



# Proposed Changes to the Town Bylaws Related to Repairs and Improvements to Private Ways

Dedham Middle School

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# Please note

- This presentation reflects the views of M. Butler and M. Podolski only. It does not necessarily represent the views of the other Selectmen or members of the Planning Board. The Boards have not taken a position on this proposal
- Town Meeting, which meets Monday, May 19 will vote on the proposal, as written in Article 33.

# Background

- Private roads date back many years
- A private way is a road that has not been accepted by the Town
- Some private ways were created after the subdivision control regulations went into effect in February, 1954
- Other background information is in the (orange) flyer mailed to private way abutters

# Dedham Roads

- 80 miles of public roads ~ 400 segments
- 18.7 miles of private ways, ~ 200 segments
  - of which 3 miles (26 segments) were created through the subdivision regulation
- 8 miles of private drives (out of scope)
- Public roads were neglected for decades and led to overall poor conditions

# Dedham Roads

- A Pavement Management Plan has been in place the past 7 construction seasons
- \$15 million+ invested: ~ 70% town/30% state aid
- 29 miles of public road have been improved (reclaimed, milled and overlaid or overlaid)
- 35 miles have been maintained (crack sealed or “Nova Chip”)
- ~ 190 segments of public roads yet to be improved

# Current Process

- Broad description
  - 100 % of abutters must bear the cost for the private way to be improved to Town standards
  - The Town would then have the road improved
  - A betterment would then be assessed to the abutters' property tax bills
- As far as we can tell only one street has been improved under this process

# Proposed

- 100% of abutters required to ask for a layout
- The selectmen will consider the request depending on the public benefit
- If approved the request would be given to the Town Administrator and Engineering Dept., which would layout the road
- The layout shows where the road would be, and the impact, if any, on abutters

# Proposed – cont'd.

- The abutters review the layout.
- 100% of the abutters would need to accept the layout and grant the town a permanent easement for public way purposes, the right to land takings, and waive the town of all damages.
- Only if 100% of abutters agree in writing would the Selectmen recommend to Town Meeting the road be accepted as a public way
- Town Meeting votes to accept or reject

# Proposed – cont'd.

- If Town Meeting accepts then appropriate paperwork must be completed within 120 days
- After this is complete the road will be added to the Pavement Management Plan
- Some time in the future the road would be improved at the town's expense
- We cannot predict how much time will elapse before improvements occur
- We should begin now given the length of time required to perform layouts and allow abutters to discuss potential changes

# Proposed – cont'd.

- The Warrant Article states:
  - 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
- The intent of the change is to have the Town pay for layout, design and construction. However, there may be factors or situations over time that cause the Selectmen to assess a betterment.

# Groups

- We are recommending 5 groups
  - Group 1 - leads to a public facility
  - Group 2 – intersects with 2 public ways or contains a private way segment within public way
  - Group 3 – Dead-End road that intersects with a length greater than 200' with a minimum of 5 residences with existing driveway access to the private way

# Groups –cont'd

- We are recommending 5 groups
  - Group 4 – Length of dead-end road less than 200 feet and/or less than 5 residences with existing driveway access to private way
  - Group 5 – Intersects with 2 private ways/Intersects with a public way and private way/Dead End intersects with private way/Reviewed under Subdivision Control Law/Reviewed as Approval Not Required

# Why Do We Have Groups?

- There may be a need to prioritize due to
  - number of petitions from abutters
  - funds available
- Consider these examples
  - A private way leading to a public facility
  - A private way that connects two public roads
  - Compared to a dead end private way with a few residents, significant ledge, and high water table

# Preliminary Cost Estimate Summary

<b>Group #</b>	<b>Approx. Length of Roadway (FT)</b>	<b>Approx. Length of Roadway (Miles)</b>	<b>Cost Estimate</b>
<b>1</b>	<b>3,187</b>	<b>0.60</b>	<b>\$413,690</b>
<b>2</b>	<b>23,466</b>	<b>4.44</b>	<b>\$3,588,088</b>
<b>3</b>	<b>24,589</b>	<b>4.66</b>	<b>\$2,710,114</b>
<b>4</b>	<b>15,498</b>	<b>2.94</b>	<b>\$1,411,175</b>
<b>5</b>	<b>31,769</b>	<b>6.02</b>	<b>\$4,180,958</b>
<b>TOTAL</b>	<b>98,509</b>	<b>18.66</b>	<b>\$12,304,024</b>

Source: Dedham Engineering Dept.  
Feb. 28, 2014

# Arguments against this proposal

- *Caveat emptor* – Let the buyer beware! The home buyer is responsible for understanding the implications of owning a house on a private way.
- “I live on a public way and it has not yet been approved. We should wait until all public ways are improved before any private way is accepted as a public road.”

# Questions?

# Appendix

# Permanent Easement for Public Way Purposes

- As you know, to complete the layout and acceptance of a private way as public, the Town must, within 120 days of the Town Meeting acceptance vote, obtain sufficient property rights within the layout of the way to allow for public use as a matter of right. We recommend that in order to satisfy this requirement the Town obtain a permanent easement for public way purposes from each owner of the land within the layout, rather than acquiring the complete ownership of that property (i.e., the fee interest). An easement is an interest in property allowing the holder to use the property of another for a specific purpose. An easement for public way purposes would allow the public to use the way as a matter of right and allow the Town to maintain and regulate use of the way as required by law.

# Permanent Easement for Public Way Purposes

- The procedure for acquiring an easement is essentially identical to the procedure for acquiring the fee interest in the layout, but the easement is all that the Town needs to ensure the public's right to use the way and to allow for Town maintenance. Acquiring an easement for public way purposes as opposed to the fee eliminates liability that comes with property ownership and will not leave the Town with an unusable piece of property in the event the way is later discontinued.

Town Counsel J. Eichman Mar 13 2014

# Cost Summary

## **NOTES:**

- 1.) Preliminary Cost Estimates assume that there will be no changes to the existing dimensions of the roadway.**
- 2.) Preliminary Cost Estimates assume that if the Private Way requiring rehabilitation by reclamation intersects with a road that has an existing sidewalk, then at a minimum a sidewalk will be installed on one side of the roadway.**
- 3.) Preliminary Unit Costs per square yard (SY) for Private Ways requiring rehabilitation by reclamation were determined using Park Street as the example in preparation of construction unit costs and assumes a certain level of drainage to be installed, police details and contingency.**

# Cost Summary – (cont'd.)

## **NOTES:**

**4.) Preliminary Unit Costs per SY for Private Ways requiring rehabilitation by Routine (Crack Sealing) Maintenance or Preventative (Nova Chip) Maintenance were taken from existing unit costs used for the current Pavement Management Program.**

**5) Preliminary Unit Costs per SY:**

- Reclamation (PCI = 0 to 72): \$75/SY (No sidewalk)**
- Reclamation (PCI = 0 to 72): \$85/SY (Sidewalk on one side)**
- Preventative Maintenance (PCI = 73 to 85): \$12/SY**
- Routine Maintenance (PCI = 86 to 92): \$0.75/SY**
- Do Nothing (PCI - 93 to 100): \$0**

**6) "Preliminary Unit Costs and Preliminary Cost Estimates were developed for planning/discussion purposes only and should not be considered definitive."**