

**Medway Planning & Economic Development Board Meeting  
Tuesday, April 28, 2009  
Medway Town Hall, 155 Village Street**

PRESENT: Andy Rodenhiser, Bob Tucker, Tom Gay, Chan Rogers, Karyl Spiller-Walsh,  
John Williams

ALSO PRESENT: Susy Affleck-Childs, Planning Board Assistant  
Barbara Saint Andre, Town Counsel

The meeting was called to order at 7:10 pm by Chairman Andy Rodenhiser.

**CITIZEN COMMENTS** – None

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to approve the minutes of the April 14, 2009 regular meeting. The motion passed unanimously.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to approve the minutes of the April 14, 2009 executive session. The motion passed: Tom Gay voted no, all others yes.

**Request to extend completion deadline on Pine Meadow II – letter from Gary Feldman.**

Andy Rodenhiser – The end of the street is a big problem. There may be some defects in the plan and decision.

I suggest we give them a list of what will be needed for street acceptance.

Susy Affleck-Childs – I do expect Gary to attend later. Let's wait to discuss this further until he arrives.

**Daniels Village ARCPUD Public Hearing**

A motion to waive the reading of the Public Hearing notice was made by Karyl Spiller-Walsh, seconded by Bob Tucker, and was approved unanimously. The public hearing notice is attached.

Jim Williamson, Barbary Homes – I sent a letter to the board. That is pretty much our position at this point. Please read it into the record.

Susy Affleck-Childs –The letter has been received and was distributed. [It is attached to these minutes.]

Andy Rodenhiser – We have read the decision from the judge, and the letter is your position. Is that your position?

Jim Williamson – Yes.

Andy Rodenhiser – It is my understanding that the decision was remanded to the board, the entire thing, not just the condition regarding the payment to the senior center.

Barbara Saint Andre – The order of the court says the decision is vacated and the matter is remanded to the board. The whole thing is null and void. You can reconsider and have a new vote – you can certainly use some of the findings, etc – but you have to do a new decision.

Andy Rodenhiser – Do we have an application from them?

Barbara Saint Andre – They don't have to file a new application. Everything that was in that file is part of the record. The Board can take new evidence.

Andy Rodenhiser – We need a plan review account established, and they are objecting to having to do that. If we have an application and no funds, how should we proceed?

Barbara Saint Andre – Your ARCPUD regulations provide that the board can determine if it needs the outside consultants, based on a reasonable cost. The board should discuss that tonight. I would recommend that when you are done with the discussion you take a vote.

Chan Rogers – Was this advertised as a public hearing?

Susy Affleck-Childs – Yes.

Susy Affleck-Childs – I believe we need town counsel's assistance. We also have a new engineer who will need to get up to speed on this project.

Bob Tucker – I would like to have the engineer take a look at the drainage.

John Williams – At what point in the process are we? In order to do justice, we are supposed to have a 4 step design process.

Tom Gay – This predates me.

Andy Rodenhiser – The freeze that typically might exist on something, does it apply here to any changes in the zoning bylaw for ARCPUD? How does that impact them?

Barbara Saint Andre – Any bylaw changes would NOT apply. You have to apply the same zoning bylaw that was in place the first time.

Andy Rodenhiser – But a significant issue here is a payment to the senior center vs. the construction a club house. The bylaw calls for a community type center. We had discussed a payment to the senior center which they negated to honor or fulfill, and that was the basis for their appeal. Because we did not have property testimony and evidence entered into the record based on expected increase in demand for senior services, we lost our case. Part of what we should consider is professional testimony that is given to us to provide the proof that there is a link between an increased senior population and expanded usage of the senior center.

Barbara Saint Andre – That was part of what was gone over by the court.

Chan Rogers – According to the judge, it is unlawful to require a mitigation payment.

Andy Rodenhiser – It is without having a finding of fact that is based on evidence.

Chan Rogers – I thought that was the whole basis for the mitigation. This project would induce a larger population of seniors. They were not going to have their own place for gathering (in the development). In lieu of that a contribution to the senior center would help offset that action.

Andy Rodenhiser – We needed to provide more evidence to make that connection. As a group, we felt it was self evident.

Chan Rogers – Pretty clear cut.

Andy Rodenhiser – And we even went as far as to ask Jim Williamson if he was okay with this, and he agreed.

Chan Rogers – The Court said it didn't matter that he had agreed to this. There are only 3 of us with the board now that were part of that decision.

Karyl Spiller-Walsh – I wasn't here on the night you voted, but I was here for all the testimony and public hearings.

Barbara Saint Andre – So, 4 out of 5 of you were at the prior public hearing.

Bob Tucker – If the order is vacated, then why wouldn't it fall to the new board?

Barbara Saint Andre - You will have to go back through the whole thing.

Karyl Spiller-Walsh – I have no idea of what the procedure should be. Perhaps we should lay out some practical options:

Consider the senior center and secure new testimony evidentiary of some link.  
Existing members should have a short time to go back through the material and presentations and come up with some thoughts as to what went on, some things to be clarified. And I think there may be other options – maybe an actual community center could be revisited.

Jim Williamson – I would be remiss in not saying a few things. We are happy with the plan that is presently approved. We gave the town \$50,000 to review the plans. We haven't proposed any changes. It was extensively reviewed. We think it can be reapproved fairly easily. In reference to the senior center, it was the board itself that caused us to drop that community center. One thing that is very apparent is that you need 100 units to support a community center, and it is more of a burden on the residents without that size. We proposed the community center with the original subdivision of 120 units, then it was backed down to 80 units which caused us to drop the community center. They don't function and don't work if they are not large enough – I don't think anybody can identify a small over +55 development with a community center. You caused us to drop that.

Andy Rodenhiser – I don't think we caused you to do anything. You proposed and we voted.

Bob Tucker – The town did not benefit from that money.

Bob Tucker – We have a new board so that the entire board is working the same level of knowledge.

John Williams – Where in the process are we? What rights do we have? It doesn't sound like it is open and starting from scratch.

Bob Tucker – The decision was vacated.

John Williams – Shouldn't we start with a preapplication and have a site meeting, and I am looking for guidance for town counsel

Barbara Saint Andre – The board already had a public hearing, and made a decision. If you want to have a site visit, you can do that. You can have testimony. You have to go back and make a new decision.

Andy Rodenhiser – Certainly Tom Gay and John Williams should review the original application and plans and testimony. We can continue this public hearing. I will certainly talk to Missy and ask her to put together some consultants. He may not want to build a community center, but clearly we heard from Missy Dziczek that there will be an impact on the senior center if 80 +55 people move to town.

Susy Affleck-Childs – Provide the board with a copy of the ARCPUD bylaw that was in effect when they applied.

Karyl Spiller-Walsh – One thing that will make it a much sharper process is that they have a pretty detailed site plan that shows what they want to do. I think you will be brought up to speed quite quickly.

Jim Williamson – I would be glad to meet anybody out there on site.

Andy Rodenhiser – It needs to be done properly. No discussion outside the public hearing.

John Williams – We are not obligated to accept the plan as is – everything is in play.

Chan Rogers – I feel it is appropriate to have the public hearing remain open and have a session at some future time, and then the two members that weren't involved have some homework to do.

Andy Rodenhiser – I am hearing from the applicant that he has no intention of changing anything and he wants to go forward with this plan.

A motion was made by Bob Tucker, seconded by Chan Rogers, to continue public hearing to May 26, 2009 at 7:15 pm. The motion passed unanimously.

Susy Affleck-Childs – We need the plan review funds to compensate town counsel and for our new engineering firm (Tetra Tech Rizzo) to take on this development.

Andy Rodenhiser – Is it your position that you will not pay the plan review fees?

Jim Williamson – That is my present position. I will confer with our legal counsel and get back to you.

NOTE - 7:45 pm – John Williams departs.

### **Pine Meadow II – Completion Deadline Extension**

Andy Rodenhiser – What is the deal on the corner at the end?

Gary Feldman – We agreed to do the fence and tame the slope.

Andy Rodenhiser – Is there anything in writing that you have agreed to? How are you going to handle this?

Gary Feldman – He (Nick Turi) is fine with it. We were going to cut the slope down a little bit and/or put a fence there. He was OK with the fence along the property line. He wants us to put wild flowers on it.

Andy Rodenhiser – This thing (subdivision) has technically expired already. We want to make sure that all the little issues that are going to be problematic are going to be addressed before we extend the deadline.

Susy Affleck-Childs – The plan was approved in November 2005

Bob Tucker – The rules and regs call for starting all over when a subdivision has expired. Play by the rules. I think we should be playing by the rules.

Karyl Spiller-Walsh – Up until now, the process has been what was being done. At some point you have to declare how you want to proceed. This has been more traditional than not. One reason to be lax in the rules is that things happen.

Bob Tucker – If you are responsible for an investment, the rules were stated and clear. They are there.

Chan Rogers – What is being violated? What harm has been done in the development? Who is aggrieved by this?

Bob Tucker – We need to play by the rules that were established or we need to change the rules.

Andy Rodenhiser – The consistency about applying the rules is important. We have town counsel sitting here, and for us to throw the rules out the window and ignore them is wrong.

Chan Rogers – What is the consequence of a developer not finishing per the original schedule? We are as much at fault because it expired, and we didn't do anything. What harm has been done?

Andy Rodenhiser – I think there may be a motion that they have to reapply for a new subdivision, so we can't even start work.

Chan Rogers – I wouldn't vote for that.

Gary Feldman – Nobody expected the economy to tank.

Tom Gay – As long as we are talking about rules, what are the implications?

Bob Tucker – We need to follow our rules.

Andy Rodenhiser – I am with Bob Tucker on this one.

Chan Rogers – You are over stating the case.

Andy Rodenhiser – If we turn a blind eye to any one rule, what is the impact on all of our rules?

Barbara Saint Andre – I don't think there is any impact. If the board has a regulation that hasn't been enforced, it doesn't impact anything else.

Andy Rodenhiser – Do we have to hold a public hearing?

Barbara Saint Andre – You need to look at each decision and determine what the expiration date means for that decision.

Gary Feldman – They are going to ask me what the impact will be.

Chan Rogers – We are wasting a lot of time. There are no consequences.

Andy Rodenhiser – The consequences of having to reapply and losing the subdivision approval is a pretty severe consequence.

Chan Rogers – And all we would be doing is forcing up the price of housing in Medway by doing that. He has come before us for an extension. Either give it to him or ask him to reapply.

Karyl Spiller-Walsh – This is a bigger conversation.

Andy Rodenhiser – Barbara Saint Andre says look at each individual subdivision and circumstances.

Karyl Spiller-Walsh – What harm has it caused the town in this case?

Andy Rodenhiser – Susy Affleck-Childs has said you can't make conditional extensions.

Barbara Saint Andre – It sounds like it is really a modification of the decision. They need to file an 81W, an application to modify the decision, and to ask for time extension.

Susy Affleck-Childs – I would like to look at the original decision language, and confer with town counsel, and look at the regs

Gary Feldman – There were 4 partners. They started squabbling.

Chan Rogers – I don't understand us being so tight on this.

Susy Affleck-Childs – Whether this is a minor revision or a modification I need to discuss with counsel. You could have a special meeting on May 19<sup>th</sup> to work on this. I will be out of town, but I can ask Fran to attend and take notes.

Andy Rodenhiser - Dave Pellegrini, please look at the site.

Andy Rodenhiser – Can we get together out on the site right now?

Bob Tucker – How much time would you take a guess at to be looking for?

Gary Feldman – We need to fund the bond account, get the lot releases. I would avoid putting the final coat on the road. It would be sometime next year at least.

Bob Tucker – Let's make sure we queue them up on the details on the roads and easements.

### **Speroni Acres – Subdivision Status**

Lou Cacavarro, attorney for developer Owen Sullivan

Fred Geisel, PE author of the revised arrange report, I was called in to assist. Ken Boufard is not here.

Mark Louro, VHB – This is one of the as-built plans that was submitted by the applicant – April 2004 – just to orient you, here are Little Tree and Rustic Roads. Critical issues are the detention ponds. The middle one is #1, #2 is at the end of Little Tree Road, and pond #3 is at the beginning of Little Tree Road.

When we were first involved in 2000, much work was already completed. Our first look at this project was putting a top course down and sidewalks in 2000. In November 2002 they first submitted the as-built.

Andy Rodenhiser – Was there a handoff from PMP?

Mark Louro – We went out in the field and looked at it. Usually when I start with a project I go through the construction reports. I can't tell you if I remember anything specific from back then. In November 2002 they submitted first version of the as-builts. They didn't have a lot of detail with respect to the detention ponds. That was the biggest issue. We had concerns and issues then. In May 2004, new as-builts were submitted with more detail. We determined that there were issues. There was a drastic difference between what was constructed and what was

approved – there are definitely easement issues or there were – the pond does go onto a certain property that it wasn't supposed to.

Lou Caccavaro – Attorney Mike Paolini who worked on this previously had drafted some stuff.

Andy Rodenhiser – Have they been approved by those property owners?

Chan Rogers – What does blue outline show?

Mark Louro – Roughly where the detention ponds are located.

Lou Caccavaro – I believe there is an easement document that has been presented to that owner but it may not have been executed.

Andy Rodenhiser – That one has the most issues.

Mark Louro – Some of our biggest issues are that they were constructed very steeply and not in accordance with the plans – different shape. The middle pond seems to be reasonably close to the right shape; it is much lower.

Andy Rodenhiser – Can they be corrected?

Mark Louro – Pond #3 was constructed skewed within the easement and the house at 6 Little Tree Road was constructed very close to the pond. It appears it would be difficult to get that berm to be high enough. It was built too close to the pond. The builder says the buyer bought the lot as is. Berm is a critical issue.

Mark Louro – All the forebays – none of them seem to be the right size. They haven't been maintained. They are not the size or shape they are supposed to be.

Andy Rodenhiser – Is any of this a violation of any rules, environmental or storm water?

Mark Louro – Owen Sullivan has indicated to me – he said the changes were all approved by the Town. I asked him for that documentation. He never provided that to me. We got to the next level, so we talked about some alternatives with the PB. I said to him, have your engineer analyze how it was built and see how it is functioning. I am trying to give you some history. Then Paul Carter took over for VHB in Medway. There were site meeting and that is when attorneys got involved to push things along, punch list items, etc.

Andy Rodenhiser – There was a request to return bond money and Paul went out to prepare a new punch list, and no bond reduction was voted.

Mark Louro – During that time, there was a submittal of the first version of the drainage report as I had asked for. There is a letter dated June 2007 from Paul Carter. One of those comments is that the sketches didn't have detail, scale, and title. We couldn't verify pond capacity. Grading issues, depth of ponds were issues, watershed map that were used weren't to scale; we couldn't confirm assumptions of drainage. At that point, they started to revise the drainage report. I got back into the picture late 2007, tried to meet with CEC (the developer's engineer) and to get

them to send me the latest revisions of the drainage report. That resulted in my March 2009 review letter. A number of the issues Paul Carter identified are still there. The same sketches were used; they did nothing new.

My biggest concern is pond #1. It needs to have a scaled drawing; we can't verify. The sketches indicate they are roughly 6 feet deep. The ponds end up being 4 feet deep. There is about a 2 feet difference between top of structure and top of berm. The pond is 2 feet lower than what they analyzed in the report. The driveway is right against the top of the slope. This pond was supposed to be way behind. Owen said the pond was located where it was due to wetlands issues. I don't know what ConCom did with this project. I reported on a lot of the same issues that Paul Carter reported on. They analyzed a pond that is supposed to be 6 feet deep but it is only 4 feet deep. We need more information. They have also made some changes to the structure, not too big an issue. At this point, a lot of the documentation they are looking at is not stamped by a surveyor or an engineer. Nobody is taking any responsibility. We are getting the same info over and over again. Maybe until somebody stamps something, it won't be accurate.

Fred Geisel – I am being authorized to conduct whatever surveys are necessary and to seek resolution of those issue.

Andy Rodenhiser – Does that mean you concur with what has been discussed this far?

Fred Geisel – Not entirely. Some of this info is new to me. My involvement began in May 2008 when they asked me to get involved to see if we could resolve the concerns, to make the ponds function. I was given as-built plans from 2007 as the most up to date.

Andy Rodenhiser – I am hearing that the as-built plan is not reflective of what is actually out there

Mark Louro – Yes.

Fred Geisel – I need to go out and survey. I was given the as-built. We are going to go out there and survey and verify and see what is wrong. I was out there today and made some observations to see what was there. Two of the forebays have silted up.

Mark Louro – Runoff from the forebay is running over and isn't going into the pond. There is no rip rap spillway. When they ran the recent drainage analysis they made assumptions and sketches. I don't agree with the sketches, and the analysis shows that there is more runoff leaving the site. The ponds are not the size they say they are, and they do not conform to storm water policy. I requested the original drainage report from 10 years ago. Those tables conformed to the regs at the time.

Mark Louro – What was constructed does not agree with the approved plan and the analysis indicates there is runoff leaving the site.

Andy Rodenhiser – Will you be able to produce modifications that Owen said had been approved?

Lou Caccavaro – I have not seen them. I am asking for them.

Fred Geisel – What I did in the report was to look at what the existing conditions are based on the 2007 as-built drawings, (not the sketches). I analyzed – what modifications can we make to these structures without tearing them and rebuilding – to achieve the objectives. I came up with a plan to do that.

Mark Louro – Every time I talk with CEC, they seem to think everything is OK.

Mark Louro – My biggest concern is they have made some modifications in the field, and their plans don't reflect that.

Mark Louro – They need to develop a plan and calculations so that everything is consistent. Does it work or not? Everything must be stamped. It needs to be right.

Andy Rodenhiser – Is the board okay with us authorizing Mark Louro to work directly with Fred Geisel?

Bob Tucker – I don't have a problem with Mark Louro working the – but all communications should be funneled through to Susy Affleck-Childs. Some kind of a summary what is being discussed and what you are agreeing to.

Mark Louro – One of the issues is that our contract with the Town is up at the end of June. It may be a good opportunity to segue over to the new engineer. The plan needs to be accurate. It is a good point for another engineer to take over. I am certainly available for questions.

Chan Rogers – The developer's engineer should take the whole problem and then have Mark Louro review it.

Lou Caccavaro – Given that we have spent a lot of money to get Mark Louro to generate respond, can you keep him on as a special consultant for this one project?

Chan Rogers – There will be big bucks to get somebody else up to speed.

Susy Affleck-Childs – We can look into that option.

Mark Louro – I really think the next iteration is going to have to work.

Andy Rodenhiser – You keep getting the same stuff recycled.

Lou Caccavaro – Now there is a new professional (Fred Geisel) involved at my insistence.

Bob Tucker – I would be favorable to that.

Mark Louro – I was under the impression that a contract extension is not an option.

Fred Geisel – If we can resolve certain issues through June, it may be only left with a couple of things that have to be done, and be fairly simply for another engineer to handle.

Andy Rodenhiser – We want to be mindful of your dollars.

Lou Caccavaro – I am looking at expediency and costs.

Andy Rodenhiser – Has Barbara Saint Andre been involved?

Karyl Spiller-Walsh – Are the ponds really fixable?

Mark Louro – The driveway is at the top of slope.

Chan Rogers – Let the engineers solve this and resolve this.

Andy Rodenhiser – He has to use his professional stamp. Let's let these guys work this out and report on status.

Andy Rodenhiser – Dave (Pellegrini) is it possible for you and Mark Louro to work out a timetable?

Karyl Spiller-Walsh – Are we talking about a possible plan modification?

Fred Geisel – There may be further plan modifications.

Andy Rodenhiser – Pond #3 is on 4 and 6 Little Tree Road.

Andy – I would like to extend further invitation to the owners of 4 and 6 Little Tree Road for future meetings.

Lou Caccavaro – Thanks, and I am trying.

Paul & Tamath Bibbo, 10 Little Tree Road - I don't think it is being drained properly.

Mark Louro – I have not heard any complaints before.

Fred Geisel – Pond #2 is located where it is because the wetlands were improperly flagged so they had to move it up when it was actually built.

Andy Rodenhiser – But that generally would require a subdivision plan modification.

Andy Rodenhiser – Lou Caccavaro, any documentation on that?

Mark Louro – Is it likely that ConCom will even issue a Certificate of Compliance on this?

Lou Caccavaro – Could we plan to meet again with you in mid June?

### **Ishmael Coffee Estates – Street acceptance issues**

Paul Yorkis – Granite Estates, Inc. and resident  
William Sack, Attorney for Granite Estates Inc. –

Kathleen Yorkis  
Jim\_??\_ neighbor

Paul Yorkis - Thank you for the opportunity to meet. I am not happy to meet, but believe it is critical that town government operate openly and honestly. I am here with William Sack, attorney for Granite Estates. It is rare that I feel the PB has made a serious error in judgment and process.

**NOTE - Get Paul Yorkis' statement and attach. . .**

Oct 2003 – We submitted an application for the Ishmael Coffee Estates subdivision. The subdivision rules and regs at the time of the applications are the rules that the PB must go by. The PB voted to approve the subdivision.

Feb 2004 – The covenant was recorded at Norfolk Registry of Deeds, reviewed and approved by town attorney at the time.

Aug 2004 – First lots were conveyed.

April 2005 – The PB adopted revised rules and regs. The subdivision rules and regs that apply to ICE are the ones in effect in 2003.

Jan 2007 – New town attorney was appointed.

Nov 2008 – Town meeting voted to accept Independence Lane and Freedom Trail. The Town Attorney indicated there was a problem with the deeds. She is trying to establish a new standard for circumventing the Planning Board, the decision and the covenant. The certificate of action is an agreement between 2 parties. The covenant clearly spelled out duties and responsibilities of the PB and the applicant. The applicant has met every responsibility spelled out in the decision and the covenant. Whenever I have appeared before you, I take pride in my fairness, accuracy, honesty.

I am a logic person. I look at problems and issues and try to understand both sides. I have no problem with the current town attorney trying to establish a new standard for projects which may come forth in the future. There is a process to amend the Subdivision rules and regs. The town of Medway has many roads that are not accepted at this time. I have spoken with you about this in the past and the director of public services. Every mile in the town that is not accepted means the town loses \$4,300 annually in chapter 90 funds from the state. By imposing the action that the town attorney has promoted you are closing off the town's ability to secure these dollars.

Andy Rodenhiser – What is your point?

Paul Yorkis – May I finish, please, or I will leave now.

Andy Rodenhiser – Go ahead.

Paul Yorkis - You are closing the door to the town receiving the funds. Is this in the best interest of the citizens of the town of Medway? Medway is part of the United States of America. My attorney informed me when he sent me a copy of an email that the town attorney met with the Board of Selectmen and the Planning Board without notifying the applicant or the attorney or the owners of property –my neighbors, my wife and me – I was and still am stunned by the fact that this board discussed this issue without every notifying the people affected.

It is my hope that you as elected members of the Planning Board take the town attorney's advice, follow the process for changing the rules and regs and record the deeds for Freedom Trail and Independence Lane that you are holding.

The applicant has met every requirement that is in effect. Retroactive application is not good government. I would be happy to respond to any question.

Bill Sack – My client is puzzled. This is a legal and fairness argument. I have been a conveyance attorney. The way we reserve the fee in the roadway is that all easements are shown on the plan and were known by every purchaser. In the minutes of the February 23 meeting she (town counsel) acknowledges there is some case law of implied easements. She said she doesn't want to be in the position of having to go to court.

If you pursue this, everybody that bought a lot would be stopped. What interest is it of the owner of a lot to deny the town the right to come onto the land to deal with an issue? They would be stopped because they bought the property knowing about the easements. I did this in Mendon last year with reserving fees in the roadway.

When we did Granite Estates several years ago it was all approved that way, and probably every other subdivision in town. Town Counsel is adopting a more strict measure for accepting roads, the legal equivalent of an ex post facto law. You cannot apply new law to an old matter.

In terms of the fairness argument, they went in good faith on the rules and regs in effect. This is the way it has been done in the town for many years. Apply the new process to new subdivisions. That is fine. But these roads should be accepted and the recording of the deeds should be allowed to proceed.

Andy Rodenhiser – Does this board have the authority to accept the streets?

Barbara Saint Andre – BOS lays out the road and town meeting accepts.

Andy Rodenhiser – We already recommended approval and town meetings, and within 120 days the BOS has to accept the deeds. Because there is an issue relative to the easements, there is a problem.

Barbara Saint Andre – It is not an issue with the deeds, the issue is whether there is clear title to the easements.

Andy Rodenhiser – It is really the BOS' decision.

Barbara Saint Andre – The BOS has asked for your recommendation.

Andy Rodenhiser – Is that the case?

Susy Affleck-Childs – I am not sure that it has been formalized but it sounds like they would welcome your guidance.

Barbara Saint Andre – It is the BOS that accepts the deeds, not the PB.

Andy Rodenhiser – Paul, the meeting you referenced was not specific to Ishmael Coffee Estates but was about general street acceptance issues. It was myself and Susy Affleck-Childs and Barbara Saint Andre, and it was about street acceptance.

Paul Yorkis – You have a series of rules and regs for subdivision applications. Those rules and regs still do not have the requirement that the town counsel is advocating. The PB is the board that applicants interact with to get roads accepted. The PB made a recommendation and it was approved by town meeting, now BOS has made a decision that is contrary to the policies and procedures that the PB has in place. The PB needs to communicate to the BOS that the process should be followed.

Bill Sack - re: good title, I don't think town counsel is ready to say that all roads accepted in the past have poor title. I don't believe there has been any residents that have challenged the town over not having specific easements. It is a way out there concern. This is a retroactive application of a new standard.

Barbara Saint Andre – I am not impugning anybody, let's be clear. I was asked to look at these and give an opinion. I said they didn't reserve the fees in the easements. I looked at the case law, and evaluated the information and it is not good record title. If the town wants to accept the deeds in that fashion they can do so. I was asked to review and provide my advice. This is not a new policy and new regulation. It has nothing to do with your regs. They didn't reserve the easements. Other subdivisions have reserved the easements.

Bill Sack – Former town counsel Dick Maciolek deemed title to be fine for the Granite Estates subdivision. There is precedent in Medway for doing it this way. If attorney Maciolek was counsel today, we wouldn't be here. These homeowners are not going to challenge the right of the town to come onto the property to deal with problems.

Andy Rodenhiser – Have you made a similar presentation to the BOS? What is it you want us to do? Do you want us to go with the BOS?

Barbara Saint Andre – The BOS asked you to go back and talk this through.

Andy Rodenhiser – How does the PB feel about this?

Chan Rogers – I feel we are obligated to take these as is.

Andy Rodenhiser – Barbara Saint Andre is representing the town's interest. She wouldn't be doing her job if she didn't point out this shortcoming. While everything was done in accordance with the decision, and the town meeting vote, the applicant feels we are imposing something backwards on him.

Bill Sack – I sat and listened to the last presentation. You seem to be concerned that the property owners will not allow the town onto the land if there is a problem.

Paul Yorkis – Granite Estates Inc sold lots to individual builders. Builders then sold to buyers. There has not been a title issue. One of the things in the certificate of action is the plan for each

lot showing the no cut zones. Every buyer got that plan and the no cut zones and easements were shown on the plans. The Board of Selectmen is ignoring your Subdivision rules and regs.

Barbara Saint Andre – I have to take some umbrage. Nobody is circumventing agreements, rules and regs. Nobody is putting in ex post facto. The issue is a simple one. I have seen instances where people have said to towns that you don't have an easement and you can't go onto my property; you are trespassing. If the town wants to accept these, all I am saying is that they didn't reserve the easements. Does the town want to accept the title as it exists?

Barbara Saint Andre – I am still waiting to hear a legal citation that indicates that if you don't reserve the easements, it is OK.

Bill Sack – There is estoppel and implied easements.

Barbara Saint Andre – I haven't been given any case law on this.

Bill Sack – I have given you the info.

Karyl Spiller-Walsh – An easement is an access that is allowed by its description. That was the mentality of the early developments.

Andy Rodenhiser- Case law has evolved.

Bill Sack – Drainage easement is part of roadway infrastructure.

Chan Rogers –I think that is OK to apply this as we go forward.

Andy Rodenhiser - I am not going to say Barbara Saint Andre is a better lawyer than Dick Maciolek. Her representation of the town is different.

Chan Rogers – It is OK to make the recommendation as we go forward.

Paul Yorkis – I would like you to do a couple of things. Change the rules and regs. Indicate to the BOS that you are making the changes to the rules and regs, and in your judgment as elected officials you believe that the deeds for Independence Lane and Freedom Trail should be recorded at the Registry of Deeds as they are.

Karyl Spiller-Walsh – As a board member, I totally agree with him. I have difficulty in trying to pull this together from the past. I think we should move forward as Paul Yorkis suggested.

Bob Tucker – I would tend to agree to support Paul Yorkis' position and be willing to make that recommendation. I am certainly not a lawyer in terms of what is acceptable, and would have to default to Barbara Saint Andre. She does bring up an issue. I don't know if anybody other than lawyers understands the significance, but that is why we pay lawyers. I would tend to agree with supporting Paul on this.

Chan Rogers – I definitely agree that we should adopt these to take care of the situations. I personally think it is counter productive for any property owner to think the easement is detrimental.

Andy Rodenhiser – Barbara, even though the road may exist and may be approved there might be an owner who could tell the town to get off their property. What would we do then?

Barbara Saint Andre – We would go to court. It is better to have an easement on record.

Andy Rodenhiser – The selectmen are saying we don't want to write a check.

Paul Yorkis – I have no disagreement with the argument and the recommendation that the town attorney is making and encouraging it to be a standard in the future. No disagreement with that. I have a strong disagreement to set a standard going backwards. It is not fair to the applicant, to the owners, to the people who went to town meeting and voted to accept the way.

Andy Rodenhiser – I am not sure that this is necessarily part of our rules and regs. I am not sure that the BOS has any rules of its own.

Paul Yorkis – When an applicant comes before the PB and the PB gives a certificate of action, that person builds the roads and conveys lots. But in your rules and regs that were in effect at that time, this policy is not specified.

Andy Rodenhiser – The acceptance of property is in the hands of the BOS.

Bill Sack – We just do what everybody else has done.

Paul Yorkis – That is why I am here. It starts here. We started with you.

Barbara Saint Andre – Your current rules and regs does have some language about this. It is in here but it could be refined.

Bob Tucker – Let's leave the words as they are and insert a table.

Barbara Saint Andre – Many towns say that the developer will keep the fee in the roadway and keep the fee in the easements, so it is clear.

Andy Rodenhiser – Is there a warranty type bond that could be put up? A title opinion?

Barbara Saint Andre – I don't do them. In the private sector, sometimes people get a lawyer's title opinion is giving an opinion as to why the title is good or not.

Tom Gay – I think we need to get moving. If the rules and regs need to be made clearer, that is a discussion for another time. We also can in the meantime with our checklist of what we hand people be very specific about how the deeds should be done.

Tom Gay – We reached a decision based on some criteria (last spring). You are asking that we reiterate that to the BOS, and we are suggesting they revisit their decision. I will say this – I am

a bit offended by the suggestion that this board behaved the wrong way. This board behaved in good faith. I take offense. I do not think that these people come down here and decide they want to screw with Paul Yorkis or anybody else.

Andy Rodenhiser – Particularly when you consider what we did with the Conservation Commission and what we did to work on that with you on that issue.

Tom Gay – I have no problem with us reiterating to the BOS that we feel it is OK to proceed to accept the deeds as presented.

Andy Rodenhiser – The BOS needs to evaluate the risk, and there is a potential for somebody to complain. I don't know if that night when we met with the BOS whether we talked with them about some of those legal issues.

Barbara Saint Andre – I don't recall. I think it was a very general discussion. Just parenthetically, I did inform Mr. Sack that we would be attending a BOS meeting.

Bill Sack – I was told I couldn't attend.

Susy Affleck-Childs – That meeting wasn't specific to Ishmael Coffee Estates.

Karyl Spiller-Walsh – Once the deed is conveyed the first time, it is sometimes impossible to go back.

Tom Gay – As a practical matter, we reached a decision based on facts that were presented. If then the BOS chooses to do something else, what can we do?

Andy Rodenhiser – Do you want me to go to the BOS? If so I would like a motion.

A motion was made by Bob Tucker, seconded by Chan Rogers, for the PB to communicate with the Board of Selectmen that we support of our recommendation last spring to accept the streets and we still believe it is the right thing to do. Unanimously approved.

Paul Yorkis – I would request that when you are there, please let me know in advance, that I could be there and Mr. Sack. Thank you for listening and understanding the seriousness of the problem. I apologize if I offended anybody. I wanted you to understand.

Andy Rodenhiser – Susy, please make sure Barbara Saint Andre knows when we are going.

Bill Sack – Please ask them to accept the deeds as they are.

### **Country View Estates and Broad Acres Estates – Bond Reduction Discussion**

Ted Cannon – We have made a request for the bond release. We understand that goes hand in hand with similar issues you have been discussing with reserving fees in roads and easements. Last time we were here, we left with instruction to try to gather as many of the deeds as we could to fill in the gaps for the roads and easements. We have all but one. I believe town counsel has indicated it is not a major concern.

The construction is done. The bond should be released.

There are 14 lots affected by easements. Of those 14, I have 8, two are not in town and have agreed to sign when they come home, 2 more have indicated general support, and the last two are Streifer and McKay.

I have notified all the loan holders of the 12 that have agreed in principle. I will do so tomorrow to the loan holders of McKay and Streifer.

Andy Rodenhiser – I think we are all set with Ken McKay's property based on what we learned last time.

Barbara Saint Andre – The easement was shown on the plan but wasn't reserved in the deed. There is a sewer easement and a pedestrian easement. Frankly, I am more concerned about the sewer easement.

Ted Cannon – I gave him new language and he hasn't returned my calls.

Andy Rodenhiser – So where are we?

Barbara Saint Andre – We do have the deeds from most of the people, but no mortgage sign off; and it seems like there are some people who are reluctant to sign over the deeds. This is one where frankly we might want to go the eminent domain route if we can't get the mortgage holders to sign off.

Ted Cannon – We will get as much as we can. We have reduced the likelihood of challenge.

Andy Rodenhiser – Can you prepare a written document status report and turn over all the information you have to town counsel?

Ted Cannon – Sure.

Susy Affleck-Childs – Here is an email note from Dave D'Amico regarding his concerns about water flow off of Broad Acres Farm Road onto Summer Street and the impact on Summer Street reconstruction.

Karyl Spiller-Walsh – I have a big concern about Dave's note. I have a lot of trouble with that.

Dave Pellegri/Tetra Tech Rizzo – In the punch list, we made reference to this matter, but it is hard to identify what the cause of the problem is. TTR bond estimate is dated 4/8/09 for a total of \$69,138.

Bob Tucker – If this is occurring, can you tell me that the drainage system was installed correctly?

Andy Rodenhiser – Is this a design flaw?

Ted Cannon – You have state highway improvements there. This subdivision work was done as designed. That is why all the construction was approved (last spring) and now to come back and say, well, after all the work and the winter, and say this has to be done, it isn't fair. On the issue of the bond, the statute is quite clear; the bond should be released. The record is there to back this up. We can do it one of two ways. The applicant is prepared to take action to recover the bond. However, he is willing to reach an accommodation with the board to release a significant amount, to leave some remaining in the bond, and for expenses. He is going to want a majority. He wants \$62,000 released.

Andy Rodenhiser – I believe there is an agreement that the town would plow and sand these streets?

Susy Affleck-Childs – Yes, there was an agreement with DPS for this winter.

Tom Gay – One of the points that was brought up is that the subdivision was constructed, road work was done on Route 126 and additional construction in the form of other subdivisions impacted the road. If some of what is happening on Route 126 is a result of other construction, if some is the product of 10 more houses being built and tying in, then I don't think that is this guy's problem.

Dave Pellegrini – There is nothing that stuck out. Berm that is missing is probably due to the snowplows. It looks like something that was caused recently. We still feel it needs to be fixed.

Andy Rodenhiser – The deeds haven't been conveyed and the liability rests with them.

Ted Cannon – This is the last chance. The statute is clear. It is about completion of the construction. We are prepared to reach an accord tonight and turn over all the info we have to town counsel and we will keep working to gather the rest.

Karyl Spiller-Walsh – Why isn't Greg out there patching and mending and fixing some of these things? It would cost him such a tiny fraction.

Ted Cannon – You could keep going out after each winter. The manhole is 8 years old.

Karyl Spiller-Walsh – And causing major damage on Route 126.

Andy Rodenhiser – Barbara, what is our standing with all this?

Barbara Saint Andre – As far as I know, this is the first time that you have received a notice under 81U indicating that the ways and services are complete and that the developer wants his bond back. You have 45 days to respond to that. You can either say yes, or you can say no; and you have to give them specific notice and detailing where the construction fails to comply with the rules and regs of the board.

Andy Rodenhiser – The fact that we have a punch list and he has just made this request, are we on good ground.

Barbara Saint Andre – You have to have specific details, and note where that is not in compliance with the rules and regs.

Andy Rodenhiser – Is there a motion from the board?

Bob Tucker – I would move that we formally provide this information to the applicant with a refusal on the return of the bond or we proportionally reduce the bond and that we provide the punch list to the applicant for resolution.

Chan Rogers – No, I am not ready to second that motion.

Karyl Spiller-Walsh – There are some issues that I have great concern with. Yes, I will second the motion.

#### Discussion

Dave Pellegrini – A large cost on the estimate now is cleaning out the detention basins (\$30,000). Whoever owns that road needs to do that. That is a bulk of the cost. Plus there are a couple of other items they need to address.

Bob Tucker – Dave, I would suggest that you be more specific.

Ted Cannon – Be aware that the large cost of the bond estimate is for maintenance. He has to establish that it wasn't constructed to the way it was designed.

Barbara Saint Andre – The issue is, if you decide not to return the bond, you have to specify how the construction fails to comply with the rules and regs. You must tie this back to the "old" subdivision rules and regs that were in effect then.

Bob Tucker – I have a question on the catch basin hoods.

Dave Pellegrini – We put them in the bond estimate.

Susy Affleck-Childs – I believe there was a sort of gentlemen's agreement last spring to not require the installation of those.

Barbara Saint Andre – I would suggest you go through each item of the bond estimate and discuss. Either you return the funds or you don't.

Ted Cannon – He is willing to leave some money in there.

Chan Rogers – You could easily justify \$150,000 based on the pictures (from the TTR inspection report) but our representative said it was completed last spring and agreed to. I think we could release some dollars.

Bob Tucker – Do you have any willingness?

Chan Rogers – It would have to be arbitrary. Is he responsible?

Tom Gay – That is still what I am concerned about. Also, 8 years of wear and tear. Ted's issue is whether the construction was done.

Karyl Spiller-Walsh – I am very uncomfortable with that corner and the problems at that manhole.

Tom Gay – I am not convinced it is their fault at this stage of the game.

Bob Tucker – We have a due date in 2 days (to respond to the request for bond release) and we have to respond, or we need to do a bond reduction.

Bob Tucker – The bond estimate is not complete. There are some potential items that would be worthwhile to have more knowledge of.

Susy Affleck-Childs – The water issues are not new this year.

Karyl Spiller-Walsh – It was about the depth of pipes and size of pipes. It was not a one time conversation.

Ted Cannon – VHB was satisfied that it had been completed last April/March 2008.

Chan Rogers – There are other pictures here that indicate that work wasn't finished.

Tom Gay – What if we went to this estimate, and removed the maintenance issues, and left an amount of money in there for construction. Is there a willingness to compromise?

Ted Cannon – Marginally.

Tom Gay – No one can verify for me that there was a handshake on the catch basin hoods. Just focus on the construction. Retain the bond only on construction issues, and not for detention pond maintenance.

Ted Cannon – Except that we have a history that VHB has said it is acceptable. There is value to the applicant and the town. \$10,000 to \$15,000 left is probably okay.

Karyl Spiller-Walsh – I have no comfort with that amount.

Bob Tucker – I have a problem with not following through and not having enough money to fix it. I live on one of those old unaccepted streets in town.

Ted Cannon – VHB made a recommendation last spring to go ahead with street acceptance and the PB concurred.

Tom Gay – I am trying to reach a compromise to try to work through this.

Chan Rogers – I don't want to put it in a sense of negotiation, but it appears to me with the \$30,000 maintenance and \$13,000 contingency, that is \$43,000. Subtract that right off the top

and leave \$30,000 to do some fix up work. And that doesn't even cover the Route 126 concerns. Are we willing to keep \$30,000?

A motion was made by Karyl Spiller-Walsh, and agreed to by Chan Rogers, to withdraw the former motion. Approved.

Chan Rogers – I move we reduce the bond to \$30,000 from \$72,000 by deleting the amount for the catch basins hoods, and because there is definitely work to be done.

Tom Gay – Here are the numbers:

Catch basins hoods	\$ 8,400
New berm work	\$ 7,000
Gravel work	\$ 3,850
Loam and seeding	\$ 2,760
Contingency	<u>\$ 5,502</u>
	<b>\$27,512</b>

Those are the instances where the work does not yet meet the subdivision rules and regs

Chan Rogers – I am OK with keeping \$27,512.

The motion was seconded by Karyl Spiller-Walsh.

Tom Gay – Susy, I would like you to check out the “handshake” agreement on the catch basin hoods from last spring.

Susy Affleck-Childs – I need to tell you that we need some funds for the construction account to cover engineering fees and legal fees. When we did this before, Greg agreed to have a portion of the bond refund directed in that way.

Ted Cannon – I would have to take that back to the applicant.

Barbara Saint Andre – If we end up doing eminent domain there will be more costs involved.

Bob Tucker – What do we need to hold onto? We have to have something.

Barbara Saint Andre – I suggest you take a vote on what work is not yet completed

2 minute break – 10:56 pm

Andy Rodenhiser excused himself for a personal phone call.

Dave Pellegrini – How do you anticipate handling the drainage issue? What if the state comes back to you? I would say it is the applicant's responsibility to identify the issues

Bob Tucker - Any further discussion?

The motion was approved. All yes. Andy Rodenhiser not present for the vote.

Barbara Saint Andre - The Board needs to determine that it needs more money for the consultant account

Susy Affleck-Childs - \$5,000 legal and \$3,000 for engineering services totaling \$8,000.

A motion was made by Karyl Spiller-Walsh and seconded by Tom Gay to notify them that \$8,000 is needed for the construction account. The motion was approved. YES – Tucker, Gay, Spiller-Walsh; NO – Rogers.

Susy Affleck-Childs – Ted, are you authorized to act on behalf of Greg to allow some of the bond refund money to be used for the construction account?

Ted Cannon – No.

Susy Affleck-Childs – Then I will have to do a letter to Greg about that.

Dave Pellegri – How do you want us to proceed? What is my role at this point?

Bob Tucker – I would say you are in a holding pattern for the moment.

Bob Tucker – I don't have an issue with this. I would like to know what the background is on what was decided last spring with VHB.

It was agreed to wait until the next meeting to discuss this further after Susy compiles some information.

A motion was made by Karyl Spiller-Walsh, seconded by Bob Tucker, to adjourn the meeting. The motion was approved unanimously.

The meeting was adjourned at 11:05.

Respectfully submitted,

Susan E. Affleck-Childs  
Planning Board Assistant



**TOWN OF MEDWAY**  
**Planning & Economic Development Board**  
155 Village Street  
Medway, Massachusetts 02053

*Andy Rodenhiser, Chairman*  
*Robert K. Tucker, Vice-Chairman*  
*Cranston (Chan) Rogers, P.E., Clerk*  
*Karyl Spiller-Walsh*  
*Thomas A. Gay*  
*John W. Williams, Associate Member*

March 25, 2009

**TOWN OF MEDWAY**  
**PLANNING & ECONOMIC DEVELOPMENT BOARD**  
**NOTICE OF PUBLIC HEARING**  
***Daniels Village***

***Adult Retirement Community Planned Unit Development (ARCPUD) Special Permit & Plan***

In accordance with the Medway Zoning By-Law, SECTION V. Use Regulations, Sub-Section U. Adult Retirement Community Overlay District, the Medway Planning Board's *Rules and Regulations for the Review and Approval of ARCPUD Plans and Issuance of ARCPUD Special Permits*, and the provisions of Massachusetts General Laws, Chapter 40A, Sections 9 & 11, notice is hereby given that the Medway Planning & Economic Development Board will conduct a Public Hearing on ***Tuesday, April 28, 2009 at 7:15 p.m. in Sanford Hall at Town Hall, 155 Village Street, Medway, MA***, to reconsider the proposal of Barberry Homes, Inc. of Framingham, MA for approval of an ARCPUD Special Permit and Plan entitled *Daniels Village, Medway, MA*, dated August 10, 2006, prepared by GLM Engineering of Holliston, MA..

Barberry Homes had previously proposed to construct an *Adult Retirement Community Planned Unit Development (ARCPUD)* on a 51-acre site located between 61 and 83 Winthrop Street in the ARI zoning district. Presently owned by Betty McCall-Vernagli of Medway, MA, the property is on the west side of Winthrop Street, a Medway scenic road, and south of Lovering Street (*Medway Assessors' Map 5-3, Parcel 45-1*).

On May 29, 2007, the Planning Board approved, with conditions, an ARCPUD Special Permit and ARCPUD Plan for the Daniels Village ARCPUD development. Barberry Homes immediately appealed that decision to the Norfolk County District Court. They challenged a condition of the decision that required them to make a mitigation payment of \$108,000 to the Town to support construction of an addition at the Medway Senior Center. In December 2008, the Court found that the Planning Board had acted beyond its scope of authority in requiring such a payment and remanded the case back to the Planning Board for reconsideration. This public hearing is the first step in that reconsideration process.

If constructed as originally approved, the Daniels Village ARCPUD development would include 80 age restricted condominium dwelling units in 52 buildings divided among 5 lots and include 33 single-family detached homes and 47 attached townhouses clustered into a mixture of triplexes and duplexes; (8) *affordable* dwelling units were to be provided. The proposed dwellings would range in size from a 1,800 sq. ft townhouse to a 2,000 sq. ft. detached house. At least one adult, age 55 or older, would be required to reside in each unit. Each unit would have a 2 car garage plus 2 additional driveway parking spaces. Daniels Village would also provide 3,270 linear feet of privately owned roadway; sewage and water service; drainage/stormwater management facilities; 20.4 acres of dedicated open space including 3,560 linear feet of paved sidewalks and 2100 linear feet of unpaved walking trails/paths; and associated parking and landscaping. Site access and egress was planned from Winthrop Street. 30 off-street parking spaces would be provided for visitors and guests.

The Daniels Village ARCPUD plan and the May 29, 2007 ARCPUD Special Permit decision are on file with the Medway Town Clerk at the Medway Town Hall, 155 Village Street, Medway, MA and may be inspected Monday through Thursday from 8:00 a.m. to 4:00 p.m. and Fridays from 8:00 a.m. to 1:00 p.m.

Any person or party who is interested or wishes to be heard on this proposal is invited to review the plans, attend the public hearing, and express their views at the designated date, time and place. Written comments are encouraged and may be forwarded to the Medway Planning and Economic Development Board at 155 Village Street, Medway, MA 02053 or emailed to: [medwayplanningboard@townofmedway.org](mailto:medwayplanningboard@townofmedway.org).

Andy Rodenhiser  
Planning and Economic Development Board Chairman

**Barberry Homes, Inc.**  
**Builder of Fine Custom Homes**  
10 Speen Street,  
Framingham, MA 01701  
508-651-0025  
Fax 508-270-5210  
www.barberryhomes.com

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April 22, 2009

Medway Planning Board  
Town Hall  
155 Village Street  
Medway, MA 02053

Re. Public Hearing of April 28, 2009

Dear Members:

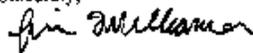
Attached please find Barberry Homes check in the amount of \$503.50 as requested by the Planning Board in the Board's correspondence to Barberry Homes dated April 9, 2009. Said amount represents postage costs necessary to advertise for above referenced public hearing which the Board has scheduled to consider the remand order in the case of Barberry Homes Inc. vs. the Medway Planning Board (Superior Court Civil Action NOCV 2007-1059).

The Planning Board has also requested the amount of \$2500 to establish a "plan review account" due to the "size, scale and complexity of Daniels Village... and the consequent impact on the community" Because the Daniels Village plan has already been issued a Special Permit by the Planning Board and has therefore already been thoroughly reviewed by the Board and it's consultants, and it is not our intention to make any changes whatsoever to the approved plan, we do not think it necessary to "begin anew the process of reviewing the proposed development" as suggested in the Board's letter to Barberry Homes of April 8, 2009. We therefore have not remitted the requested \$2500.

It is our belief that the Public Hearing should deal only with the specific concern which was the subject of the Superior Court litigation and are confused as to why the Planning Board feels the entire planning process has to start from scratch, given the fact that the Planning Board has already issued a Special Permit for the project and we are not requesting a single modification to the approved plan.

Thank you.

Sincerely,



Jim Williamson  
Barberry Homes Inc.

Medway, MA

Proj. No. #-----  
 4/9/09

**Broad Acres and Country View Estates Bond Estimate**

ITEM NO.	WORK ACTIVITY	QUANTITY	UNIT	UNIT PRICE	TOTAL	COMMENTS	
<b>Sewer</b>							
223	Frame and Cover Removed and Reset	1	EA	300.00	\$/EA	300	Manhole at East end of Broad Acres Farm Road that has been paved over.
	Subtotal					300	
<b>Drainage</b>							
224.12	Catch Basin Hoods	24	EA	350.00	\$/EA	8,400	All catch basins not inspected - assume half
	Detention Basin Maintenance	3	LS	10,000.00	\$/EA	30,000	See Note 2
	Subtotal					38,400	
<b>BITUMINOUS CONCRETE</b>							
482.01	Hot Applied Asphalt Crack Sealer	1,000	FT	3.00	\$/FT	3,000	Allowance - Exact Quantity Not Measured
	Demol and Disposal of Existing Berm and Pavement Preparation for New Berm	1,000	FT	3.00	\$/FT	3,000	Approximate Cost
470.2	Hot Mix Asphalt Berm - Modified	1,000	FT	4.00	\$/FT	4,000	Allowance - Exact Quantity Not Measured
	Subtotal					10,000	
<b>AGGREGATE (Slope Repair)</b>							
151	Gravel Borrow	110	CY	35.00	\$/CY	3,850	Approximately 200 LF of embankment
	Subtotal					3,850	
<b>LANDSCAPING (Slope Repair)</b>							
751	Loam Borrow	50	CY	42.00	\$/CY	2,100	Approximately 200 LF of embankment
765	Seeding	330	SY	2.00	\$/SY	660	Approximately 200 LF of embankment
	Subtotal					2,760	
<b>Project Summation</b>						<b>55,310</b>	
<b>Contingency</b>					25%	<b>13,828</b>	
<b>Site Total</b>						<b>69,138</b>	
<b>Project Total</b>						<b>69,138</b>	

**Notes:**

- Unit prices are taken from the latest information provided on the Massachusetts Highway Department website. They utilize the Mass Highway weighted bid prices (Combined - All Districts) for the time period 4/2008 - 4/2009.
- Cost is dependent on approved operation and maintenance plan. Typical maintenance would include cleaning sediment and debris from inlet and outlet structures, forebays and basins, and disposal costs. Also includes removal and disposal of silk fence at basin on west end of Broad Acres Farm Road.

