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May 29, 2019

To Residents of Bellevue Road and Morton Road:

The Arlington Select Board will hold a public hearing on a petition received from the Bellevue-Morton Association, two-thirds of the abutters of the private ways known as Bellevue Road and Morton Road in accordance with Arlington Town bylaws, "Repairs to Private Ways", on **Monday, June 17, 2019, at 7:15 p.m. in the Select Board Chambers, 2nd Floor, Town Hall, 730 Massachusetts Avenue, Arlington, MA.**

The purpose of the public hearing is to determine if the repairs should be made. The public hearing will provide property owners an opportunity to be heard on the matter prior to the Select Board taking action on the petition.

The total estimated cost of the work to be performed is \$63,400.36. The Bellevue-Morton Association will pay \$48,000 of the cost with the remaining balance due of \$15,400.36. The estimated assessment, per lot, to the abutting property owners is \$496.79. This amount will be due upon completion, or if you choose, it can be assessed on your tax bill for payment over a **five-year period with interest**, in accordance with the M.G.L. Chapter 80, The Betterment Act.

Should you have any questions regarding this, please do not hesitate to contact me. Enclosed please find a copy of the Town bylaws, and a copy of the public hearing notice.

Very truly yours,
SELECT BOARD

Marie A. Krepelka
Board Administrator

MAK:fr
Enclosures

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(PLACE TOWN SEAL HERE PLEASE)

Legal Notice
SELECT BOARD
PRIVATE WAY REPAIR
PUBLIC HEARING

At 7:15 p.m. Monday, June 17, 2019, there will be a public hearing at the Select Board Chambers, Town Hall, 730 Massachusetts Avenue, Arlington, MA, on a petition received from two-thirds of the abutters of the private ways known as Bellevue Road and Morton Road in accordance with Arlington Town bylaws, "Repairs to Private Ways". The purpose of the public hearing is to determine if funds from the Private Way Account should be expended for said roadway.

Per Order of
The Select Board

Arlington Advocate publication:
June 6, 2019
June 13, 2019

TOWN BYLAWS – REPAIRS TO PRIVATE WAYS

ARTICLE 3

REPAIRS TO PRIVATE WAYS

Section 1. Classification

The Town Engineer and the Director of Public Works upon request of the Select Board acting in its capacity as the Board of Public Works shall recommend the classification of private ways in the Town according to the state of their construction and repair. The Board may then adopt such classifications with any modifications it may deem appropriate.

Section 2. Definition and Authorization

(ART. 20, ATM-05/04/92) (ART. 23, ATM-04/28/04)

The Board may vote to direct the Town Manager to make temporary repairs to private ways. Temporary repairs shall be limited to the filling of potholes, temporary patching, skimcoating, thin asphalt overlays, armor coating and grading of dirt roadways providing however, in the case of said grading, the petitioners agree to enter into a contract with a private contractor or the Town to pave the roadway forthwith. Drainage may be included when necessary as determined by the Public Works Director, to prevent further erosion.

Section 3. Criteria

(ART. 35, ATM-05/18/05)

The Board shall in making its determination as to the advisability of making temporary repairs take into consideration the following factors:

- A. The accessibility of the properties on the private ways to emergency vehicles such as police, fire and rescue.
 - B. The volume of traffic that utilizes the private way i.e. deadend as opposed to feeder or connecting streets.
 - C. The percentage of abutters on the particular private way petitioning the Board for the repairs.
 - D. The number of years that the way shall have been open to public use.
 - E. Such other considerations that the Board deems appropriate.
- F. Public Safety.

Section 4. Petition

The Select Board shall consider any private way or portion thereof for temporary repairs after having been petitioned to do so by at least two-thirds of the total number of abutting property owners on the Private Way who directly abut the portion to be considered for temporary repairs.

The Board may after careful consideration, elect to do the entire portion which was petitioned for, or a lesser portion, provided at least two-thirds of the abutting property owners on the lesser portion to be done are in favor of such action. The Board shall upon receipt of a petition with at least two-thirds of the abutters' signatures affixed thereto shall hold a public hearing on the advisability of ordering the repairs and the kind and extent thereof. All abutters shall be given written notice of the hearing not less than seven (7) days prior thereto.

Section 5. Alternate Petition

Notwithstanding the provisions of Section 4 above, the Board may also consider a number of private ways for repair as a whole project when these private ways are ways where a majority of abutters are members of an association of abutters whose major purpose has been the maintenance and repair of those ways upon which these members' properties abut.

The Board may only consider these private ways to be repaired as a whole project when having been petitioned by two-thirds of the total number of abutters who abut all of the ways represented by the association. The Board upon receipt of such a petition shall hold a public hearing on the advisability of ordering the repairs and the kind and extent thereof. All of the abutters on all of the ways represented shall be given written notice of the hearing not less than seven days prior thereto.

Section 6. Assessment of costs

(ART. 23, ATM – 04/28/04) (ART. 35, ATM – 05/18/05)

The costs of all labor and materials and processing shall be assessed equally to all abutters on the private way, or portion thereof, or if the Board votes to order any repairs pursuant to a petition filed under Section 5 all the abutters on all the private ways to be repaired without regard to linear frontage.

A *one-third deposit* of the total estimated cost of the completion of the repair project shall be required before any work can be commenced. All remaining costs shall be apportioned, assessed and collected on a per-property basis pursuant to the procedures provided in Chapter 80 of the General Laws, the Betterment Act, including the placing of liens on the affected property and the collection of apportioned costs by means of property tax collection.

Any and all such deposits shall be deducted from the equalized share of the property owners actually paying.

Section 7. Collection of Apportioned Share

(ART. 35, ATM – 05/18/05)

The Select Board before authorizing any repairs shall adopt a formal Betterment Order which shall require each abutter to pay his/her property's unpaid apportioned share of the repair cost over a five-year period to include interest at 5 percent or 2 percent above the cost (including Town oversight and administration costs) of any bond issued to fund the repair in question. The Assessors in conjunction with the Town Tax Collector will commit such amount to the respective abutters property tax bill and the Engineering Division of the Public Works Department will cause same to be recorded at the Registry of Deeds so that same runs with the land.

Section 8. Liability

(ART. 35, ATM – 05/18/05) (ART. 19, ATM – 05/04/92)

There shall be a limitation of liability on the Town of Five Hundred (\$500.00) Dollars for any damages arising from any negligent repair of the private way which shall include damage from surface water run-off.

No repair shall be commenced until all the petitioners have signed an agreement with the Town holding the Town harmless from any additional damages arising from any negligent repair and providing evidence of insurance to the satisfaction of the Town. However, nothing in this paragraph shall excuse the Town from damages to property caused by the Town or agents thereof, during the repair process.