
16. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1737 acknowledged May 19, 2009 and recorded at Book 23831, Page 243, as affected by Certificate of Compliance dated September 1, 2011 and recorded at Book 25664, Page 77.
17. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1739 issued July 24, 2009 and recorded at Book 23922, Page 224.
18. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1821 issued December 10, 2012 and recorded at Book 27015, Page 51.
19. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1822 issued December 10, 2012 and recorded at Book 27015, Page 67.
20. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1878 issued December 9, 2013 and recorded at Book 27888, Page 146, as affected by Certificate of Compliance issued December 18, 2014 and recorded at Book 28617, Page 345.

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21. Possible applicability of Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1894 issued June 9, 2014 and recorded at Book 28252, Page 80.
22. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1908 issued April 3, 2015 and recorded at Book 28812, Page 249.
23. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-989 acknowledged July 7, 1993 and recorded at Book 8782, Page 27.
24. Order of Conditions issued by Bourne Conservation Commission DEQE File No. SE7-1086 acknowledged January 4, 1995 and recorded at Book 9543, Page 46.
25. Terms and provisions of the Eminent Domain Takings.

Most of the above captioned Orders of Condition do not provide enough information for us to determine whether said orders affect the Subject Tidal Lands. For those orders for which are not able to determine their relevance we have recited "possible applicability". Most of the Orders appear to encumber Assessors Parcel 23-3 and Assessors Parcel 50.

In fact only the Order of Conditions listed as Item 23 above specifically mentions Taylors Point, Buzzards Bay.

In addition to the above described record title exceptions, the Subject Tidal Lands area also subject to the following:

26. Common law rights of fishing, fowling and navigation in and to so much of the premises lying between the high and low water mark of Buzzards Bay.
27. Title to so much of the premises as lies below the present or former low water mark of Buzzards Bay.
28. Rights of the United States of America under the doctrine of federal navigational servitude.
29. Possible rights of the public, if any, acquired by previous adverse use of, or by virtue of local custom, with respect to the special nature of seaside beaches to use any part of the land seaward of the extreme high water line as a public beach or recreation area.
30. Terms and provisions of M.G.L. Chapter 91A, as amended.

**Way to Beach / Cowesit Lane, Tower Lane, and Vicinity (Task #2)**

Secondly, you have also asked us to report on record ownership and report on encumbrances affecting "Way to the Beach," "Cowesit Lane," "Tower Lane," Lots 159, 160 and 161, and surrounding area to said Lanes, which includes Lots 147-158 inclusive.



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Reference is made to the plan entitled "Town of Bourne, Roads in Taylors Point Shores, Buzzards Bay, Laid Out as Town Ways by the Selectmen dated December 1952" prepared by the Town Engineer and recorded at Plan Book 108, Page 53. The Subject Area of this Task is shown on Exhibit X to this Report, which is a color-coded version of the above-referenced plan.

- A. The "Way to the Beach" is color-coded red on said Exhibit X
- B. Cowesit Lane is color-coded yellow on said Exhibit X
- C. Tower Lane is color-coded red on said Exhibit X
- D. Lots 159, 160 and 161 are color-coded yellow on said Exhibit X
- E. Remainder of Subject Area in vicinity of Cowesit Lane and Tower Lane would include Subdivision Lots 147 through 158, inclusive, is color-coded yellow on said Exhibit X

### I. Record Ownership / Sources of Title

As of September 23, 2015, the Board of Trustees of State Colleges acting on behalf of the Commonwealth of Massachusetts (hereinafter the "Comm of Mass") is the record owner of the following:

- A. The fee interest in Cowesit Lane by virtue of the Eminent Domain Taking dated December 12, 1968 and recorded in Book 1424, Page 419.
- B. Subdivision Lots 147 through 158 inclusive by virtue of the following deeds:
  - i. Deed dated May 8, 1968 and recorded at Book 1399, Page 935 (Lot 147)
  - ii. Deed dated July 23, 1968 and recorded at Book 1406, Page 181 (Lot 148)
  - iii. Deed dated May 21, 1968 and recorded at Book 1401, Page 366 (Lot 149)
  - iv. Deed dated December 2, 1969 and recorded at Book 1459, Page 298 (Lot 150)
  - v. Deed dated May 21, 1968 and recorded at Book 1401, Page 376 (Lot 151)
  - vi. Deed dated May 21, 1968 and recorded at Book 1401, Page 371 (Lot 152)
  - vii. Deed dated March 18, 1970 and recorded at Book 1466, Page 100 (Lot 153)
  - viii. Deed dated June 25, 1968 and recorded at Book 1405, Page 482 (Lot 154)
  - ix. Deed dated May 24, 1968 and recorded at Book 1401, Page 369 (Lot 155)
  - x. Deed dated May 8, 1968 and recorded at Book 1399, Page 936 (Lot 156)
  - xi. Deed dated March 18, 1970 and recorded at Book 1466, Page 103 (Lot 157)

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- xii. Deed dated May 22, 1968 and recorded at Book 1402, Page 272 (Lot 158)
- C. The fee interest in that portion of the "Way to the Beach" as shown on Plan Book 108, Page 53 extending into the Subject Dry Beach Area and the Tidal Lands by virtue of eminent domain taking dated December 12, 1968 and recorded at Book 1424, Page 419. The fee interest to that portion of the Way to the Beach located between Lots 160 and 161 is also vested in the Comm of Mass by virtue of the Derelict Fee Statute M.G.L. Chapter 183 §58. (For explanation of Derelict Fee Statute, see Page 11 of this Report.)
- D. i. Lot 159 by virtue of Deed dated May 5, 1970 and recorded at Book 1470, Page 1194  
ii. Lot 160 by virtue of Deed dated July 31, 1970 and recorded at Book 1480, Page 281  
iii. Lot 161 by virtue of Deed dated December 23, 1969 and recorded at Book 1459, Page 299

**WITH RESPECT TO OWNERSHIP OF TOWER LANE, SEE SEPARATE SECTION ON TOWER LANE THAT FOLLOWS.**

Note that the "Way to the Beach" includes the Tidal Lands and the Dry Beach Area, as delineated on Plan Book 108, Page 53.

**II. Determination of Limit and Extent of Tower Lane and Cowesit Lane**

With respect to determining where Tower Lane ends and Cowesit Lane begins, a review of the record plan at Plan Book 82 Plan 89 discloses that Lots 147, 148, 149 and 158 abut the southerly bound of Tower Lane. Lot 149 also abuts Cowesit Lane. The significant bounds for Lot 149 are as follows:

|               |  |
|---------------|--|
| "WESTERLY     | by said Cowesit Lane, 39.48 feet, more or less;                                |
| NORTHWESTERLY | by said intersection of Cowesit Lane and Tower Lane, 72.08 feet, more or less; |
| NORTHEASTERLY | by said Tower Lane, 44.21 feet, more or less;"                                 |

Lots 159 and 160 abut the intersection of Cowesit Lane and Tower Lane on the West.

The significant bounds for Lot 159 are as follows:

"A certain parcel of land situated on the Northwesterly side of Cowesit Lane in the Town of Bourne, County of Barnstable and Commonwealth of Massachusetts, said parcel being more specifically bounded and described as follows:

|               |   |
|---------------|---|
| SOUTHEASTERLY | by said Cowesit Lane, 69.29 feet, more or less;   |
| SOUTHERLY     | by Lot 160 as shown on the hereinafter mentioned plan, 100.00 feet, more or less;           |
| WESTERLY      | by the Bathing Beach as shown on the hereinafter mentioned plan, 70.00 feet, more or less;" |

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The significant bounds for Lot 160 are as follows:

"A certain parcel of land situated on the Westerly side of Cowesit Lane in the Town of Bourne, County of Barnstable and Commonwealth of Massachusetts, said parcel being more specifically bounded and described as follows:

|           |   |
|-----------|---|
| EASTERLY  | by said Cowesit Lane, 70.00 feet, more or less;   |
| SOUTHERLY | by a Way as shown on the hereinafter mentioned plan,<br>100.00 feet, more or less;                |
| WESTERLY  | by the Bathing Beach as shown on the hereinafter mentioned<br>plan, 70.00 feet, more or less; and |
| NORTHERLY | by Lot 159 as shown on the hereinafter mentioned plan,<br>100.00 feet, more or less."             |

Based upon our review of the relevant deed descriptions, the Eminent Domain Takings, and recent plans, Exhibit Z to this report has been color coded to show where we believe the intersection of Cowesit and Tower Lane is.

### III. Tower Lane

Determination of the fee record ownership of Tower Lane presents a very complicated set of facts. Our findings are as follows:

1. The Eminent Domain Taking by the Town of Bourne of Tower lane dated February 27, 1953 and recorded at Book 835, Page 458 is not a taking in fee. (See Exhibit Y for sketch of easement parcel.)

The following recitation appears in said document:

"The interest taken in said land is the "easement of public ways." The purpose for which said land is taken is to provide the location of the Town Way..."

So at this point in time, the Town only has an easement interest in Tower Lane. Note that said Taking also takes an easement regarding other land not the subject of this report.

2. The record owner of the fee interest at the Time of said above-referenced taking was Sun Valley Beach, Inc., the subdivision developer of the lots and ways shown on Plan Book 82, Plan 89.
3. Reference is made to the Derelict Fee Statute, M.G.L. c. 183 §58. In its simplest terms said statute provides that in certain circumstances an abutter to a way acquires a fee interest in said way to the centerline of said way.

"Section 58. Every instrument passing title to real estate abutting a way, whether public or private, watercourse, wall, fence or other similar linear monument, shall be construed

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to include any fee interest of the grantor in such way, watercourse or monument, unless (a) the grantor retains other real estate abutting such way, watercourse or monument, in which case, (i) if the retained real estate is on the same side, the division line between the land granted and the land retained shall be continued into such way, watercourse or monument as far as the grantor owns, or (ii) if the retained real estate is on the other side of such way, watercourse or monument between the division lines extended, the title conveyed shall be to the center line of such way, watercourse or monument as far as the grantor owns, or (b) the instrument evidences a different intent by an express exception or reservation and not alone by bounding by a side line."

Tower Lane is abutted by Lots 147, 148, 149 and 158 on the South, and Lots 19, 20 and 21 on the North.

4. Southerly Side of Tower Lane

- a. In 1948, Sun Valley conveyed out Lot 147, by deed recorded at Book 700, Page 58. However said deed includes language which arguably excludes conveying any fee in Tower Lane:

"Excluding herefrom and saving and reserving unto the Grantor and its assigns or successors in title, from and out of the premises hereby granted, such rights of way, easements or any other rights as may be now existent or construed to be existent in and to any streets, ways, lots of land or to or in the waters, beaches and beachfronts of Buzzards Bay and Buttermilk Bay, which lie Northerly, Southerly and Westerly of and from the Easterly bound of Lots No. 167, No. 225, No. 244, No. 267, No. 280, and Lot No. 300, as shown on a plan marked "Taylor's Point Shores, Buzzards Bay, Bourne," dated May 3, 1948, Newell B. Snow, Engineer, Buzzards Bay, Mass., which plan is recorded with Barnstable County Registry of Deeds.

Meaning and intending hereby, anything to the contrary notwithstanding, not to convey to the grantee herein any rights of whatsoever kind and nature, in and to the aforescribed area, lots, streets, ways, beaches, beachfronts and waters as shown on said plan hereinbefore referred to."

- b. In 1948 Sun Valley conveyed Lot 148 by deed recorded at Book 703, Page 230. Said deed includes language which arguably excludes conveying fee interest in Tower Lane:

"Excluding herefrom and saving and reserving unto the Grantor and its assigns or successors in title, from and out of the premises hereby granted, such rights of way, easements or any other rights as may be now existent or construed to be existent in and to any streets, ways, lots of land or to or in the waters, beaches and beachfronts of Buzzards Bay and Buttermilk Bay, which lie Northerly, Southerly and Westerly of and from the Easterly bound of Lots No. 167, No. 225, No. 244, No. 267, No. 280, and Lot No. 300, as shown on a plan marked "Taylor's Point Shores, Buzzards

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Bay, Bourne," dated May 3, 1948, Newell B. Snow, Engineer, Buzzards Bay, Mass., which plan is recorded with Barnstable County Registry of Deeds.

Meaning and intending hereby, anything to the contrary notwithstanding, not to convey to the grantee herein any rights of whatsoever kind and nature, in and to the aforescribed area, lots, streets, ways, beaches, beachfronts and waters as shown on said plan hereinbefore referred to."

- c. In 1950, Sun Valley conveyed Lot 149 by deed recorded at Book 747, Page 430. Said deed did not explicitly exclude any fee interest in Tower Lane.
- d. In 1951 Sun Valley conveyed Lot 158 by deed recorded at Book 794, Page 334. Said deed did not exclude any fee interest in Tower Lane.

It would appear therefore that the Comm of Mass under the Derelict Fee Statute acquired a fee interest in Tower Lane at least to its centerline abutting Lots 149 and 158.

\*It also appears that as of the date of the above-referenced Sun Valley deeds, Sun Valley Beach, Inc. still was the record owner of the fee interest in Tower Lane to the centerline abutting Lots 147 and 148, but see also below paragraph.

\*The deed language referred to in the above-described paragraphs (a) and (b) is vague and ambiguous and arguably the fee in Tower Lane was not excluded, and all that was excluded were rights and easements. If the fee was intended to be excluded, then the fee interest is still held by Sun Valley Beach, Inc. If the fee interest in Tower Lane was not excluded then the fee interest in Tower Lane abutting Lots 147 and 148 would be vested in the Comm of Mass by virtue of the Derelict Fee Statute

5. Northerly Side of Tower Lane

- a. In April 1948 Sun Valley Beach, Inc. conveyed a 1.838 acre parcel shown on Plan Book 82, Page 73 by deed recorded at Book 693, Page 41. Said 1.838 acre parcel results from the combination of Lots 19 through 25 inclusive as shown on Plan Book 82, Page 89. The relevant lots that abut Tower Lane are Lots 19, 20 and 21. The plan at Book 82, Page 73 does not show Tower Lane abutting said parcel. Arguably therefore said deed did not convey any fee interest in Tower Lane under the Derelict Fee Statute and thus the fee in Tower Lane would have remained in Sun Valley. Said deed, for purposes of granting right of way over certain streets and ways, refers to a subdivision plan dated April 2, 1948, which is not of record. It is likely that the subdivision plan at Plan Book 82, Page 89 was the plan intended to be referred to. Said property is re-conveyed back to Sun Valley Beach, Inc. by deed recorded at Book 698, Page 490. Sun Valley then reconveyed Lots 19 and 20 (plus Lot 25) by deed recorded at Book 812, Page 371. The significance of the re-conveyance is that when Sun Valley reconveys Lots 19 and 20, the Derelict Fee Statute then comes into effect. Lots 19, 20 and 25 eventually end up in



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Massachusetts State College Building Authority by virtue of 2011 deed at Book 25192, Page 153.

So therefore with respect to Lots 19 and 20, which abut Tower Lane, Massachusetts State College Building Authority acquired the fee interest in Tower Lane abutting Lots 19 and 20 to the centerline by virtue of the Derelict Fee Statute.

- b. With respect to Lot 21, which also abuts Tower Lane, Sun Valley conveyed Lot 21 and other lots by deed recorded at Book 753, Page 306. Said deed conveyed the fee to the centerline of Tower Lane by virtue of the Derelict Fee Statute.

The current record owner of said lot and the fee to the centerline of Tower Lane is Linda J. Clark and Jean F. Clark, Trustees of W. Clark Trust u/d/t dated July 1, 1978 and recorded at Book 2788, Page 49 by virtue of deed recorded at Book 2788, Page 57.

### **6. Informational Note Only:**

That portion of Tower Lane located easterly of Bay Drive was laid out in 1950 by the Town of Bourne by taking recorded at Book 778, Page 104 and shown on plan at Book 97, Page 125.

"The interest taken is the easement of a public way."

### **IV. Way to the Beach**

1. Similar to Tower Lane, the Town took an easement interest in the way to the beach as shown on Plan Book 108, Page 53 by virtue of the Eminent Domain Taking at Book 838, Page 458.
2. The Eminent Domain Taking by the Commonwealth at Book 1424, Page 419 took in fee that portion of the Way to the Beach extending into the subject Tidal Flats and Subject Dry Beach Area.
3. The remaining fee interest in said way was acquired by the Comm of Mass by virtue of the Derelict Fee Statute by virtue of deeds of Lots 160 and 161 at Book 1480, Page 281 and at Book 1459, Page 299.

### **V. Encumbrances (Comm of Mass Property)**

The Comm of Mass property is encumbered as follows:

1. Possible applicability of terms and provisions of Lease by and between the Commonwealth of Massachusetts and Massachusetts State College Building Authority dated September 1, 1976 and recorded in Book 2517, Page 320 (cannot determine location of Subject Area).

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2. Rights of others to use the streets and ways shown on Plan Book 82 Plan 89.
3. Easement Agreement for installation of water mains by and between Buzzards Bay Water District and Sun Valley Beach Inc. dated July 5, 1949 and recorded at Book 725, Page 565.
4. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE7-1469 issued on October 2, 2003 and recorded at Book 17773, Page 287.
5. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE7-1581 issued on November 21, 2005 and recorded at Book 20544, Page 154, as affected by Certificate of Compliance recorded on June 27, 2006 at Book 21132, Page 1.
6. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE7-1587 issued on November 21, 2005 and recorded at Book 20571, Page 75, as affected by Certificate of Compliance recorded on December 5, 2007 at Book 22517, Page 174.
7. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE7-1693 issued on December 20, 200 and recorded at Book 22595, Page 106, as amended by Amended Order of Conditions recorded at Book 23140, Page 196.
8. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE7-1737 dated May 19, 2009 and recorded at Book 23831, Page 243, as affected by Certificate of Compliance recorded on September 7, 2011 at Book 25664, Page 77.
9. Order of Conditions issued by Bourne Conservation Commission, DEP File No. SE-1739 issued on July 24, 2009 and recorded at Book 23922, Page 224.
10. Water rights as set forth or referred to in deed recorded at Book 690, Page 314.
11. 1949 Easement for installation of water main recorded at Book 725, Page 565.

(Note: With respect to the Orders of Conditions, we cannot determine applicability from available records at the Registry of Deeds.)

**VI. Reference is Made to Our Exhibit XX, which Exhibit Denotes  
Record Ownership of the Following Areas**

1. Subject Tidal Lands
2. Subject Dry Beach Area
3. Fee in Cowesit Lane
4. Fee in Way to the Beach
5. Fee in Lots 159, 160, and 161
6. Fee in Tower Lane

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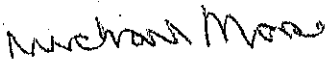
Said Exhibit is color-coded to denote ownership. It also denotes the Public Easement Areas in favor of the Town of Bourne. Except for the fee in Tower Lane, record ownership of all the Subject Areas is vested in the Board of Trustees of State Colleges acting on behalf of the Comm of Mass. As delineated, record ownership to the fee in Tower Lane is shared by the following:

- a. Board of Trustees of State Colleges acting on behalf of the Comm of Mass
- b. Massachusetts State Colleges Building Authority
- c. Sun Valley Beach, Inc. or the Board of Trustees (see Page 13)\*
- d. Linda F. Clark and Joan F. Clark, Trustees of the W. Clark Trust u/d/t July 1, 1978 and recorded at Book 2788, Page 49

This Report does not cover matters which could not be ascertained by a title examiner in the Barnstable County Registry of Deeds. Copies of relevant title materials are enclosed. If you have any questions or need further clarification, please contact me.

**This Report Supersedes and Replaces the previous Report dated October 13, 2015. All Exhibits to that previous report have also been replaced and superseded.**

Very truly yours,



Michael H. Marsh

MHM/kms  
Enclosures

## VOTE OF THE BOARD OF SELECTMEN

I, the Clerk of the Board of Selectmen of the Town of Bourne, Massachusetts, certify that at a meeting of the board held February 4, 2020, of which meeting all members of the board were duly notified and at which a quorum was present, the following vote was passed, all of which appears upon the official record of the board in my custody:

- VOTED:
- (1) that the Town shall issue a bond or bonds in an aggregate principal amount not to exceed \$6,558,000 less any grants received (the "Bonds") pursuant to Chapters 29C and 44 of the General Laws and a vote of the Town passed October 30, 2017 (Article 2), which authorized a total borrowing of \$6,558,000 for the construction of sewers and other water pollution control facilities identified in such vote (the "Project");
  - (2) that in anticipation of the issuance of the Bonds the Treasurer is authorized to issue an interim loan note or notes (the "Notes") from time to time in an aggregate principal amount not to exceed \$4,660,410;
  - (3) that each Bond or Note shall be issued as a single registered security, and sold to the Massachusetts Clean Water Trust (the "Trust") at a price determined pursuant to the Financing Agreement;
  - (4) that the Treasurer is authorized to determine the date, the form, the maximum interest rate and the principal maturities of each Bond and Note, and to execute a Financing Agreement (or Agreements) with the Trust with respect to the sale of the Bonds and Notes, such date, form and maturities and the specific interest rate or rates of the Bonds and Notes to be approved by a majority of the Board of Selectmen and the Treasurer and evidenced by their execution of the Bonds or Notes;
  - (5) that all action taken to date by the Town and its officers and agents to carry out the Project and its financing, including the execution of any loan commitment or agreement by the Treasurer, are hereby ratified, approved and confirmed; and
  - (6) that the Treasurer and the other appropriate Town officials are each hereby authorized to take any and all actions necessary or convenient to carry out the provisions of this vote, including execution and delivery of the Financing Agreement and the Project Regulatory Agreement relating to the Project.

I further certify that the vote was adopted at a meeting open to the public, that no vote was taken by secret ballot, that notice stating the place, date, time and agenda of the meeting (which agenda included the adoption of the above vote) was filed with the Town Clerk and a copy thereof posted in a manner conspicuously visible to the public at all hours in or on the municipal building that the office of the Town Clerk is located or, if applicable, in accordance

with an alternative method of notice prescribed or approved by the Attorney General as set forth in 940 CMR 29.03(2)(b), at least 48 hours, not including Saturdays, Sundays and legal holidays, prior to the time of the meeting and remained so posted at the time of the meeting, that no deliberations or decisions in connection with the sale of the Bonds or Notes were taken in executive session, and that the official record of the meeting was made available to the public promptly and remains available to the public, all in accordance with G.L. c.30A, §§18-25, as amended. I further certify that the vote has not been amended, supplemented or revoked and remains in effect on this date.

Dated: February 4, 2020

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Clerk of the Board of Selectmen

**Election Workers to expire June 30, 2020:**

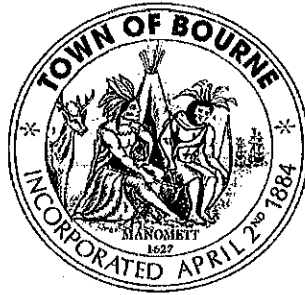
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| Christine Anne McManus |
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| Susan H. Moeck |
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| John F. Adams |
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# Town of Bourne

## Board of Selectmen

Bourne, MA February 4, 2020

**Beverly L. Higgins, 8 Fairway Circle, Bourne, MA 02559**

The undersigned Selectmen of Bourne has this day appointed you

**Election Worker**

This appointment is valid until: **June 30, 2020**

Sworn to before me

This .....day of .....

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Town Clerk

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Selectmen

of

Bourne







Bourne

Bourne

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## **TOWN OF BOURNE FINANCIAL MANAGEMENT POLICIES & GUIDELINES**

### **INTRODUCTION**

The following financial management policies and guidelines set forth the board framework for overall planning and management of the Town of Bourne's financial resources. The policies are intended to be advisory in nature and serve as a point of reference for all policy-makers, administrators and advisors. It is fully understood that Town Meeting retains the full right to appropriate funds and incur debt at levels it deems appropriate, subject to statutory limits such as Proposition 2 1/2.

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

- Cash Solvency: The ability to pay bills in a timely fashion
- Budgetary Solvency: The ability to annually balance the budget
- Long- Term Solvency: The ability to pay future costs
- Service Level Solvency: The ability provide needed services
- Infrastructure Solvency The ability to maintain infrastructure

It is equally important that the Town maintain flexibility in its finances to ensure that the Town is positioned to react and respond to changes in the economy and new service challenges without measurable financial stress.

### **BUDGET GUIDELINES**

The Town defines a balanced budget as a budget in which revenues are greater than or equal to expenditures. The Commonwealth of Massachusetts requires all municipalities to present a balanced budget each year as a basic budgetary constraint intended to ensure that a government does not spend beyond its means and its use of resources for operating purposes does not exceed available resources over a defined period of time.

General Fund Operating Budget (GFOB) is defined as the operating budget (Town, Schools, Shared Costs and Debt Service). It does not include general articles, off-budget expenses, Enterprise Funds or Capital.

## **FISCAL RESERVES GUIDELINES**

The Town's accumulation of prudent reserves is critically important to the fiscal health of the community for many reasons. Reserves are a resource to sustain a community during an economic downturn and may provide for cash flow needs until major revenues are received, reducing or eliminating the need for short-term borrowing. Rating agencies and investors also view reserves favorably as evidence of the community's financial flexibility.

The Town will endeavor to establish and maintain the following reserve levels:

- A. Free Cash: To have a certified Free Cash balance of at least 5% the current Fiscal Year General Fund Operating Budget at the beginning of each Fiscal Year. The Free Cash Balance will be maintained at 5% of the General Fund Operating Budget during the Fiscal Year.
- B. Stabilization Fund: To maintain a long term Stabilization Fund for unforeseen emergency expenses and capital projects in accordance with Mass. General Laws Chapter 40 Section 5B. To maintain a Stabilization Fund balance of at least 6% of the General Fund Operating Budget. The Town may appropriate funds from the Stabilization Fund for any lawful purpose with a two-thirds vote of Town Meeting.
- C. Capital Stabilization Fund: To maintain a Capital Stabilization Fund for large capital items and to support the annual capital plan. Once the Stabilization Fund reaches 6% of the General Fund Operating Budget funds may be accumulated in the Capital Stabilization Fund
- D. ISWM Stabilization Fund: Funds set aside to cushion the impact on the Operating Budget after the landfill closes.
- E. Employer Health Insurance Trust Fund: It shall be the policy of the Town of Bourne to hold a reserve in the Health and Dental dedicated fund an amount to be less than four (4) months of average costs of Health and Dental assessments including all administrative fees. Additionally, at no time shall the fund hold less than one million six hundred thousand dollars (\$1,600,000) in reserves at the close of any fiscal year. The Town Administrator shall report the status of the Trust Fund to the Board of Selectman in February of each year and make the necessary adjustments in conjunction with the Town Finance

Director. Should an appropriation be necessary, the Town Administrator shall bring forth an article for a Special or Annual Town Meeting for approval by the Board of Selectmen.

- F. Overlay Reserve: To establish an annual Overlay Reserve for abatements and exemptions at an appropriate level based on an analysis of historical data and specific circumstances such as a property revaluation project. The Board of Assessors will recommend annually in December the amount required to be kept in the Overlay Reserve for next Fiscal Year.
- G. Reserve Fund: To budget an annual Reserve Fund under the authority of the Finance Committee for unexpected and unforeseen budget needs of at least 0.5% of the General Fund Operating Budget
- H. OPEB Trust Fund: To maintain an OPEB Trust Fund to accumulate funds for Other than Pension Post-employment benefits. The long term goal for the Trust Fund is to fully fund the OPEB Liability.

#### **USE OF RESERVES GUIDELINES**

To the maximum extent possible, the Town shall only appropriate reserves as follows:

Free Cash, Stabilization Fund and Overlay Surplus: funds in excess of reserve policies established for each may be used for one-time, non-recurring expenses such as capital projects and equipment, emergency expenses and to fund the OPEB Trust Fund.

Capital Stabilization Fund will be used to support the annual capital budget and to fund large capital expenditures.

The Town should strive to appropriate no more than 50% of the Free Cash Balance that is in excess of the 5% policy as an operating revenue with a majority vote of Town Meeting.

It is understood that at times, reserves may have to be used to support the operating budget due to state aid reductions or other revenue and/or expenditure challenges. Any time that the use of reserves is necessary in a fiscal year to maintain an adequate level of essential services and the reserve fund balances fall below established guidelines the Town should

strategically plan on reducing and then eliminating the use of reserves in the coming fiscal years and should develop a plan to bring reserves to recommended guideline levels within two fiscal years.

### **FINANCIAL PLANNING & MONITORING GUIDELINES**

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

- A. Multi-Year Financial Forecasting: Establish and maintain an on-going financial planning model that projects revenues and expenses over the next five (5) years by using five (5) years of historical data and other fiscal trend analysis.
- B. Monitor and Track Current Year Financial Activities: Constantly monitor revenue and expenditure activities and publish periodic reports for policy-makers, administrators and department heads. To meet this objective, the Town should implement improved financial management systems to create the required revenue and expenditure reports, reduce duplication of effort, and maximize productivity of finance department staff.
- C. Revolving Funds
- D. Waterways Fund

### **CAPITAL PLANNING & DEBT SERVICE MANAGEMENT GUIDELINES**

The Town's willingness and ability to address its capital needs (infrastructure, facilities, equipment, etc.) is very important to the community's quality of life and fiscal stability. At the same time, the Town must maintain a sound debt structure and debt ratio to ensure that all debt obligations will be satisfied without sacrificing the quality of on-going operations and/or burdening future generations with large debt obligations. To that end, it is the policy of the Town to undertake the following:

- A. Capital Improvement Plan: The Town shall establish and maintain a five (5) year capital improvements plan, to update the plan annually, to

develop capital financing strategies consistent with these policies, and to integrate any new operating costs associated with capital projects into the annual operating budget. The Town should capitalize expenditures of at least \$20,000 and having a useful life of more than five years.

- B. Debt Service Guidelines: The Town will budget 3 - 5% of the general fund annual operating budget (excluding debt service) on debt service for capital maintenance and equipment costs. This amount does not include the debt for Community Preservation, Enterprise funds, debt exclusions and self-supported debt.
- C. Debt Maturity Guidelines: The Town will strive to limit the average maturity of its debt to five (5) to ten (10) years. By adopting a conservative maturity schedule, the Town will not only reduce interest costs on its bonds but also recognize that capital needs will continue to be identified and recommended.
- D. Alternative Financing Strategies: The Town will continually pursue opportunities to acquire capital by means other than conventional borrowing such as grants and low-and no-interest loans programs such as MWPA T and Farmers Home.
- E. Cash Flow: The Town will prepare and update cash flow statements for each bonded project to borrow only those funds necessary, and to schedule debt payments over the course of the fiscal year.
- F. Reconciliation & Record keeping: The Town will periodically reconcile debt- related records of the Finance Director with the Town Treasurer, and will annually determine if any unissued bond authorizations needed to be rescinded at Annual Town Meeting.
- G. Internal Borrowing: The Town will utilize the option of internal borrowing when fiscally prudent to do so.
- H. Debt Issuance: The Town will work closely with its Financial Advisor and Bond Counsel to ensure that all legal requirements are met and that the lowest possible interest rate can be obtained. To that end, the Town Administrator, Finance Director and Town Treasurer will prepare and present a financial presentation to rating agencies in advance of a

permanent bond issue, and every effort will be made to secure as high a bond rating as possible.

- I. Capital Budget: The annual Capital Budget for Town and Schools includes direct cash expenditures, interest and principal of new bonds and debt service on prior bonded expenditures and will be maintained at 3% - 5% of the general fund operating budget. This amount does not include the debt for Community Preservation, Enterprise funds, debt exclusions and self-supported debt.

### **POST EMPLOYMENT BENEFIT LIABILITIES GUIDELINES**

A. Pension Liabilities: The Town will fund pension liabilities on a pay as you go basis and will annually fund the recommended payments to the County Pension Fund and Mass. Teachers Retirement Fund.

B. OPEB (OTHER THAN PENSION POST EMPLOYMENT BENEFITS LIABILITIES)

Town Funding: In addition to the current year pay-as-you-go contributions the Town will fund OPEB as follows:

Within the Budget: The Town will fund the budget line for OPEB beginning with \$50,000 as the base amount in FY2019. The following year will be budgeted at the previous year's budget plus 10% of the actual new growth for the current year. Each year thereafter the OPEB budgeted amount will be the previous year's budgeted amount plus 10% of the current year's actual new growth.

By Article: The Town will fund an article at the fall special town meeting (or spring STM if no fall STM) in the amount of 10% of the excess free cash over policy. Minimum Funding: During any fiscal year the Town shall fund no less than \$250,000 in addition to the annual budget obligations until the normal annual required contribution is met.

Enterprise Funding: In addition to the current year pay-as-you-go contributions the enterprise funds will fund OPEB as follows:

By Article: The enterprise funds minimum funding will be the annual required contributions (ARC). Additional contributions to fully fund the required liability should be reviewed annually to align with the lifetime of the



enterprise funds.

### **REVENUE ENHANCEMENT GUIDELINES**

To continue to maintain a reasonable level of services to its citizens and meet all future financial obligations, the Town will proactively seek new revenue sources in the following manners:

- A. Property Valuations: In addition to the mandated three (3) year property revaluation, the Town will perform interim valuation updates to keep pace with the real estate market and void wide swings in assessed values. In addition, the Town will regularly inspect properties to ensure up-to-date property data and identify additional sources of "new growth" revenue.
- B. Receivables: The Town will rapidly move all unpaid taxes into Tax Title when authorized by law, and will increase collection rates by increasing the use of a deputy collector and by attaching Town payments to vendors who also owe taxes to the Town.
- C. Foreclosure Properties: The Town will aggressively auction off foreclosed properties that are not reserved for town use, conservation or affordable housing purposes.
- D. Non- Tax Revenue: The Town will annually review and analyze fees and charges such as Licenses, Permits, Fees, etc. to determine if they are appropriate and comparable.

### **INVESTMENTS GUIDELINES: (Refer to Town of Bourne Investment Policy for full guidelines)**

Massachusetts law requires that public funds be invested at the highest possible rate of interest reasonably available, taking into account safety, liquidity and yield. Therefore, these guidelines are intended to further the objective of securing the highest return that is consistent with safety of principal while meeting the daily cash requirements for the operation of Town business.

**POLICY ENDORSEMENTS**

Approved:

  
Town Administrator

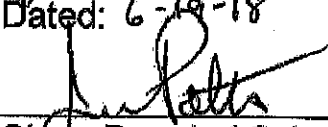
Dated:

  
Chairman, Board of Selectmen

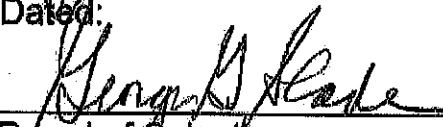
Dated:

  
Vice Chairman, Board of Selectmen


Dated: 6-19-18

  
Clerk, Board of Selectmen

Dated:

  
Board of Selectmen

Dated: 6/19/2018

  
Board of Selectmen

Dated: 6/19/2018

  
Chairman, Finance Committee

Dated: 6/19/2018

  
Finance Director

Dated: 6/19/2018

  
Town Treasurer

Dated: 6/19/2018