

Mary Drive ‘driveway’ public property: Town of Richmond/ Selectboard choices

BRH Draft V2 8.12.24

Related:

Attorney gave advice in conversation 8/12. Based on my understanding of this advice the asterisked (*) choices below are most justified and appropriate.

	Choice	Criteria/considerations and ratings									
		Complies w VLCT advice, legal advice, town charter	Aligns with earlier intent to provide access to development	Supports development and property tax revenues	Future town financial liability/ maintenance costs including stormwater	Complies with town asset disposal policies/ practices	Serves interests of all associated property owners	Serves interests of Danny Peete	Serves interests of town/ taxpayers	Citizen champion(s)	Citizen opponent(s)
1	Maintain public ownership, allow no private improvements	-	-	-	-	0	0	--	0	-	--
2	Maintain public ownership, allow private improvements	-	+	+	-	0	+	+	-	0	-
3	Maintain public ownership, extend Mary Drive to property line as public road	+	+	+	--	0	+	+	-	0	-
4	Sell property through bid process; require easements/obligations including any future maintenance and stormwater obligations	+	-	-	+	+	-	-	+	+	-
5*	Sell property to group of property owners/HOA served by access/driveway w negotiated price/easements/rights of way obligations and \$ to cover town legal costs	+	+	+	+	+	+	+	+	?	?
6	Give property to group of property owners/HOA served by access/driveway w negotiated easements/obligations	?	?	?	+	-	+	+	-	-	?
7*	Sell property to Danny Peete; w negotiated price/easements/obligations and \$ to cover town legal costs	+	+	+	+	+	0	+	+	?	?
8	Give property to Danny Peete; w negotiated easements/obligations?	?	?	?	+	-	0	+	-	0	-

Key for rating considerations:

+: positive/supports choice

-: negative/does not support choice:

0: neutral

?: unknown/tbd

VLCT: How Is Town Property Sold?

The sale or “conveyance” – which includes the transfer of any interest in property a town may have – of town-owned real property (land and anything growing, attached, or erected on it) is governed by state law, specifically 24 V.S.A. § 1061. Under this law, a selectboard has three options with respect to compliance:

1. The selectboard can come to a tentative agreement with the purchaser or lessee, then publicly announce the terms of the proposed conveyance [these would necessarily include the identity of the purchaser or lessee, the proposed price, the location of the property, and any prominent transactional terms] by posting them in three public places in town (one of which is in or near the clerk’s office) and publishing in a newspaper of general circulation of the town. The notice and publication must be provided at least 30 days prior to the proposed conveyance. If five percent of the legal voters in town sign a petition objecting to the proposed conveyance, then the selectboard must provide for the proposed conveyance to be voted on at a duly warned special or annual town meeting. The result of the vote is binding.
2. Alternatively, the selectboard may skip the first step and put the vote directly to the people. If the proposed conveyance is approved at a duly warned special or annual town meeting, then the conveyance can go forward.
3. The selectboard can skip both of these steps and convey the property by its own action if the property in question (1) is directly related to the control, maintenance, construction, relocation, or abandonment of town highways; (2) is directly related to the control, maintenance, operation, improvement, or abandonment of a public water, sewer, or electric system; (3) involves real estate used for housing or urban renewal projects (see chapter 113 of Title 24 of the Vermont Statutes); or (4) involves lease lands pursuant to chapter 65, subchapter 1, of Title 24 of the Vermont Statutes.

None of these options requires a town to put the property out to bid. If a town holds property in a fiduciary capacity, it must handle it in a responsible manner, keeping the interests of the original owner in mind. Examples of land subject to fiduciary constraints are land that was acquired at tax sale or on which the town holds a mortgage. For these reasons, it is always advisable for a selectboard to consult with its town attorney when conducting any real estate transaction.

Finally, if a municipal governance charter has other provisions, they will be binding for that town.

<https://www.vlct.org/article/how-town-property-sold>

Title 24 Appendix : Municipal Charters

Chapter 143 : Town of Richmond

Subchapter 001 : Incorporation and Grant of Powers

(Cite as: 24 App. V.S.A. ch. 143, § 103)

§ 103. Powers of the Town

(b) The Town may acquire real and personal property within or without its corporate limits necessary or convenient for any lawful purpose, in fee simple or any lesser interest or estate, by purchase, gift, devise, lease, or condemnation, consistent with the Constitution and laws of the State of Vermont, and may sell, lease, mortgage, hold, manage, and control such property as its interest may require consistent with the Constitution and laws of the State.

<https://legislature.vermont.gov/statutes/section/24APPENDIX/143/00103>