

Committee Report on a Legislative Matter

Report Regarding: 16.026

Petition from Northampton Residents to Accept Bottums Road as a Public Way

From:

Comm. on Public Works & Utilities

Date of Meeting: 3 /28/2016

Prepared By: P. Powers

Recommendation:

Positive Recommendation (3 Yes, 1 No {Councilor Adams})

Yes: 3

No: 1

Absent: 0

Abstain: 0

Factors Considered:

The Committee reviewed the petition and discussed the merits of making Bottums Road a public street. Councilor Dwight provided testimony about the public hearing that took place on 3/23/2015 by the Board of Public Works. There, information was given about the public access turnaround that had been made so that plowing and other maintenance of the street could be on-going. This turnaround has also been agreed to by the residents of the street. Everyone on the road concurred; after the hearing the BPW voted to accept Bottums Road as a city street with one abstention. The committee reviewed the Planning Board's recommendation of Feb. 25, 2016 in which they voted unanimously not to recommend making Bottums Road a public street. The Planning Board recommendation was read into the record by the Administrative Assistant.

Comments, Discussion & Debate:

Councilor Dwight recounted that previously the City Council was asked to accept Bottums Road by petition. The measure passed first reading but failed second reading. Subsequent information was provided by the DPW about the viability of Bottums Road as a city street. A number of residents contacted Councilor Dwight to ask if this could be revisited. This required the process to start all over again.

Councilor Murphy reviewed why the city was considering making private streets public ways. He noted that there is case law whereby it has been determined that the use of public funds to benefit private interests, including road maintenance and plowing, were prohibited by law. The specific example cited was in the town of Wellfleet. Northampton went through and determined that there were several private streets in which city services were provided; Bottums Road was one such street. There were many other "built-to-

code” streets that were not accepted as well; half of Hillcrest Drive was one example. For over 100 years the residents, as well as the city, thought all of the roads were public ways. At the beginning of the process of street acceptances, the standard was set pretty high. By the end of the process, the standards had been revised. Councilor Murphy feels that the Council cannot discriminate against this street.

Councilor Dwight noted that there are a number of streets that have been accepted that do not conform to criteria that we currently have in place for subdivision development of streets: they are not the right gauge, they don't have the requisite curb cuts, they don't have sidewalks or granite curbing. The process of street acceptance was basically to reconcile a historical problem and that going forward, all future developments would have to abide by the current standards in place for street development. Councilor Dwight is surprised by the language of the Planning Board's decision.

Councilor Adams clarified that the city council had already weighed in on this measure and decided that Bottums Road should not be made a public way. He had originally felt as though the street looked more like a driveway.

Councilor Murphy stated that the defining factor for him was that the street was accepted as a street for the better part of 100 years.

Councilor Adams said that it made no sense that Center Court should not be a public street, but Bottums Road should be a public way.

Councilor Dwight believes that the Planning Board has already dealt with residents who wanted to have public accessibility by way of Bottums Road. He noted that the Planning Board would not grant accessibility via Bottums Road; the developers were compelled to build a separate driveway further down Clement Street. Bottums Road is not a two-lane way and is a dirt road. The city has continued to provide plowing during this past winter. The Planning Board authorized the building of those homes with the understanding that Bottums Road was a city street. The residents argument is that if not considered a public street, property values would diminish and that they purchased their homes with the understanding that the value of their home was linked to the fact it was built on a city street.

Councilor Murphy noted that residents on Bottums Road have been there since the 1980s. Developers were granted a building permit to build residential homes under the false assumption that Bottums Road was a public way.

Councilor Dwight noted that the difference between Center Court and Bottums Road was that the BPW voted to recommend Bottums Road as a public way, however, it voted not to recommend making Center Court a public way.