

The Commonwealth of Massachusetts

SPECIAL REPORT OF THE DEPARTMENT OF PUBLIC WORKS RELATIVE TO A RIGHT OF WAY FOR PUBLIC ACCESS TO PEQUOT POND IN THE TOWN OF SOUTHAMPTON AND THE CITY OF WESTFIELD.

DEPARTMENT OF PUBLIC WORKS,
100 NASHUA STREET, BOSTON 14, December 31, 1957.

To the Honorable Senate and House of Representatives of the Commonwealth of Massachusetts.

The Joint Board, constituted under the provisions of section 18A of chapter 91 of the General Laws, submits the following report relative to a right of way for public access to Pequot Pond, one of the Hampton Ponds, situated in the town of Southamptton and the city of Westfield.

Section 18A of chapter 91 of the General Laws provides:

Upon petition of ten citizens of the commonwealth that in their opinion public necessity requires a right of way for public access to any great pond within the commonwealth, the department and the attorney general or a representative designated by him sitting jointly shall hold a public hearing and receive such evidence thereon as may be presented to them. The joint board may make such additional investigation as it deems desirable and if it appears to said board that such a right of way exists it shall present a petition to the land court for registration of the easement. If it appears that no right of way exists it shall submit a report, together with recommendations thereon, to the general court on or before January first of the following year. This section shall not apply to any body of water used as a source of water supply by the commonwealth or by any town or district, or water company, nor shall it affect the right of the commonwealth or any town or district or water company to the use and control of the waters of any such pond for the purpose of a water supply, nor shall it affect or diminish any existing right to the use of the water of any such pond for mercantile or manufacturing purposes.

Pursuant to this statute a petition suitably signed was filed with the Department of Public Works representing that public necessity requires establishment of a public right of way for access to Pequot Pond, sometimes known as Hampton Pond, which is one of the Hampton Ponds and lies in the town of Southamptton and the city of Westfield.

The Hampton Ponds were surveyed by the Department of Public Works in 1923, and Pequot Pond was found to be increased

in size by virtue of a dam located at the outlet of Horse Pond with which Pequot Pond is directly connected. From the survey it was established that the natural area of Pequot Pond is 51.9 acres, confirming its status as a great pond of the Commonwealth.

Pequot Pond is skirted by numbered Route 202 which touches the pond at two locations, both of which involve a cable guard rail and dangerous traffic conditions. In addition, a town way touches the shore at the southwesterly end of the pond, providing a beach area which is not, however, a suitable access point for the general public.

Other than this there is no publicly owned land on the shore of the pond and the public road runs 500 feet to 1,200 feet distant.

As in the case of other hearings which have been held on such petitions this year, the need under present-day conditions to provide for parking in conjunction with access routes to the great ponds was stressed as of prime importance, and almost equal to the need for the rights of way themselves.

Upon consideration of the information and evidence presented at the public hearing and that obtained by further investigation, the Board finds that no public right of way suitable for access to Pequot Pond exists at present and that establishment of such a right of way is necessary and desirable.

The Board recommends that the County Commissioners of Hampden County and/or of Hampshire County be directed to lay out a public right of way to the edge of Pequot Pond as existing in its natural state, and an area for parking contiguous thereto, in such location as may be determined suitable, and submits the attached bill for carrying out this recommendation.

Respectfully submitted,

DEPARTMENT OF PUBLIC WORKS.

A. N. DiNATALE,
Commissioner.

FRED B. DOLE,

LEWIS J. FRITZ,

Associate Commissioners.

RODOLPHE G. BESSETTE,

Director, Division of Waterways.

DEPARTMENT OF THE ATTORNEY GENERAL.

WILLIAM J. ROBINSON

Assistant Attorney General.

The Commonwealth of Massachusetts

In the Year One Thousand Nine Hundred and Fifty-Eight.

AN ACT PROVIDING FOR THE ESTABLISHMENT OF A RIGHT OF WAY FOR PUBLIC ACCESS TO PEQUOT POND IN THE CITY OF WESTFIELD AND THE TOWN OF SOUTHAMPTON AND OF AN AREA FOR THE PARKING OF VEHICLES CONTIGUOUS TO SAID RIGHT OF WAY.

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

1 SECTION 1. The county commissioners of Hampden county
2 and/or Hampshire county are hereby authorized and directed
3 to lay out a right of way for public access to Pequot pond, a
4 pond lying in the city of Westfield and the town of South-
5 hampton, and an area for parking contiguous thereto, in ac-
6 cordance with plans to be approved by the department of public
7 works and showing the location and dimensions of such right
8 of way and parking area. If it is necessary to acquire land for
9 the purpose of laying out such right of way or parking area,
10 said county commissioners in their respective counties shall at
11 the time such right of way or parking area is laid out take such
12 land by eminent domain under chapter seventy-nine of the
13 General Laws. Any person sustaining damages in his property
14 by the laying out of such right of way or parking area, or by
15 specific repairs or improvements thereon, shall be entitled to
16 recover the same under said chapter seventy-nine; provided,
17 that the right to recover damages, if any, by reason of the laying
18 out of such right of way or parking area shall vest upon the
19 recording of the order of taking by said county commissioners
20 and that no entry or possession for the purpose of constructing
21 a public way on land so taken shall be required for the purpose
22 of validating such taking or for the payment of damages by
23 reason thereof.

1 SECTION 2. The city of Westfield and/or the town of South-
2 ampton from time to time may make specific repairs on or

3 improve such portions of said right of way and parking area as
4 may be located in their respective limits to such extent as it
5 may deem necessary, but neither the county of Hampden or
6 Hampshire nor any city or town therein shall be required to
7 keep such right of way or parking area in repair, nor shall it be
8 liable for injury sustained by persons traveling thereon; pro-
9 vided, that sufficient notice to warn the public is posted where
10 such way enters upon or unites with an existing public way.

1 SECTION 3. Said county commissioners of Hampden and
2 Hampshire counties shall work jointly in determining a suitable
3 location for said right of way and parking area, which may be
4 entirely in either county or partly in each.

1 SECTION 4. All expenses incurred by said county commis-
2 sioners in connection with such right of way or parking area
3 shall be borne by the county of Hampden or Hampshire; each
4 for any portion in their respective county, or by such cities or
5 towns therein, and in such proportions as said county com-
6 missioners may determine.

1 SECTION 5. Said right of way or parking area shall not be
2 discontinued or abandoned without authority therefor from the
3 general court.

1 SECTION 6. Nothing in this act shall be construed to limit
2 the powers of the department of public health, or any local
3 board of health, under any general or special law.