HEARINGS, MEETINGS, LICENSES
11-16-09

Jacqueline Shanley

From: Eileen Gates
Sent: Thursday, October 29, 2009 12:08 PM
To: Jacqueline Shanley
Subject: Proposed Prop. 2 1/2 Override

Jackie,

F Y I

If the Board wishes to place an override question on the April 3, 2010, Annual Town Election Ballot, they would need to vote to do so no later than Feb 22, 2010. The deadline for me to receive the letter with the Board's vote, along with the exact wording and dollar amount of the question, is Friday, February 26, 2010.

Eileen

Board of Selectman's Meeting
Middleborough Sanitary Landfill
Waste Management of Massachusetts, Inc.
Discussion Topics
November 16, 2009

1. Waste Disposal Tonnage and Royalty Results (as of 10/31/09)
    - Commercial Hauler – 28,487 tons (2009 projected – 34,000)
    - Town Free – 3,387 tons (2,085 tons remaining)
    - Royalty Payments - $149,555 (2009 projected - $205,000)

2. Residential Hazardous Waste Collection

3. Landfill Site Improvement Projects
    - New Access Road
    - Passive Gas System Improvements
    - Active Gas System Permitting
    - Groundwater/Surface Water Monitoring Program

4. Landfill Survey

Charles Cristello

From: Andy Bagas
Sent: Friday, November 13, 2009 10:33 AM
To: Charles Cristello
Subject: FW: Flowable Fill Policy

From: Charles Cristello
Sent: Friday, October 30, 2009 1:43 PM
To: Andy Bagas
Subject: RE: Flowable Fill Policy

Andy, Sounds good to me. Let's wait until you appear again on plowing and do both at once. Charlie

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From: Andy Bagas
Sent: Friday, October 30, 2009 1:19 PM
To: Charles Cristello
Subject: Flowable Fill Policy

Charlie:

I request that the Board of Selectmen amend the Road Opening Permit policy so that it is up to the discretion of the DPW Director to determine if controlled density fill (flowable fill) is required for a road opening permit.

Flowable fill is expensive at $66/cu yd.

I would require flowable fill for emergency repairs and service installation on major roadways. I would not recommend flowable fill for longitudinal trenches for service main replacement projects, etc. I would not recommend flowable fill in areas where there is a high water table and frost heaving. In most cases, clean gravel or processed gravel is more cost effective.

The DPW can save thousands each year by using gravel rather than flowable fill.

Andy

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WAREHAM OFFICE:
219 MAIN STREET
(508) 295-2115

November 12, 2009

Charles J. Cristello, Town Manager
(via FAX#: 508-946-2320)

RE: plowing/sanding private ways

Dear Charlie:

You asked for comment whether the Town may provide snow plowing/sanding with respect to snow/ice removal from private ways. It appears that the Town provides plowing/sanding for some but not all private ways in the Town.

General Laws, Chapter 40, Section 6C, upon acceptance, allows a town to appropriate money for snow and ice removal from such private ways in the town which are open to public use as may be designated by the selectmen. Section 6C is accepted at an annual town election upon petition of two hundred registered voters or twenty percent of the total of registered voters. The acceptance question is included on a town election ballot substantially in the form set forth in General Laws, Chapter 40, Section 6D. The Town Clerk informed me that Middleboro has not accepted Section 6C.

A fundamental principle of municipal finance is that public appropriations may only be used for public purposes and not for the advantage of private individuals. A town is authorized by statute to appropriate money for the exercise of any of its corporate powers, but it is barred from appropriating or expending any money for any purpose, on any terms, or under any conditions inconsistent with any applicable provision of any general or special law (G.L. Chapter 40, Section 5).

The Supreme Judicial Court has stated that accommodation of the public as to means of travel and transportation is one of the primary purposes for which money raised by taxation may be expended. The court considered the legality of G.L Chapter 40, Section 6C and opined that expenditures for removal of snow and ice from ways which are in private ownership but which are open to public use are expenditures for a public purpose since they provide for the accommodation of the public as to means of travel and transportation. The fact that the owner of a private way may profit from the public plowing does not invalidate expenditures therefor where the primary purpose of the snow/ice removal is the benefit if the public to whose use the way is open. It follows that the Town would have authority to appropriate and expend money for snow/ice removal on private ways which are open to public use if such appropriations/expenditures are not inconsistent with any general or special law.

My opinion is that Town removal of snow and ice from private ways open to public use is inconsistent with General Laws, Chapter 40, Section 6C, unless the Town accepts Section 6C. The inconsistency arises from the fact that the General Court has required municipal acceptance of Section 6C before a municipality may appropriate and expend money for the purpose. Therefore the Town may not appropriate and expend money for snow/ice removal from private ways open to public use unless the Town accepts Section 6C.

Very truly yours,

Daniel F. Murray
Town Counsel

DFM/s
09-103-1

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OF THE WORLD

Town of Middleborough
Massachusetts
Department of Public Works
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Middleborough, MA 02346
Phone 508-946-2480 Fax 508-946-2484

Andrew P Bagas
D P W Director

DIVISIONS
Highway
Sanitation
Insect & Pest Control
Tree Warden
Wastewater
Water

October 27, 2009

TO: Charles Cristello, Town Manager

From: Andrew Bagas

RE: Snow and Ice – Unaccepted Roads

Attached is a listing of unaccepted roads in the Town of Middleborough.

It is my recommendation that the Board of Selectmen vote to enact a policy that the Town will not plow or sand any roadway in Middleborough that has not been accepted as a Town Way.

My recommendation would also include any sub-division roadways not listed that have been recently approved by the Planning Board and not yet accepted by the Town.

I believe that a written policy will clarify any future questions as to the treatment of private roadways in Middleborough.

The only exceptions to this policy would be extreme medical emergencies or other life-threatening situations. Should an extreme situation arise, the DPW will respond with the nearest available snowplow to provide access for police and/or fire emergency personnel.

UNACCEPTED STREETS PLOWED OR SANDED

STREET	LOCATION	PLOWED/SANDED
GIBBS ROAD	OFF TISPAQUIN STREET	PLOWED
PAUL ROAD	OFF PLYMOUTH STREET	PLOWED
NAVAHO SHORES RD	OFF PAUL ROAD	PLOWED
LAKESHORE DRIVE	OFF PAUL ROAD	PLOWED
ADAMS CIRCLE	OFF ANDERSON AVENUE	SANDED + PLOWED
SUNSET AVENUE	OFF ANDERSON AVENUE	SANDED + PLOWED
WOODLAND AVENUE	OFF SOUTH MAIN STREET	PLOWED
OLD THOMPSON STREET	OFF THOMPSON STREET	PLOWED
KATRINA RD	OFF PLYMPTON ST	SANDED + PLOWED
NEW SUB-DIVISIONS		
FIDELITY LANE		SANDED + PLOWED
RIVERS EDGE DRIVE		SANDED + PLOWED
EDGEWATER LANE		SANDED + PLOWED
VERONICA LANE		SANDED + PLOWED
BROOKSIDE AVE		SANDED + PLOWED
WOLOSKI PARK		SANDED + PLOWED
WOODLAWN		SANDED + PLOWED
BISHOP AVE		SANDED + PLOWED
TALL OAK AVE		SANDED + PLOWED

UNACCEPTED ROADS and CONDOMINIUMS

4-24-09

(Unaccepted roads are streets not routinely maintained and used as public ways)

ABBEY LANE (BUSINESS)
ADAMS CIRCLE
ALICE COURT
ARCHER COURT
ASHLEY LANE (CONDOS)
ATWOOD AVENUE
AUTUMN DRIVE (NSD)
BALMY LANE (CONDOS)
BARN ROAD
BASKING RIDGE DRIVE (CONDOS)
BISHOP AVENUE
BRYANT CIRCLE (NSD)
BUMP COURT
CAMPBELL STREET
CAMPANELLI DRIVE (BUSINESS)
CINNAMON RIDGE CIRCLE (CONDOS)
COLLINS AVENUE
COMMERCE BLVD.(BUSINESS)
COONEY LANE
COTTAGE STREET
COUNTRY WAY (NSD)
COWAN DRIVE (BUSINESS)
CROSSMAN AVENUE
DERRY PARK DRIVE
DONA DRIVE (NSD)
ELDON STREET
ELISHA DRIVE (CONDOS)
GIBBS PLACE
GIBBS ROAD
GROVE STREET
HATHAWAY STREET
HICKSON AVENUE
IDA'S WAY
ISAAC COURT
JUSTINE'S WAY (CONDOS)
KEITH STREET (CONDOS)
KING'S WAY (CONDOS)
KING PHILIP ROAD (NSD)
LAKESHORE DRIVE
LAKESIDE
LAKEVIEW TERRACE
LAKEWAY
LEONA DRIVE (BUSINESS)
LEILO DRIVE (CONDOS)
LONDON DERRY LANE (NSD)
MAPLE FARM LANE (NSD)
MARIE DRIVE (NSD)
MEADOWLARK DRIVE (CONDOS)
MEETING HOUSE LANE (NSD)
MELODY LANE
MERCHANT'S WAY (BUSINESS)
MISTY LANE (NSD)
MOQUIN DRIVE
MORELLO DRIVE (CONDOS)
MUTTOCK LANE
NAVAHO SHORES ROAD
OAK AVENUE
OLD CUSHMAN STREET
OLD EAST GROVE STREET
OLD MILLER STREET
OLD THOMPSON STREET
OLD WOOD STREET
OLIVER STREET
PAUL ROAD
PEARL COURT
PEIRCE LANE
PINE GROVE AVENUE
PINERIDGE WAY (CONDOS)
PLEASANT TERRACE
RIDGE DRIVE (CONDOS)
RIVER'S EDGE DRIVE (NSD)
ROBIN HOOD AVENUE
SAGE ROAD (CONDOS)
SARA REED HUNT WAY (CONDOS)
SHERWOOD FOREST AVENUE
SPRING BROOK AVENUE
STARRETT AVENUE EXT. (NSD)
STONEBRIDGE (CONDOS)
SUNSET AVENUE
SYCAMORE DRIVE (CONDOS)
TALL OAK DRIVE (NSD)
TERRACE WAY
TWIN PONDS DRIVE (CONDOS)
VERONICA LANE (NSD)
VINCENT STREET
WHITTNER AVENUE
WILBUR STREET
WILLIAMS PLACE
WILSON WAY (NSD)
WOLLOW AVENUE
WOLOSKI PARK
WOODLAND AVENUE
WOODS LAKE TERRACE

NSD - New Sub-Division