



Town of Orange

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Office of the Board of Selectmen

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June 26, 2024

Representative Susannah Whipps
P.O. Box 392
Athol, MA 01331

Dear Representative Whipps,

Please accept this letter of support from the Town of Orange Board of Selectmen for the request to file special legislation that would allow the Town of Orange to convey five (5) parcels of land located on Lake Mattawa, along Holtshire Road.

The Town of Orange Water Department had acquired 35 acres of land on or about May 26, 1894 for water supply purposes. Recently, the Town has determined that approximately .38 acres of this to be considered surplus property, and is no longer needed for the protection of the water supply.

The Town has designated the replacement land to be 129 Lake Mattawa Road, and will allocate proceeds from the sale of the properties indicated evenly into the Town treasury and the Town of Orange Water Department Enterprise Fund, which will be used for water supply purposes and other costs associated with the development of water supply.

The Board of Selectmen strongly support this special legislation, and we are grateful for your assistance in helping the Town of Orange accomplish this request.

Respectfully,

Thomas Smith
Board of Selectmen, Chair



TOWN OF ORANGE

Office of the Board of Selectmen

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An Act Authorizing the Town of Orange To Convey a Certain Parcel of Land

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same as follows:

Section 1. The Water Department of the Town of Orange may release from water supply designation five (5) certain parcels of land totaling approximately .38 acres, more or less, located at Lake Mattawa, in said Town to the Board of Selectmen of the Town of Orange for the purpose of conveying such parcels, by lot or otherwise. The land was acquired by the Town of Orange Water Department for water supply purposes as part of a 35-acre parcel by deed dated on or about May 26, 1894, and recorded in the Franklin County Registry of Deeds in Book 433, Page 228, and the Water Department has determined that the approximately .38 acres more or less of land at Lake Mattawa is surplus property no longer needed for water supply protection purposes. Said parcels are more specifically shown as Parcel A, Parcel B, Parcel C, Parcel D, and Parcel E on a plan of land entitled “Plan of Land Holtshire Road, Orange MA,” dated March 11, 2020, and prepared by Edward T. Berry, PLS.

Said Town shall designate, as replacement land, a parcel of land on Lake Mattawa at 129 Lake Mattawa Road, more specifically shown as Lot 113 on a plan entitled “Plan of Land in Orange, Massachusetts, owned by the Town of Orange,” dated June 9, 2006 and revised on August 25, 2009, by Berry Engineering, Inc., more particularly bounded and described as follows:

Beginning at a point on the shoreline of Lake Mattawa, said point marking the northwest corner of the affected premises; thence N 53° 26' 04" E a distance of 140.00 feet, more or less, to a stake; thence turning and running N 73° 41' 00" E a distance of 26.81 feet, more or less, to a point, the last two courses being along Lot 114 as shown on the aforementioned plan; thence turning and running S 08° 55' 54" W a distance of 61.52 feet, more or less, to Pole 73-1; thence proceeding S 08° 76' 39" E a distance of 107.61 feet, more or less, to a point; thence turning and running S 76° 02' 17" W a distance of 15.46 feet, more or less, to an iron pin; thence proceeding S 70° 27' 04" W a distance of 69.00 feet, more or less, to a point on the shoreline of Lake Mattawa, the last 2 courses being along Lot 111 as shown on the aforementioned plan; thence turning and running northwesterly along the shoreline of Lake Mattawa a distance of 125.00 feet, more or less, to the place of beginning. Containing 16,370 square feet, more or less.

The Town of Orange is an equal opportunity provider.

Section 2. Notwithstanding chapter 30B of the General Laws, but subject to paragraphs (a), (b) and (g) of Section 16 of Chapter 30B, the Town of Orange, acting by and through its Board of Selectmen, may transfer or convey, by lot or otherwise, the property at Lake Mattawa containing approximately .38 acres more or less for fair market value to the current occupants on the land. The five subject parcels are more specifically shown as Parcel A, Parcel B, Parcel C, Parcel D, and Parcel E on a plan of land entitled "Plan of Land Holtshire Road, Orange MA," dated March 11, 2020, and prepared by Edward T. Berry, PLS, more particularly bounded and described as follows:

Parcel A

Beginning at a point on the easterly side of the 1896 Franklin County Layout, known as Holtshire Road, concurrent with the high water mark of Lake Mattawa, said point marking the northernmost point of the affected parcel; thence running southerly along the high water mark of Lake Mattawa a distance of 88.00 feet, more or less, to a point on the high water mark; thence turning and running S 71° 04' 00" W a distance of 36.00 feet, more or less, to a point on the easterly side of Holtshire Road; thence turning and running N 32° 41' 00" W along Holtshire Road a distance of 64.00 feet, more less, to the point of beginning. Containing 450 square feet, more or less.

Parcel B

Beginning at a point on the easterly side of the 1896 Franklin County Layout, known as Holtshire Road, said point marking the northwest corner of the affected parcel; thence turning and running N 71° 04' 00" E a distance of 36.00 feet, more or less, to a point on the high water mark of Lake Mattawa; thence turning and running southerly along the high water mark of Lake Mattawa a distance of 127.00 feet, more or less, to a point on the high water mark; thence turning and running S 69° 45' 52" W a distance of 13.00 feet, more or less, to a point on the easterly side of Holtshire Road; thence turning and running N 32° 41' 00" W along Holtshire Road a distance of 128.97 feet, more less, to the point of beginning. Containing 3,520 square feet, more or less.

Parcel C

Beginning at a point on the easterly side of the 1896 Franklin County Layout, known as Holtshire Road, said point marking the northwest corner of the affected parcel; thence turning and running N 69° 45' 52" E a distance of 13.00 feet, more or less, to a point on the high water mark of Lake Mattawa; thence turning and running southerly along the high water mark of Lake Mattawa a distance of 64.00 feet, more or less, to a point on the high water mark; thence turning and running S 71° 04' 22" W a distance of 10.00 feet, more or less, to a point on easterly side of Holtshire Road; thence turning and running N 08° 22' 36" W along Holtshire Road a distance of 13.44 feet, more less, to a point on the easterly side of Holtshire Road; thence proceeding N 32° 41' 00" W along Holtshire Road a distance of 44.60 feet, more less, to the point of beginning. Containing 660 square feet, more or less.

Parcel D

Beginning at a point on the easterly side of the 1896 Franklin County Layout, known as Holtshire Road, said point marking the northwest corner of the affected parcel; thence turning and running N 71° 04' 22" E a distance of 10.00 feet, more or less, to a point on the high water mark of Lake Mattawa; thence turning and running southerly along the high water mark of Lake Mattawa a distance of 67.00 feet, more or less, to a point on the high water mark; thence turning and running S 69° 45' 52" W a distance of 48.00 feet, more or less, to a point on the easterly side of Holtshire Road; thence turning and running N 08° 22' 36" W along Holtshire Road a distance of 62.38 feet, more or less, to the point of beginning. Containing 1,575 square feet, more or less.

Parcel E

Beginning at a point on the easterly side of the 1896 Franklin County Layout, known as Holtshire Road, said point marking the northwest corner of the affected parcel; thence turning and running N 69° 45' 52" E a distance of 48.00 feet, more or less, to a point on the high water mark of Lake Mattawa; thence turning and running southerly along the high water mark of Lake Mattawa a distance of 235.00 feet, more or less, to a point on the easterly side of Holtshire Road, concurrent with the high water mark of Lake Mattawa; thence turning and running N 04° 08' 32" W along Holtshire Road a distance of 95.00 feet, more or less, to the point of beginning. Containing 7,205 square feet, more or less.

Section 3. The proceeds of the disposition of the property in section 2 after expenses, shall be allocated as follows: (i) 50 percent (50%) shall be deposited into the Town treasury, and (ii) 50 percent (50%) shall be remitted to the Town of Orange Water Department Enterprise Fund to be used generally for water supply purposes and other costs associated with the development of water supply.

Section 4. This act shall take effect upon its passage.

Thomas Smith, Chair

Patricia Lussier, Vice Chair

Andrew Smith, Clerk

Jane Peirce

Julie Davis

Narrative for EEA Application

History of the Parcels on Holtshire Road in Orange, MA

On or about May 26, 1984, the Town of Orange acquired land consisting of thirty-five (35) acres more or less at the north end of North Pond (Lake Mattawa) from one Namon Tyrell, recorded in the Franklin County Registry of Deeds at Book 443, Page 228. In 1894, Lake Mattawa was known as North Pond. The Town acquired this land for water supply purposes. The intention was to erect a pumping station at the north end of the lake. The Town built a dam and flooded twenty (20) acres of this land, leaving land above the highwater mark. Fifteen acres of this land was called the Point and was the subject of special legislation in 2012, Chapter 210 of the Acts of 2012. Five acres of the Point was retained for open space and 10 acres was sold to leasees who have been occupying the land for decades.

After acquiring the thirty-five (35) acres, the Water Commissioners determined that the Crystal Springs north of North Pond was a more satisfactory location for the pumping station and so the Point and the remaining land above the highwater mark was not used for water supply purposes, but only for an emergency back-up water supply. Pressure was then put on the Water Commissioners to allow people to build camps on the land. In 1902, one Leslie Giles built the first camp on the Point. As early as 1906, the Orange Annual Report reflected the receipt of ground rents for the cottages at North Pond. 295 Holtshire Road was such a camp. 288 Holtshire Road, 286 Holtshire Road, 282 Holtshire Road and 280 Holtshire Road were additional high watermark parcels. These occupied parcels of the 1984 acquired property were missed during the 2012 process and the 2012 special legislation. In 1907, the name of the lake was changed from North Pond to Lake Mattawa.

In November, 1939, the Water Commissioners gave permission to the Town of Orange Board of Assessors to tax the use of the property to the occupants pursuant to M.G.L. c. 59, section 2B. Occupants since that time have paid for the use of the land owned by the Town.

Overall, approximately twenty-two cottages (including 295 Holtshire Road) were erected on this land, and approximately four (4) other parcels were used for docks and access to the lake from owners across Holtshire Road. Most of the cottage parcels were sold after the 2012 special legislation to the occupants. 129B Mattawa, Orange, Ma, the exchange parcel was not purchased. The Town of Orange demolished the cottage on the property. Currently it is held by the Town of Orange Selectboard for general municipal purposes and could be sold as a building lot, with lake frontage. If the petition is accepted, this parcel will be conserved and used as access from the 5 acres retained as open space to the lake. This would enable the Water Department to have direct access to the lake for emergency water supply purposes and enough room on the parcel for necessary equipment. The parcels to be conveyed if the petition is granted are not sufficient for this purpose as this is a very narrow strip of land between Holtshire Road and the lake as seen on the attached plans.

Modern Day Procedure

On July 13, 2020, the Water Commissioners, at a duly called meeting, voted: Pursuant to M.G.L. c. 40, section 15A, move that the Orange Board of Water Commissioners, having charge of the land in the town known as Assessors' parcels 24 and 25 on Map #249 at Lake Mattawa and further subdivided on a Plan of Land prepared for the Inhabitants of the Town of Orange by Edward T. Berry, March 11, 2020, hereby declare and determine that said land is surplus property being no longer needed for water supply purposes. Carl Sauter seconded. Motion voted unanimously. See Exhibit B.

On April 10, 2023, the Water Commissioners, at a duly called meeting, voted after being moved by Michael Hume: to accept 129 Lake Mattawa Road for potential emergency Water Department needs to satisfy the portion of Article 97 within the MEPA (ENF) application. Mercedes Clingerman seconded. Motion was approved unanimously. See Exhibit B.

On February 8, 2024, the Water Commissioners received a letter from Andrew Kelly, Drinking Water Section Chief, Western Regional Office, Department of Environmental Protection, which stated in part: "In accordance with Massachusetts Drinking Water Regulation 310 CMR 22.24, MassDEP has determined that the lands in question are no longer required for water supply protection purposes and grants approval for their sale. Lake Mattawa has not been used as a supply source since the early 1900s. The property in question now has a residence on it as do other properties around the lake initially purchased for protection purposes." Please see Exhibit C.

On March 13 2024, at a duly called meeting of the Town of Orang Selectboard, the Board voted: "To see if the Selectboard will vote to sell the land on a plan entitled Plan of Land Holtshire Road, Orange, MA prepared for the Inhabitants of the Town of Orange, Ma on March 11, 2020 prepared by Edward T. Berry, PLS, 29 South Main St; Athol, MA 01331 depicting the parcels to be sold including 295 Holtshire Road and the surrounding property to Thomas and Tracy Flaherty, Matthew and Angela Gilmore; Douglas and Chante Jilson; Cheryl Kelleher and Anthony and Katie Ge3mma all as approved at the Special Town Meeting on September 14, 2020. Andrew Smith seconded the Motion. All in favor." Please see Exhibit D.

The Plan of Land referenced herein in Exhibit F.

On June 18, 2024 at the duly called Annual Town Meeting of the Town of Orange, Ma, the Town Meeting voted to authorize the Selectboard to file special legislation to seek authorization from the legislature to sell the parcels in question as voted at the March 13, 2024 meeting. See Exhibit E.

The reasons for the determination that disposition of the land is important are numerous. The occupants of 295 Holtshire Road, have not been allowed to maintain their cottage for years. The cottage is in need of repair. There is a failed septic system on the property that must be upgraded. Under 310 CRM 15:00, Massachusetts Title V Regulations, the Town as property

owner has the responsibility for coming into compliance with the regulations. The most expeditious way to do this is to convey the property to the cottage owner. The remaining four parcels have docks on them that have been used by the families for years and they have made payments in lieu of taxes for decades. The property as DEP has stated is not needed for water protection or supply purposes.

Compliance with Chapter 274 of the Acts of 2022

The Town has complied with Chapter 274 of the Acts of 2022.

The Town has notified the public and the secretary of energy and environmental affairs and conducted an alternatives analysis demonstrating that all other options to avoid or minimize Article XCVII disposition or change in use have been explored and no feasible or substantially equivalent alternative exists. Please see Exhibit A.

The Town has caused the submission of the analysis to the secretary of energy and environmental affairs and made the analysis public. Please see Exhibit A.

The Town has identified replacement land which is not already subject to said Article XCVII in a comparable location and that is of equal or greater natural resource value as to acreage and monetary value, as determined by an appraisal of the fair market value and the value of use to the Town. The Replacement land is .375 acres of land and the Article XCVII land is .38 acres of land. The replacement land is water frontage on Lake Mattawa as well. The natural resource value of the replacement land exceeds the natural resource value of the Article XCVII land. The replacement land is a vacant lot on Lake Mattawa that connects the 5 acres of open space on the point directly to the water. This would enable any use of the 5 acres of open space for emergency water supply purposes and protection to be directly linked to the lake for accessibility. Thus, the replacement land is of greater natural resource value, approximately the same acreage, and in a comparable location. And while the replacement land is valued at \$50,000 fair market value and the Article XCVII land is valued at \$72,000 fair market value, the replacement land has a greater natural resource value due to it being vacant, not developed land. In addition, the special legislation filed in this matter requires that \$36,000 go to the Orange Water Department for additional water supply and protection purposes. Thus, the actual monetary value to water supply and protection purposes for the Town of Orange Water Department is \$86,000 in monetary value compared with \$72,000 in value of the Article XCVII land.

The replacement land has been dedicated to water supply and protection purposes by the Town and the Water Department in perpetuity for Article XCVII purposes as seen in Water Commissioners vote to accept the replacement land. Please see Exhibit B.

The disposition of the parcel is not contrary to the express wishes of Namon Tyrell. The Town purchased the property from him in 1894 and compensated him for the land. It was the Town that conceived of the idea of using the land for water supply purposes not Mr. Tyrell. As stated previously, soon after the purchase it was determined that the land would not suit for water supply purposes.