

*A Plan for the Improvement
of Public Access and
Rights of Way
within Nantucket County*

Presented by the
Nantucket Town and County
Roads and Right of Way Committee
to the
Nantucket
Board of Selectmen/County Commissioners
and Town Manager

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Committee members:

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Introduction

In 2006, the Roads and Right of Way Committee set forth a plan to improve the state of public access and right of way issues in Nantucket County. As part of our mission the ROW Committee has developed this *Plan for the Improvement of Public Access and Rights of Way in Nantucket County*. In this Plan, we provide the Board of Selectmen/County Commissioners three completed projects, and a list of eight recommendations, which, if implemented, will improve the public's right to access public property, and private properties open to the public throughout Nantucket County. We feel the following Map, Historical Booklet, and Walking Path Plan documents we are presenting for your information, knowledge and for the public record, along with adoption, funding and implementation of the attached recommendations will reap huge benefits for the community at large and for future generations who will inherit today's decisions. We also identify in Part III, four concepts, ideas and projects the Selectmen have initiated and which our committee strongly supports and encourages.

The ROW Committee believes adoption of the objectives and recommendations of this Right of Way Improvement Plan will yield the following public benefits:

1. Preserve public pedestrian access to Nantucket's unique landscape, ponds and beaches.
2. Encourage development of pedestrian footpaths and walking trails connecting conservation lands and open space throughout the islands.
3. Help with the care and maintenance of these trail systems and footpaths.
4. Advocate responsible access to public lands, and private conservation lands open to the public.
5. Educate residents and visitors to Nantucket about the uniqueness of the island's rich historic, cultural and geologic heritage by supporting conservation and preservation of Nantucket's natural resources and open space.
6. Facilitate working relationships with public boards and commissions and private foundations to support these interests for ourselves and future generations of the walking public.
7. Promote walking as a healthy, inexpensive recreational activity for island residents and visitors.

Part I: Three specific projects our committee has completed and present for your examination are:

1. A map showing all currently existing public and private roads within the county, also indicating all known public and private access points to Nantucket's beaches, ponds, woodlands, bogs and other natural features, and an overlay showing all known proprietors roads, laid out subdivision roads, abutters ways, alleys, and other public and private ways in existence on Nantucket today.

The objective of the Map portion of the **Right of Way Improvement Plan** is to clarify which roads, ways, and walking paths currently in use in Nantucket County are public, and which are private; and to provide a map of these public and private roads, ways, public access points, public property and private property open to the public, to Town leaders and planners. We recommend this map be adopted by the Town via a Town Meeting warrant article as an official map for Nantucket County under MGL Section 81E.

- ❖ This is a keystone of our committee's **Right of Way Improvement Plan**. It is essential that Town and County officials know where all existing roads and ways within the county are located and what their status is: public way, private way, abutters way, proprietors road, county road, town road, country overlay, town overlay, harbor overlay and legal status.
 - ❖ Many existing proprietors roads and ancient private and public ways laid out on old subdivision maps represent over 750 acres of property that is not on the tax rolls and poses liability and potential legal issues for neighbors and/or the town. Some of these roads should be taken and extinguished with the land being sold or transferred to abutters or designated as open space or used for walking paths to create pedestrian links between island areas.
 - ❖ An accurate map showing known and used public and private ways currently or historically in use within Nantucket County is presented to serve as a basic guide to the current road, right of way and public access situation.
 - ❖ The objective of this section is to present known and used public and private roadways on as accurate a map as is possible so the public may know where they may legally pass and **the Town and County will be able to make policy decisions based on a clear knowledge** of the legal status of Town and County roads and rights of way issues.
- A. Map presentation: Town GIS Dept. map showing known and used public and private roadways, a copy is posted on Nantucket Town and County Roads and Right of Way Committee website.
 - B. Also shown are public lands, and private properties where public access is permitted, and public and private roadways and paths used to access these properties.
 - C. Public access points to beaches, ponds, moorlands and plains are also indicated.

Resources: Nathan Porter, GIS coordinator for the Town has overseen this project section. Local surveyors, various Town department heads and staff, and other public and private individuals and organizations such as the Nantucket Islands Land Bank and Nantucket Conservation Foundation have assisted in assembling existing data and verifying the status and existence of these ways for accuracy.

2. A map showing all footpaths, trails, sidewalks and bicycle paths in use, today, within Nantucket County is presented. This map fulfills part of the 1996 ATM Warrant Article 33 directing leaders and planners to consider pedestrian access as a top priority, and to develop a map showing the system of footpaths and trail systems currently in use. Most of these trail systems are on private property owned by the Nantucket Conservation Foundation and the Nantucket Islands Land Bank and are open to the public from sunrise to sunset, subject to rules such as no commercial uses, no littering and other management policies of the property owner.

In this section, a map overlay is presented which shows a system of pedestrian sidewalks, walking paths, trails, and bicycle paths connecting public, and private lands open to the public throughout Nantucket County.

- ❖ This is another key element of our ROW Improvement Plan, which will improve public access, especially pedestrian access by footpath and trail systems, to Nantucket County's landscape, beaches and ponds. Nantucket has a long history of random walks across its heathlands, glacial moorlands, coastal plains, wetlands, creeks, marshes, ponds and beaches. "Rantum Scoots" or walkabouts were outlawed on Sundays in the late 1600's because it was felt these random walks without specific destination were a sign of dissipation.

A basic network of walking path and trail systems leading from Madaket at the west to Great Point and Coatie in the east already exists. Nantucket's largest landowners, the Nantucket Conservation Foundation, the Nantucket Islands Land Bank, Massachusetts Audubon Society and the Trustees of Reservations, along with the Town and County of Nantucket own over fifty percent of the island. All of these open space properties contain existing trail and road systems. The Nantucket Conservation Foundation, The Land Bank and Trustees of Reservations publish maps showing these trail and road systems. A plan linking these trail and walking path systems with existing bicycle paths and public ways is shown and will lead to such community benefits as:

1. Increased knowledge of the history and uniqueness of island landscapes.
2. Health benefits of increased walking to general public.
3. Economic benefits to our community and quality of life by providing access to the island's open lands, Nantucket's most valuable resource.

Resources: The Planning Department and the Town's GIS Department along with The Nantucket Conservation Foundation and the Nantucket Islands Land Bank have graciously assembled the information for this section.

3. **A booklet, written by writer/historian Frances Karttunen, giving a brief history of the roads and ways in Nantucket** and containing explanations of the various ways and the public's right to pass and repass on certain ways is presented. This booklet is available on the Town's website (nantucket-ma.gov) under the Town and County Roads & ROW Committee. As part of her research for this project, Fran has assembled, organized, catalogued and reviewed Town records relating to roads and rights of way. These records are now filed electronically with the Town Clerk, and original documents are clearly marked, boxed and secured in the Town's vault.

The purpose of this third part of our Improvement Plan is to outline the history of roads and ways on Nantucket from trails used by natives through European settlement to today's system of public, private and paper roads. This section includes an explanation and history of proprietors roads, 1799 Roads, abutters ways, and footpaths.

- ❖ The outcome of this section is a booklet containing a brief history of roads and rights-of-way on Nantucket, including the following subjects:
 - A. Indian trails between settlements
 - B. Early colonists' road layouts and footpaths
 - C. 1799 roads
 - D. Proprietors roads
 - E. Land development and subdivision 1880-present
 - F. Abutters ways and alleys
 - G. 'Sconset footpath
 - H. 1975 Road Takings
 - I. 1996 ATM Warrant Article 33 passed unanimously "to direct Selectmen to make pedestrian access to public property a main priority as the Town and County plan for the future, and to direct the County Commissioners to study the feasibility of creating a system of walking paths linking Nantucket town to public property in the outlying areas of Nantucket County."

This booklet should clarify for the public these terms and explain how they came about. Few people know what a proprietors road is or what rights, if any, the public has to pass on a private road. These and other right of way and public access questions can be answered for the public benefit and are in keeping with preserving and sharing Nantucket's history of public access.

Resource: Frances Karttunen has done the research and writing of this section of the Plan.

Part II, Committee Recommendations:

In addition, our committee feels the following eight recommendations will clarify and strengthen the public's rights to explore Nantucket's many native environments, and explain the responsibilities such rights require. The recommendations are identified with the public benefit we feel will result from each recommendation, along with any supporting data. The recommendations are as follows:

1. Mark public ways and access points to beaches, ponds and public lands with uniform monuments inscribed "Public Way".

- ❖ This recommendation will be accomplished when public ways and access points shown on the map from Item#1, have in place a monument or other appropriate marker embossed with the inscription "Public Way".
- ❖ To accomplish this item the public ways will need to be defined and locations for the markers must be agreed upon. The markers themselves will need to be designed, approved and constructed. Three current examples are the markers at the end of the pavement at Washing Pond Road, the Madaket Harbor end of North Cambridge Street, and the way off Millbrook Road to Head of Hummock Pond. The Marine Department and Town Sign Department within the DPW have other examples. The task of creating these monuments would need to be assigned, and placement at the agreed upon points could be done by the DPW with the assistance of the Land Bank or the Nantucket Conservation Foundation or other organization with the willingness and expertise.

Considerations: Not all ways need to be marked. The intention is not to overload the countryside with markers. Ultimately, the County Commissioners/Board of Selectmen will make the final decision as to where bounds and markers will be placed. Our committee will offer a list of specific locations keyed to the county map available from the GIS Department. Other interested departments such as Planning Department, fire, police, Harbor Master, DPW, and others can provide guidance as to placement of markers. Someone will need to assume responsibility for oversight, communication and completion of this project, perhaps the ROW Coordinator suggested in recommendation 8 below could oversee implementation.

2. Mark public roads, especially in rural areas, with uniform monuments with road name.

- ❖ Scope of project: This project could be combined with the above recommendation as the physical work and layout decisions overlap. Many of the county roads and rights of way are not marked or are marked with buried boundary posts. Discrete markers with road names would assist emergency personnel and the public with accurate locations in remote or rural areas of the island. This proposal is included as a separate item because it requires a second set of decisions regarding whether and where such markers should be placed. The Historic Districts Commission

should be consulted regarding consistency of signage across the island and appropriateness of proposed monuments.

3. Determine which private roads and ways currently access public property or property open to the public and update the Priority Takings List on an annual basis.

- ❖ This item is related to the map section above, and is included as a separate recommendation because it uses the data called for in the map item to improve the process now employed to develop the periodic “Takings List” used to identify private roads and ways that serve a public purpose and should be considered for taking as public roads or ways. In past years, the “Takings List” has been based on anecdotal evidence. A clear determination of which roads and ways are public and which are private will lead to better long range planning to address community needs.

The R&ROW Committee can utilize this information as soon as it becomes available as this committee is responsible for presenting its updated recommendations of the “Takings List” to the BOS/CC on an as needed or requested basis.

4. Establish a policy statement encouraging planners and Town and County officials, as a policy, to consider pedestrian and public access when reviewing new development and land acquisition projects.

- ❖ This directive to planning officials would implement the unanimous 1996 Annual Town Meeting vote to make sure the planners, regulatory boards and commissions, and other officials who make decisions regarding public access and right of way issues to give priority to these issues as they make their decisions.
- ❖ Our committee recommends the BOS/CC, through the Town Manager, establish a clear policy statement regarding public access and right of way issues. We believe raising the importance of these issues will benefit all community members.

5. Establish a policy to bury utility lines and service cables, wherever possible, throughout the Town and County of Nantucket.

- ❖ For over twenty years, utility companies have been collecting a surcharge to bury all utility lines within the town’s inner core district. All utilities, except Verizon’s telephone lines are now buried. The only reason the poles remain in the core district is Verizon’s claim they have not collected sufficient funds. The Town Manager is currently asking the company to account for funds collected in an attempt to fulfill this voter mandate.

- ❖ The larger issue is an island-wide consideration of the possibility and cost of burying utility lines, service cables and other utilities throughout the island. An overall look at the island's infrastructure including roads, easements, utility corridors could result in a plan to deal with these issues.
- ❖ Once planning, emergency, utility, and other interested officials develop such a plan, the planning board and other regulatory bodies could determine the interest and cost of implementing these improvements.

6. Require an annual budget for maintenance and oversight of public ways and future County takings of private ways where appropriate.

- ❖ This item is a recommendation from the Roads and ROW Committee based on our observations that planned work and projects such as takings, and clearing and mowing of public ways such as roadways, sidewalks, bicycle paths and footpaths is often not completed because funds have not been budgeted for such maintenance and oversight of public ways, and for survey, legal and title work necessary to complete future taking of roads and ways as recommended by local boards and commissions. Our committee feels it is important for the Town and County Manager to allocate funds specifically earmarked for these projects.

7. Include access and maintenance of the island's public and historic cemeteries in the budget for Right of Way issues and maintenance.

- ❖ There are twelve cemeteries on Nantucket. There is currently no regular plan for maintenance and access to the historic, public properties owned by the Town. An example is access to the Founders Burial Ground off Cliff Road. This important historical site became landlocked when adjacent land was sold and subdivided into house lots. The only public access was across an easement of the Bigelow property at 200 Cliff Road. Because no funds and no maintenance plan were in place, there has been no way for the public to access this site without trespassing on private property. Our committee has worked for the past several years to focus attention on this issue and has relied on volunteer efforts and Land Bank resources to provide proper public access to this important historic burial ground. The NHA and the Cemetery Commission Workgroup are currently mapping and determining the condition and access to these cemeteries and burial grounds.
- ❖ Our committee recommends the Town and County commit resources to provide access to and maintenance of these important historic properties. The BOS through its appointed Cemetery Commission Workgroup and the DPW can see that access and maintenance are properly planned for and overseen.

8. Create a Town/County Right of Way Coordinator function.

- ❖ This position would entail part time responsibilities to oversee and coordinate projects and issues relating to rights of way such as researching titles to determine the status of public access points and ways. A job description and list of duties is required along with an estimate of time needed to complete these duties and identification of funding sources. Possibly, the Beach Manager position could include some of these duties and oversight responsibilities.

Part III: The following concepts, ideas and policies have been adopted by the Selectmen and are supported and encouraged by the Roads and Right of Way Committee because we feel they will improve public access and clarify right-of-way issues to the benefit of Town and County residents.

The following ideas and projects are currently at some point of consideration or implementation by the Town. Our Committee strongly encourages these actions and policies and recommends continued evaluation and strengthening of these programs.

1. Create and fund a full-time Town/County Surveyor/Engineer Position to layout and plan roads, footpaths, and other public ways.

- ❖ This item has been included in the 2009 Annual Town Budget, and is strongly endorsed by our committee. The Town and County spend many thousands of dollars for survey work each year. Often, local surveyors have conflicts of time or interest before taking on municipal work. Before the county can layout a roadway or footpath, such as the current Miller Lane proposal, or take private roads such as Boulevard, and roads leading to the airport, a survey and legal work must be completed. Often projects are held up because survey work has not been completed.
- ❖ Often, when the Town takes on road resurfacing or improvement projects, bounds are disturbed or not replaced. This creates future legal problems. A Town Surveyor could oversee the accurate placement of bounds marking Town and County property and could assist in any land court or Chapter 91 access issues.
- ❖ Our committee feels that the Town should hire a surveyor, if possible with engineering background, to expedite Town and County projects. We feel establishing such a position will ultimately result in cost savings for the Town and will benefit the community by providing better service in the completion of Town projects, and will protect the public's rights of access.

- 2. Develop a clear policy statement, descriptions, and a set of maintenance standards for various classes of public and private, town and country, paved, cobblestone, gravel, dirt, and sand roads with authority given to enforce these standards.**
 - ❖ The Board of Selectmen has created a road surfacing committee to develop criteria and standards for road surfacing throughout the town. Our committee recommends the Selectmen approve and put in place road and way descriptions and maintenance standards, and make sure procedures are in place to enforce these regulations and standards.

- 3. Continue actively exploring the development of a Harbor Walk along Nantucket's waterfront.**
 - ❖ The Board of Selectmen has adopted this as one of its goals and objectives for the past two years. Our committee strongly supports the concept of a harbor walk and public access to Nantucket's waterfront, the Town's most valuable asset.
 - ❖ We recommend the Selectmen continue to actively develop a Harbor Walk Plan for Nantucket's waterfront and harbors. The Selectmen could take a leadership role by engaging the planning department and regulatory authorities to help develop a plan and timetable for completing a public walkway along Nantucket Harbor. Public access to our historic waterfront is one of the greatest gifts we will leave to future generations.

- 4. Follow up on the implementation of the policy and procedures adopted in August 2007 regarding utility cuts and crossings on public and private roads.**
 - ❖ The Board of Selectmen completed this item in August of 2007, when the BOS voted to implement a licensing policy and procedure to address cuts in road surfaces throughout the county. This action will greatly improve the quality of roads which must be disturbed for necessary utility work and gives authority to the DPW to hold contractors responsible for their work, and to set road standards. It is important that the Selectmen follow-up on a periodic basis to see that these standards are being adhered to.