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**TOWN OF BOLTON
BOARD OF SELECTMEN SPECIAL MEETING
FACILITIES & PUBLIC SAFETY SUBCOMMITTEE
MONDAY, JULY 1, 2024
MINUTES**

The Board of Selectmen Facilities and Public Safety subcommittee held a meeting Monday, July 1, 2024, with First Selectman Rodney Fournier presiding. Also in attendance were Selectmen: Tim Sadler and Gwen Marrion. Members of the public were present: Arlene Fiano and Jim Preuss and the clerk for the meeting Kathy McCavanagh.

1. Call to Order.

R. Fournier called the meeting to order at 8:35 a.m.

2. Heritage Farm Trail Update.

G. Marrion gave an update on the trail. She participated in two site walks last week (one site walk included our Town Engineer Joe Dillon).

A couple points that brought up during the walks:

- We should move the trail up against the field instead of on Bolton Center Road, to give walkers and bikers a safer place to commute away from traffic.
- We should discontinue the trail through the farm parking lot. They can just walk across the parking lot to rejoin the next section of trail.
- We should consult the national database for endangered species to make sure we are not disturbing any they may be out there.

G. Marrion believes the next step in this project is to assign a point person to lead the rest of this project. A person that will organize and make best steps to finalize the location and final drawings to be brought back to this committee for approval. G. Marrion then asked A. Fiano if she would be willing to be the point person and she accepted.

Two other things to think about and consider:

- will the trail go through buildable land even if we are hugging the tree line.
- Should a cut in Tom Elmore's land be made that will circumvent the fields being used? – something the public might prefer.

Time wise looking at and working on these new ideas may be a problem. The project needs to move forward very soon. If another walk is to be done it would need to be done before July 16th when this subcommittee meets again. K. McCavanagh to reach out to J. Rupert and see if A. Fiano can speak with J. Dillon about these new ideas and another walk.

3. Discussion on Location for Trail Parking.

The current area being considered is on Stony Road in a building lot (see attachment A). This area is considered the best out of the six sites that were being reviewed. G. Marrion has also revised the letter to Stony Road residents (see attachment B). Next steps should be to send the revised letter and copy of the map to all residents abutting the trail in that area. We should allow 2 weeks for any questions/comments to come in. All questions/comments will be emailed to Kathy, and she will forward them to G. Marrion. We will put this on the August agenda for the BOS to vote on.

4. Discussion on Cubles Drive.

R. Fournier started with the options for the town on taking over Cubles Drive.

- a) The town can take over Cubles Drive – the town is not interested in doing this.
- b) The town can do nothing due to the lack of maintenance on the road and the fact there is no current association overseeing that piece of road.

- c) The town can take over just the maintenance of the approx..190 ft in question here. Currently Vernon already plows the road.

The town would not own the road; just do maintenance.

Questions to be answered:

- I. Is there work that needs to be done to bring this piece of road up to code?
- II. Would/could the town make a width adjustment to the road?

G. Marrion said she thinks the town should take ownership of the road but with conditions.

- Just because the town takes ownership of this road does not mean we will take ownership of other roads. This is a through road which she feels the town should own and maintain.
- An association would need to be formed with the residents this 150 ft. impacts and they would be responsible for paying for an attorney to draft a deed. The town should not have to put money into this.
- The town would then be responsible for future maintenance and ownership.

T. Sadler agreed, the overall cost of maintaining this piece of road should not be too much, an association would need to be created on the homeowner's part and they would pay to have the deed drafted, and this does not mean the town would be taking over any other private roads if they are not through roads.

R. Fournier brought up the fact that the forming of an association and drafting of a deed could take more than 6 months to be done. Maybe a temporary agreement could be put in place for now?

The town could also accept to do maintenance but not take ownership of the road. Advantages to this would be that the town doesn't pay for association or legal fees, the town would have less responsibility and it would be cheaper for the town.

Some questions that need to be considered and answered before the town were to move forward in any direction (maintenance and/or ownership) are:

- I. What is the extent of the town's maintenance on its roads now?
- II. What is the town's protocol for current maintenance?
- III. What type of run-off drainage issues affect this span of road currently?
- IV. What would a maintenance agreement with the town look like and entail?
- V. How much of these residents' property would we be responsible for now?
- VI. How much more work would this make for our highway department?
- VII. Would the town need to change the road to complete taking ownership of it? (And would this mean having to change deeds and who pays for that)?

At the end of this discussion all three selectmen agreed that a maintenance only contract would be their decision if the town were to move forward. A review of Attorney Barger's opinion letter for guidance, a discussion with the Town of Vernon for what they do for maintenance on their roads and having another subcommittee meeting with J. Rupert and J. Butrymovich in

attendance (July 16, 2024) should be done before this is brought to the BOS for a vote.

5. Discussion on Locations for New Town Office Building. (List of Pros/Cons). Sheet with pros and cons of where a new town office building should go was reviewed.

- Adding on to the existing town hall was strongly opposed.
- G. Marrion also brought up that the current town hall is in a nationally historic district and any addition would need to have a minimal impact.
- Trooper's office has a lot of wetlands and would not be very visible.
- Notch Road was agreed to be the best option for a new town office building.
- Also, brought up were the high school and center school. They should be kept in mind as enrollment keeps declining and this may present an option if they are not sustainable.

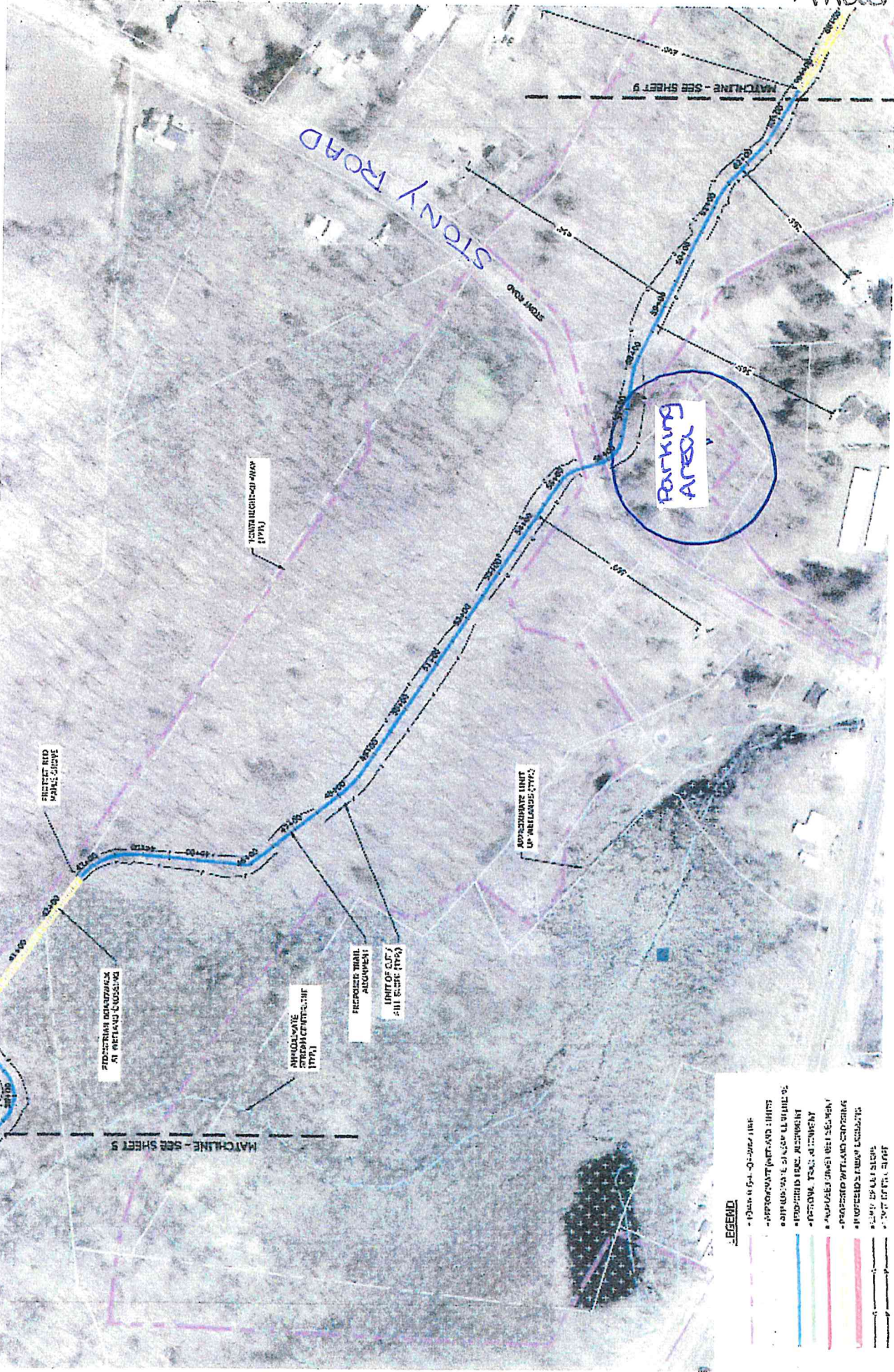
6. Adjournment.

Meeting was adjourned at 9:37 a.m.

Respectfully submitted.,

Kathy McCavanagh

Please see the minutes of subsequent meetings for the approval of these minutes and any corrections hereto.



- LEGEND**
- - - - - 100' x 100' G.P.A. - Q=200' LINE
 - - - - - APPROXIMATE PROPERTY LINES
 - - - - - APPROXIMATE EASES
 - - - - - APPROXIMATE TRAIL ALIGNMENT
 - - - - - PROPERTY LINE ALIGNMENT
 - - - - - PROPERTY TAX ALIGNMENT
 - - - - - APPROXIMATE LIMIT OF NEIGHBORHOODS
 - - - - - APPROXIMATE LIMIT OF NEIGHBORHOODS
 - - - - - APPROXIMATE LIMIT OF NEIGHBORHOODS
 - - - - - APPROXIMATE LIMIT OF NEIGHBORHOODS
 - - - - - APPROXIMATE LIMIT OF NEIGHBORHOODS

EXISTING RED MARKING SURVEY

APPROXIMATE TRAIL ALIGNMENT

APPROXIMATE LIMIT OF NEIGHBORHOODS

APPROXIMATE TRAIL ALIGNMENT

LIMIT OF C.O.T. (ALL EASES)

APPROXIMATE LIMIT OF NEIGHBORHOODS

PARKING AREA

MATCHLINE - SEE SHEET 9

MATCHLINE - SEE SHEET 9

STONY ROAD

6/24/24

Dear Stony Road Resident,

This letter is being sent to you on behalf of the Bolton Board of Selectmen. It concerns a proposed parking area off of Stony Road to provide access to the Nathan Hale Greenway.

The Nathan Hale Greenway is a 10-mile corridor of open space located in the towns of Bolton, Coventry and Andover. It was given to those towns by the State in 2016 after plans for a new Route 6 were abandoned. Bolton's portion of the open space consists of 170 acres of woodlands, streams, ridges and wetlands. The Town plans to create a narrow, unpaved, low-impact walking path through the property for all to enjoy.

A number of options for parking to access the trail have been considered, including two areas on South Road, two on Route 6, the area behind England Plaza and the area off the end of Howard Road. All present obstacles which make them unacceptable locations for public parking.

A former house site on Stony Road, approximately a quarter mile east of the intersection with Route 6, is the best site for a parking area. It is not in close proximity to any homes, it is level and has a solid base and it can be created at little expense and effort. Please see the attached map depicting the area. The parking area will be unpaved and will accommodate about 10 cars.

After considering many possible points of access to the Nathan Hale corridor, this location is the best. Please know that our goal is to provide access to the open space for all from a location that considers safety and is sensitive to the neighborhood.

If you wish to share feedback about this proposal please submit comments to us through HR@boltonct.gov.

Thank you,

The Facilities and Public Safety Subcommittee

Pam Sawyer

Tim Sadler

Gwen Marrion



Town of Bolton

222 BOLTON CENTER ROAD • BOLTON, CT 06043

BOARD OF SELECTMEN
(860) 649-8066
FAX (860) 643-0021

July 11, 2024

Dear Stony Road and South Road Resident,

This letter is being sent to you on behalf of the Bolton Board of Selectmen. It concerns a proposed parking area off of Stony Road to provide access to the Nathan Hale Greenway.

The Nathan Hale Greenway is a 10-mile corridor of open space located in the towns of Bolton, Coventry and Andover. It was given to those towns by the State in 2016 after plans for a new Route 6 were abandoned. Bolton's portion of the open space consists of 170 acres of woodlands, streams, ridges and wetlands. The Town plans to create a narrow, unpaved, low-impact walking path through the property for all to enjoy.

A number of options for parking to access the trail have been considered, including two areas on South Road, two on Route 6, the area behind England Plaza, the area off the end of Howard Road, and two on Stony Road.

Of these options, a former house site on Stony Road, approximately a quarter mile east of the intersection with Route 6, is the best site for a parking area. It is not in close proximity to any homes, it is level and has a solid base and it can be created at little expense and effort. Please see the attached map depicting the area. The parking area will be unpaved and will accommodate about 10 cars.

After considering many possible points of access to the Nathan Hale corridor, this location is the best. Please know that our goal is to provide access to the open space for all from a location that considers safety and is sensitive to the neighborhood.

If you wish to share feedback about this proposal please submit comments to us through HR@boltonct.gov.

Thank you,

The Facilities and Public Safety Subcommittee

Pam Sawyer
Tim Sadler
Gwen Marrison

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ATTORNEYS AT LAW

23 OAK STREET

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MARTIN S. MICHELSON

(1984-1982)

*ALSO ADMITTED TO PRACTICE
IN THE STATE OF MASSACHUSETTS

August 16, 1993

Board of Selectmen
222 Bolton Center Road
Bolton, CT 06043

Opinion No. 77

Attn: John C. Guinan,
Administrative Officer

Re: Private Roads/Maintenance

Dear Mr. Guinan:

The Selectmen have asked that the undersigned consider issues concerning private roads in the Town of Bolton and the possible maintenance thereof by the Town.

Background

There are a number of private roads within the Town of Bolton and the Town's policy has been to leave the maintenance of such roads to the property owners. The exception to this has been the Town's policy to plow these roads if they are not otherwise plowed, when there is an accumulation of four inches or more of snow. This is done to provide for the passage of emergency vehicles to properties located on these roads.

In prior correspondence you have posed some of the concerns of the Selectmen:

1. If the Town were to perform yearly maintenance (grading and drainage) in these roads, would that set a precedent for all private roads?
2. Does the Town have the responsibility for seeing that these roads are maintained in such a condition that emergency vehicles are able to pass?
3. What liability will the Town incur if it begins to maintain private roads?

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4. If the Town wanted to take the roads over, what would the procedure be?

5. If the Town agrees to do yearly maintenance on private roads, will this precedent require the Town to continue to do such maintenance and perhaps do additional work in the future?

6. What effect does the notation "approved" by the Board of Selectmen and the Zoning Commission have on the Rosedale map in 1953? Does this imply approval of the roads as well as the lots? (Does this imply acceptance of the roads?)

The Town has received requests from owners of property located on specific "private" roads for assistance in maintaining the roads. Apparently, the developers responsible for laying out the roads and developing the abutting lots have abrogated and/or disavowed responsibility for their maintenance. This has left the roads in a situation where passage, particularly in the spring, can be a problem.

Discussion

In responding to your inquiry, we have researched the law on dedication of highways in general, both under the statutory framework and under common law. We have researched the issue of the Town's obligation and/or liability with regard to providing maintenance on non-Town owned roads. We have reviewed the maps provided by Mr. Grillo as well as selected Minutes of the Selectmen's meetings and the Town meetings with regard to particular actions taken in the past. We have reviewed the Municipal Services Corporation's index of the opinions of other municipal attorneys concerning the issues of private roads and we have reviewed treatises on municipal law and Law Review articles on the issues you raise. As indicated in your prior correspondence, this is a complex area of inquiry which raises many, many considerations.

Issues

I. Private road or public highway.

The distinction is important because the duties and liabilities of a town with regard to a road arise upon it being defined as a "highway." The key factors in determining whether a road is a "highway" are whether control of the road is vested in the state or a political subdivision thereof and whether it is open to the public. The physical characteristics of the road are largely irrelevant. Thus, the distinction between a public highway and a private road has been summarized as follows:

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the essential feature of a highway is that it is a way over which the public at large has a right to pass. Accordingly, the term highway is ordinarily used in contra-distinction to a private way over which a limited number of persons have the right to pass.

Namphassuc Point Property Owners Ass'n v. Public Utilities Commission, 154 Conn. 674, 680, 228 A.2d 513 (1967).

Over the years, four methods have developed by which a public highway can be established:

1. Through direct legislative action;
2. Through court proceedings pursuant to C.G.S. section 13a-63;
3. Through town proceedings pursuant to C.G.S. sections 13a-61, 13a-7; or
4. Through the private dedication of land and its acceptance by the public.

9 Practice Book, section 49.2 at 785 (1993).

We are concerned with the last alternative, the private dedication of a roadway and its acceptance by the public. This is a common law doctrine, meaning that it is a doctrine developed through court decisions.

The two essential elements of a common law dedication of a road are:

- (1) The owner's intention to dedicate, which intention may be either express or implied; and
- (2) An acceptance of the dedication by the proper authorities or the general public.

DiCioccio v. Wethersfield, 146 Conn. 474, 479, 152 A.2d 308 (1959). Whether there has been a dedication or an acceptance are both questions of fact. Id. at 479; Phillips v. Stamford, 81 Conn. 408, 411, 71 A. 361 (1908).

Once there has been a dedication by a land owner, there must also be some form of acceptance by the public for a "highway" to be established. An acceptance, like a dedication, may be either expressed or implied. Acceptance can be implied from a variety of circumstances, but the two most telling are the actual use of the road by the public and

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the conduct of the Town with respect to the dedicated tract. DiCioccio v. Wethersfield at 479. With respect to the Town's conduct, the Supreme Court has stated:

Where a municipality grades and paves a street, maintains and improves it, removes snow from it, or installs storm or sanitary sewers, lighting, curbs, or sidewalks upon it, there exists a factual basis for finding an implied acceptance of the street by the municipality.

Meshberg v. Bridgeport City Trust Co., 180 Conn. 274, 283, 429 A.2d 865 (1980). Exemption of the road from taxation is also a factor pointing toward acceptance by the municipality. Id.

With regard to the roads in question, the owner's/developer's failure to maintain the roads could be considered evidence of intention to dedicate the land. Based upon the facts as we understand them to be, and notwithstanding the Town's limited snowplowing, the Town's conduct does not seem to have reached the common law standard of acceptance of the developer's dedication. Moreover, since our understanding is that the roadways in question are not "thoroughfares" in the sense that they are conduits for public travel, there probably is no evidence of acceptance of the dedication by general public usage.

II. Effect of dedication and acceptance.

Were it found by a court of law that the private roads had been dedicated by the developer and that the Town through its conduct with regard to the road or the public with regard to its use of the road accepted such dedication, this would give rise to a responsibility on the Town to maintain such roads as "highways."

III. Signing of maps by Board of Selectmen and/or

Beginning in 1951, maps showing the layout of lots and some of the roads in question were submitted to the Selectmen and/or the Planning Commission. In several instances, the Board of Selectmen and/or the Planning Commission signed these maps as "approved."

Maps or plans which would fall into this category and which involve some of the roadways in question are:

1. "Map of Rosedale Bolton and Vernon, Connecticut Property of the Holl Investment Company Scale 1" = 100' Jan. 1934 Hayden L. Griswold C.E. Revised

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November 1950" which was signed by the Selectmen on July 27, 1951.

2. "Map of Lakeside edition number 2 Bolton, Conn. Property of the Holl Investment Company Scale 1" = 40' July 1944 Hayden Griswold C.E." approved July 27, 1951 by the Board of Selectmen.

3. "Revised portion of Bolton section map of Rosedale Bolton & Vernon, Conn. Property of the Holl Investment Co. Scale 1" = 50' Jan. 1953 Hayden L. Griswold C.E." which was approved March 16, 1953 by the Board of Selectmen and on March 23, 1953 by the Zoning Commission.

4. "Hickory Valley subdivided property of Ueuclid Reopell Town of Bolton Bolton, Conn. Survey: May 1959 by A. V. Giacomini, Surveyor Scale 1" = 100'" which was approved by the Bolton Planning Commission November 15, 1960.

Absent evidence of the dedication and the acceptance of such dedication referred to above, the signing and approving of the maps showing the lots and the layout of the roads by the Board of Selectmen and/or the Planning Commission would not constitute public acceptance of these roads as "highways."

An analogous situation would be the Planning Commission today approving the layout of a private common driveway in a subdivision. The approval of the physical layout is not the equivalent of public acceptance of the private drive as a "highway."

IV. Removal of snow by the Town of Bolton.

As indicated, the Town of Bolton, like other towns in the area, will remove snow from these private roadways when the snow accumulation reaches a depth of four inches or more. This limited service intended to leave these roadways open for the passage of emergency vehicles, is not conduct, in our opinion, sufficient to constitute Town acceptance.

V. Authority of the Town to maintain private property.

Since the roadways in question have not yet attained the status of "highways," they must be considered as private property. What is the Town's authority for maintaining private property?

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We believe the Town has authority under its police power to protect the health and welfare of its citizenry and if this requires removal of snow from private roadways to ensure the passage of emergency vehicles, it is authorized to do so.

The second inquiry, however, is more difficult. That is, what is the Town's authority to maintain private roadways beyond such limited and necessary snowplowing? There is a dearth of authority on this issue. However, it can be safely stated that municipal powers are limited to those expressly granted by statute, special act or charter. In some instances, the powers may be implied. There is no statute nor special act authorizing the maintenance by the Town of private roadways. The Town Charter, 5.1(C)18., provides in pertinent part that the Board of Selectmen:

May administer in whole or in part the maintenance of any public building, park, playground, road or other facility under the care of any office, board, commission or agency of the Town except any thereof under the care of the Board of Education;

(Emphasis added.)

Therefore, the statutes and the Charter are silent as to the authority of the Town of Bolton to maintain private property. Certain functions of municipalities have been held to fall within the proprietary business powers of a municipality and not within its government functions. This rule has been applied to municipalities securing electrical or water service for its inhabitants as well as to making street improvements.

In such work the City is sometimes viewed as an agent of the property owners whose property is required to pay for the improvements.

McQuillan, Municipal Corporations, § 37.03 (3rd Ed.).

Therefore, while Bolton lacks authority to conduct maintenance in its governmental capacity on private roads, it would be able to do so as the "agent" of the property owners. Under our circumstances, it would seem to be beneficial to categorize the Town as the agent of the private road owners. Doing so would make it much more difficult to imply acceptance on the part of the Town.

Given this background, it seems that a possible solution to this problem would be to come to an arrangement with the various owners of the private roads by which they would petition the Town to act as their agent in securing

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improvements for the roadways in question. If the Selectmen are not desirous of accepting such roads, the petitions should expressly deny an intent to dedicate the roads to the Town and would waive any right of the owners of the private roads, and their successors, to bring an action to force the Town to either formally accept, or further improve said roads. In order to put further weight behind the agency relation, it would be appropriate to assess the road owners some charge for the improvements.

VI. Title questions.

We have not searched the land records with regard to the abutting property owners. There is some indication that these owners were originally granted the right to pass and repass over the roadways in question by the developer. This would indicate that the title to the roadway probably remained in the hands of the developer. There is further indication that the executor of E. J. Holl's estate, may have executed deeds reconveying some roadways to the abutting property owners.

Any agreement reached with the property owners would have to be based upon an underlying title search as to who those owners are.

VII. Creation of an association.

Mr. Guinan had suggested that perhaps the property owners could create a non-profit association for the maintenance of the roads. This certainly would seem to be a positive step. If it were done, the Town could, perhaps, contract directly with the association.

I am not sure if there are associations involved in some of these neighborhoods. Forming an association will take cooperation among the property owners. This may or may not be feasible.

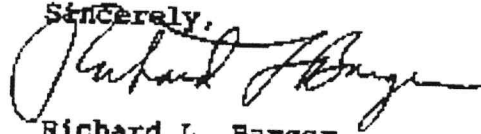
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Conclusion

Hopefully, the foregoing will assist the Selectmen in their consideration of the issues here involved. The Selectmen are meeting tonight to discuss this matter further. I will attend their meeting and be available for any assistance they would like me to render.

Best regards.

Sincerely,

A handwritten signature in cursive script, appearing to read "Richard L. Barger".

Richard L. Barger

RLB:ant