



TOWN OF NATICK MASSACHUSETTS

TO: Amy Mistrot, Chair Board of Selectmen
Melissa Malone, Town Administrator

FROM: Jeremy Marsette, P.E.
Director of Public Works

DATE: January 17, 2019

**SUBJECT: MAINTENANCE OF UNACCEPTED WAYS
DRAFT TOWN BY-LAW EDITS AND ADDITIONS**

As requested by the Board of Selectmen at their meeting of December 10, 2018, please find the attached draft edits and additions to the Town's General By-laws regarding the maintenance of unaccepted (private) ways.

At the Board's December meeting there was an extensive and broad discussion regarding the unaccepted roadways within Town. It was noted that Natick had adopted MGL Chapter 40 Section 6C at the 1952 Town Meeting, enabling the town to remove snow and ice from private ways. However, the Town Clerk finds no record of the Town accepting MGL Chapter 40 Section 6N by enacting a local By-law for temporary repairs to private ways. As a first step to the broader question of unaccepted ways the Board requested draft updates to the Town's By-laws and associated cost impacts, if any.

Draft By-law edits and additions are attached that were developed to "formalize" past/current practices. It has been the ongoing practice of the Town to repair/fix potholes on both public and private roadways as a matter of course. In the spring a pothole/roadway repair crew is mobilized to sweep the town repairing potholes on all roadways. Therefore, the language to formalize current practice should not cause the Town to incur additional expenses. The draft bylaw helps set the limit of liability to the Town for any damage caused by temporary repairs made to private roadways.

Paragraphs two, three and four of Natick By-law Article 70 Section 6 may have been a prior attempt at temporary repairs to unaccepted ways. However, it has not been the practice to assess by betterment the expense incurred by pothole repairs to residents on unaccepted ways.

The attached draft Board of Selectmen Policy on Private Ways works in concert with MGL Chapter 40 Sections 6C and 6N and the draft By-law update. The policy may be considered and adopted by the Board at a later date.

MGL Chapter 40 Section 6N does provide some flexibility regarding the scope of “temporary repairs” to unaccepted ways. The Bylaws of Westford for instance describe the repairs to be “temporary in nature, such as filling, grading, patching and surface coating, and may include such repairs to drainage swales, conduits and structures as are necessary to preserve the integrity of surface repairs to the roadway”. Westford assesses betterments for such repairs and requires the repairs to have a minimum expected life equal to the bond term or 20 years. Samples from other communities are attached.

The option exists for the Selectmen and Town Meeting to consider some form of higher level of repairs to unaccepted ways, including pavement surfacing and drainage repairs. However, these sorts of repairs would require funding via betterment or by additional appropriation of town funds.