

ARTICLE THIRTY-THREE: *By Selectman Michael L. Butler and Planning Board Member Michael Podolski.* To see if the Town will vote to amend the Revised By-laws of the Town of Dedham by deleting Section 250-7, Repairs and Improvements to Private Ways, in its entirety and replacing it with the following:

Section 250-7. Temporary Repairs to Private Ways

The Director of Public Works may, at his discretion, undertake such action as may be necessary to keep private ways which have been open to public use for a period in excess of ten (10) years passable for emergency vehicles.

This By-law shall not be construed so as to allow complete repaving or rebuilding projects for any private way, nor shall any such repairs exceed in cost the amount of one thousand five hundred dollars (\$1,500) for any given private way in any given fiscal year.

The liability limit of the Town for any claim arising from any such work on any private way shall be Five Thousand Dollars (\$5,000).

Section 250-8. Laying Out and Improvements of Private Ways

Owners of land abutting any private way that is open to public use may petition the Board of Selectmen to lay out and accept such way as public and improve such way to standards acceptable to the Board of Selectmen. The Board may determine to approve such petition and establish standards for the improvement of such way in accordance with a policy implemented by said Board after due notice and hearing. The following conditions shall be met:

- a. 100% of the owners of land abutting on the private way or who otherwise own any part of the way shall agree to the laying out and acceptance of the way as public and the construction of such improvements to the way as the Board of Selectmen shall determine.
- b. 100% of said owners shall agree to pay such portion of the cost of laying out and improving the private way as the Board of Selectmen may determine to assess as a betterment, which assessment may be up to and including 100% of such costs. Such costs shall include the costs to the Town of ascertaining ownership of the way and related properties and obtaining such property rights as are necessary to public use and maintenance of the way. Said betterment assessment shall be equally assessed on all benefited properties if all benefited properties are existing or potential single family lots and otherwise shall be assessed proportionately pursuant to G.L. c.80, and pursuant to G.L. c.80, §13, interest shall be at a rate equal to 2% above the rate of interest chargeable to the Town for the project to which the assessments relate, as determined by the Town Treasurer. All improvements and/or assessments shall be in accord with applicable Massachusetts General Laws.
- c. Prior to any expenditure by the Town on construction, said owners and all others

specially benefited by such layout and improvement or owning property in which rights must be acquired by the Town for use and maintenance of such ways shall, as applicable: (i) release the Town from all liability in connection with the project; (ii) agree to indemnify and hold harmless the Town from all claims of injury or damage by third parties; (iii) grant to the Town and its agents, contractors and employees a license to enter the way to perform the project; (iv) agree to provide for the ongoing maintenance and repair of said way unless and until said way shall be accepted as a public way; (v) waive rights to appeal the amount of the betterment assessment pursuant to G.L. c.80, §§5-10A; and (vi) waive claims for damages from any taking of land or easements for public way purposes in connection therewith, such agreement to be acknowledged by a notary public and to be binding upon successors and assigns of such property owners.

d. Upon completion of the layout of the way as a public way by the Board of Selectmen, including referral of such layout to the Planning Board for its recommendation and filing of the layout plan with the Town Clerk pursuant to G.L. c.82, §§21-24, such private way shall be submitted to the next Annual Town Meeting for acceptance by the Town as a public way.

or take any other action relative thereto. *Referred to By-Law Review Committee and Finance Committee for study and report.*