

2008 ANNUAL MEETING WARRANT

Date: July 23, 2008

TO: M. Susan Spalding
Clerk of the Corporation

FROM: BIVC Board of Overseers

RE: **NOTICE OF ANNUAL MEETING OF THE BUSTINS ISLAND VILLAGE CORPORATION, STATE OF MAINE, COUNTY OF CUMBERLAND**

Greetings:

Pursuant to Article V of the By-Laws of the Bustins Island Village Corporation, as amended August 7, 1999, you are hereby directed to post notice and warn the qualified voters of the Bustins Island Village Corporation (BIVC) to assemble for the Annual Meeting of the BIVC at the Community House on Bustins Island on **Saturday, August 2, 2008, at 9:00 a.m. EDT** to act on the business of the BIVC as set out in the articles of the following warrant:

ARTICLE 1. ELECT MODERATOR

To choose a moderator and, if need be, a vice-moderator to preside over said meeting.

ARTICLE 2. HEAR OFFICERS & SUPERINTENDENT REPORTS

To listen to and pass upon reports from the Officers, Overseers, and the Superintendent of the BIVC:

- a) Clerk
- b) Board of Overseers
- c) Superintendent
- d) Treasurer

ARTICLE 3. BUDGET

To see if the BIVC will vote:

- a) To receive and appropriate the sum of \$217,900 to be expended under the direction of the Board of Overseers for the 2008/2009 fiscal year budget as set forth in ATTACHMENT A in the “2008/2009 Budget” in column F of page 2;
- b) To fund the sum so received and appropriated in a) above from the Freeport allocation, any gifts, assessments, and any other revenues; any excess or deficiency therefrom to be reconciled through the Reserve Excess and Deficiencies (RED) Fund and any amounts otherwise authorized from the CASCO fund;
- c) To authorize the Board of Overseers to:
 - i) Expend monies from the reserve accounts for the general purposes for which such accounts were established; and
 - ii) Make transfers among operating and reserve accounts including any amounts otherwise authorized from the CASCO fund.

Submitted by the Board of Overseers

Board of Overseers Report: This Article authorizes the Board of Overseers to receive and spend within the total appropriation and to transfer money among accounts. Attachment A presents a budget history and the expected disposition of funds for the 2008/2009 fiscal year.

The Board of Overseers recommends approval of this article.

ARTICLE 4. ACCEPT PORTIONS OF PUBLIC WAYS IN SECTION E BY METES AND BOUNDS.

To see if the BIVC will vote to:

Accept a certain plan entitled “Plan of a Standard Boundary Survey Tennis Court Road, Section E, Bustins Island, Freeport, Maine” made for Bustins Island Village Corporation by Island Surveys of Arrowsic, Maine dated 05/16/08 which plan shall be certified as an amendment to the Zoning Map of Bustins Island dated August 2, 2003 as corrected through May 16, 2005 and

Amend the zoning map of Bustins Island Freeport, Maine made for the Bustins Island Village Corporation dated August 2, 2003 revised to include corrections through May 16, 2005, by Island Surveys of Arrowsic, Maine which map is a successor to the Bustins Island Village Corporation Zoning Map of Bustins Island dated September 1, 1975 as subsequently amended and incorporated therein by accepting a certain plan entitled “Plan for Road Acceptance, Tennis Court Road, Section E, Bustins Island, Freeport, Maine” made for the Bustins Island Village Corporation by Island Surveys of Arrowsic, Maine dated 05/16/08, which plan shall be certified as an amendment to the Zoning Map of Bustins Island dated August 2, 2003 as corrected through May 16, 2005 and also by accepting as a public island way for all purposes for which public streets are now or in the future held and maintained by the Bustins Island Village Corporation on

Bustins Island, Maine, those portions of Tennis Court Road in Section E so set out and further described by metes and bounds all as set out on Schedule A attached .

Submitted by the Planning Board

Planning Board Report: This article is part of the Planning Board’s continuing effort to define the roads on Bustins Island. Its acceptance will continue the acceptance by metes and bounds of the major interior road from the Community House to the tennis courts.

The Planning Board recommends approval.

Since the Planning Board recommends approval, a majority vote is required to pass.

ARTICLE 5. CLOSING OF ROADS IN THE WINTER.

To see if the BIVC will vote to accept the provisions of 23 M.R.S.A. § 2953 and authorize the Board of Overseers to file with the Clerk an order of closing specifying that it is unnecessary to keep the roads on Bustins Island maintained and open for travel during the months of November, December, January, February, March, and April or any part of these months for a period not to exceed ten years and to provide further that any such order shall be a final determination.

Submitted by the Board of Overseers

Board of Overseers Report: Because Bustins Island is a summer seasonal community, the Board of Overseers believes it is prudent to make clear that the BIVC has no obligation to maintain, or plow roads in the off-season. The roads will not actually be physically blocked or closed in any way. Persons who wish to use them may do so at their own risk.

The Board of Overseers recommends approval of this article.

ARTICLE 6. AMEND SEVERAL ARTICLES OF THE BY-LAWS OF THE BUSTINS ISLAND VILLAGE CORPORATION.

Shall amendments to the By-Laws of the Bustins Island Village Corporation as set forth below be enacted where proposed additions to each section of the present By-Laws are shown in bold type and deletions as crossed out?

A. ADD INTRODUCTION TO THE BY-LAWS

WHEREAS the legislature of the State of Maine has chartered the Bustins Island Village Corporation by Chapter 213 of the Private and Special Laws of 1913 as a Body Politic and Corporate within the Town of Freeport and

WHEREAS the legislature has amended this charter by Chapter 17 of the Private and Special Laws of 1967 and by Chapter 24 of the Private and Special Laws of 1985 and

WHEREAS said charter and its amendments were made in recognition of the unique requirements of the Bustins Island Village Corporation as an island and as a seasonal community and

WHEREAS the administration of the Bustins Island Village Corporation may be more effectively accomplished by the By-Laws as authorized by said charter

NOW THEREFORE the Bustins Island Village Corporation adopts the following By-Laws:

Board of Overseers Report: The present By-Laws have no introduction. This introduction is proposed to clarify that Bustins is a seasonal community with unique requirements met through the village corporation structure.

B. AMEND ARTICLE II OF THE BY-LAWS TO MAKE POLICE APPOINTMENT PERMISSIVE

POLICE, COMMITTEES, AND AGENTS

The Board of Overseers ~~shall~~ **may** annually appoint one or more policemen or night watchmen

Board of Overseers Report: Since the adoption of the original By-Laws, the state requirements for police or constable training have made it difficult and costly to find qualified persons for this position. The proposed change removes the obligation from the Overseers to make such an appointment but allows them to do so.

C. AMEND ARTICLE V OF THE BY-LAWS, SPECIAL MEETINGS, TO INCREASE THE NUMBER OF VOTERS REQUIRED TO CALL A SPECIAL MEETING FROM FIVE TO FIFTEEN

A meeting of the corporation shall be called whenever the Overseers may deem it necessary, and shall be called by them upon the request of ~~five~~ **fifteen** or more legal voters of said corporation, provided, however, that all meetings of the corporation shall be held upon said Bustins Island, and no meeting shall be called earlier than July 1st or later than August 31st in any year.

Board of Overseers Report: The proposed change recognizes the growth in the Bustins community since the original By-Law adoption and assures there is significant interest in matters to be brought to BIVC meetings.

D. AMEND ARTICLE V OF THE BY-LAWS, BY ADDING A NEW SECTION CONCERNING EXTRAORDINARY SPECIAL MEETINGS

EXTRAORDINARY SPECIAL MEETINGS

Upon a vote of at least three of the Board of Overseers that an emergency condition exists, they may, upon the same vote, call an Extraordinary Special Meeting for its resolution. When the public ferry is operating, such an Extraordinary Special Meeting must be held only on Bustins Island on such a date and at such a time as attendees are able to get to and from the meeting using the public ferry. When the public ferry is not operating, an Extraordinary Special Meeting shall be held elsewhere in the Town of Freeport. Notice of such Extraordinary Special Meeting shall be given by

first class mail sent at least 30 days prior to the meeting to all registered voters of the corporation as approved by the Overseers and certified by the Clerk.

Board of Overseers Report: The current By-Laws have no provision for BIVC meetings outside the months of July and August. Urgent business can arise off-season and, if needed, this change allows the Overseers to call an Extraordinary Special Meeting to deal with such matters on a timely basis.

E. AMEND ARTICLE V OF THE BY-LAWS, NOTICE OF MEETINGS, TO INCREASE THE NUMBER OF VOTERS REQUIRED TO PLACE AN ARTICLE ON THE WARRANT

When ~~five~~ **fifteen** or more legal voters request, in a writing delivered to (or sent by first class mail in sufficient time so as to be received by) the Clerk no later than 30 days in advance of the meeting, the Overseers to insert any particular thing or proposed business to be acted upon, in any warrant, it shall be their duty to so insert it.

Board of Overseers Report: The proposed change recognizes the growth in the Bustins community since the original By-Law adoption and assures that there is significant interest in matters to be brought to BIVC meetings.

F. AMEND ARTICLE V OF THE BY-LAWS, NOTICE OF MEETINGS, BY ADDING A NEW PARAGRAPH TO PROVIDE FOR NOTICE OF EXTRAORDINARY SPECIAL MEETINGS

In the case of an Extraordinary Special Meeting and in lieu of the posting requirements of the preceding paragraph, the notice of the meeting mailed to voters shall include the warrant for that meeting and the warrant shall be posted in Freeport.

Board of Overseers Report: The proposed addition requires that the mailed notice of Extraordinary Special Meetings include the warrant for the meeting and also that the warrant be posted in Freeport.

G. AMEND ARTICLE V OF THE BY-LAWS, QUORUM, TO INCREASE THE NUMBER OF VOTERS REQUIRED FOR A QUORUM

~~Twelve~~ **Twenty-five** legal voters shall constitute a quorum for the transaction of business at any meeting of the corporation, but in the absence of a quorum a lesser number may adjourn the meeting to a later date.

Board of Overseers Report: The proposed change recognizes the growth in the Bustins community since the original By-Law adoption and assures there is significant representation of voters at meetings.

H. AMEND ARTICLE IX OF THE BY-LAWS TO MAKE BOARD OF HEALTH APPOINTMENT PERMISSIVE

There ~~shall~~ **may** be a Board of Health composed of three members, one of whom shall, if possible, be a physician, appointed annually by the Board of Overseers

Board of Overseers Report: Consistent with state law, the proposed change removes the obligation from the Overseers to appoint a Board of Health but allows them to do so.

I. AMEND ARTICLE X OF THE BY-LAWS TO MAKE LANDSCAPE COMMITTEE APPOINTMENT FOR THREE YEARS

There shall be a landscape committee composed of five members appointed ~~annually~~ by the Board of Overseers, to attend to the preservation and superintend the cutting or removal of trees or shrubbery upon **the Shore Reserve and other public lands of Bustins Island as permitted by and in accordance with the BIVC Zoning Ordinance**; and to prevent the erection and cause the removal of objectionable signs, advertisements, or other unsightly objects, and in general to preserve and enhance, so far as possible, the landscape beauties of said Island.

The term of Landscape Committee members shall be three years; however in the first year of effectiveness of this section two (2) members shall be appointed for three years, two (2) for two years, and one (1) for one year. Thereafter the Board of Overseers shall annually appoint members as required to fill the expiring terms. But said committee shall have no power to expend money or incur liabilities in behalf of the corporation for any purpose except when approved by the Board of Overseers.

Board of Overseers Report: This change will provide continuity for the Landscape Committee and bring the appointment of its members onto the same basis as other standing committees.

J. AMEND ARTICLE XIV OF THE BY-LAWS, EXCURSIONS, PICNICS, AND CAMPS, TO CLARIFY APPLICATION IS TO PUBLIC LANDS

Excursion parties must first obtain permission of the Island Superintendent or Overseers, and must occupy such places as shall be assigned them. Parties wishing to picnic, camp, or tent upon **the BIVC-owned lands of** the Island must first obtain permission of the Island Superintendent or Overseers, and must occupy such places as shall be assigned them.

Board of Overseers Report: There never has been any intent to regulate these activities on private property. This change clarifies that the By-Law applies to public lands.

K. AMEND ARTICLE XVI OF THE BY-LAWS, MOTOR VEHICLES, TO CLARIFY APPLICABILITY

No motor driven vehicles, ~~such as~~ **including but not limited to** autos, **tractors**, trucks, motorcycles, and scooters, ~~will~~ **shall** be permitted on Bustins Island without specific approval of the Board of Overseers. **Approval may be granted only if the Board determines that the vehicle meets** ~~The only basis for approval will be commercial need and/ or to provides essential services to the community~~ **and that the owner agrees that the Overseers may call upon the vehicle for transport of disabled persons and for use in emergencies.**

In addition, the Board of Overseers may grant approval for specific personal transport vehicles for use only by individuals who the Overseers determine have a need based on medical necessity, disability, or infirmity.

Ride-on lawn mowers may be brought onto the island without specific approval for use only on private property and may not be used for personal transport on the public ways unless specifically authorized by the Board of Overseers.

The Board of Overseers may adopt additional regulations, restrictions and conditions upon the operation of motor driven vehicles including a requirement that the owners of such vehicles brought to Bustins post a bond or provide other security to provide funds for their subsequent removal.

Board of Overseers Report: The current Motor Vehicles section of the By-Laws has given the Overseers a valuable tool to control what equipment is brought onto the island and when. However, it has proven to be inappropriate in some cases and difficult to enforce in others. The changes proposed here are intended to clarify what vehicles require permission to be brought onto the island, give the Overseers a tool to better regulate those vehicles, and provide an exemption for ride-on lawn mowers used on private property. It also allows the Overseers to authorize temporary or long-term use of personal transport vehicles for individuals with severe and demonstrable needs.

L. AMEND ARTICLE XVI OF THE BY-LAWS, FINES AND PENALTIES

Any person convicted of violating any article of these By-Laws shall be punished by a fine not exceeding the sum of ~~fifty~~ **five hundred** dollars, or imprisonment not exceeding the term of thirty days, or by both such fine and imprisonment, upon complaint or indictment, or by action of debt in the name and for the use of the corporation. **Each day such a violation continues after written notification by the Board of Overseers or its agent shall constitute a separate offense. When penalties for violations of the provisions of Article XX, Zoning Ordinance, and Article XXI, Harbor Use and Mooring Regulations, are specifically provided for in those articles those penalties shall prevail.**

Board of Overseers Report: With inflation, a fifty dollar fine is no longer the deterrent it was when the By-Laws were first adopted. Increasing the upper limit of the fine and making clear that each day of continued violation after receiving notice constitutes a separate violation provide a realistic deterrent and a judge more flexibility in assessing appropriate penalties. The proposed change also makes clear that penalties under the Zoning and Harbor Ordinances prevail in those cases.

The above article with 12 sections (A thru L) was submitted by the Board of Overseers.

A majority vote is required to pass.

The Board of Overseers recommends approval of all 12 of the proposed changes to the By-Laws.

ARTICLE 7. AMEND ARTICLE XXII OF THE BY-LAWS OF THE BUSTINS ISLAND VILLAGE CORPORATION.

Shall amendments to Article XXII of the By-Laws of the Bustins Island Village Corporation as set forth below be enacted where proposed additions to each section of the present By-Laws are shown in bold type and deletions as crossed out?

SPECIAL REQUIREMENTS IN RESPECT OF ASSESSMENTS AND INDEBTEDNESS

No action shall be taken at any meeting of the corporation to authorize ~~any assessment or~~ any incurrence of indebtedness for borrowed money unless, at least 30 days prior to such meeting, notice of the time and date of the meeting and the proposed ~~assessment and/or~~ incurrence of indebtedness shall have been mailed by first class mail to all the registered voters of the corporation as **approved by the Overseers and** certified by the Clerk from the official Assessor's records or from such other records as may be available to the Clerk.

Any action to authorize ~~any assessment or~~ any incurrence of indebtedness for borrowed money shall require the affirmative vote of at least two thirds of those voting thereon. In addition, if any such action is being considered at a meeting other than an annual meeting, ~~a quorum~~ **the vote required** for the taking of such action shall be at least three quarters of the number of legal voters present and voting. ~~for overseer(s) at the immediately preceding annual meeting.~~

No amendment of this Article XXII may be made except upon the same notice, vote and quorum as would be required to authorize ~~any assessment or~~ any incurrence of indebtedness for borrowed money.

The requirements of this Article XXII shall be in addition to any other requirements imposed by these By-Laws, the corporation's charter or applicable law.

Submitted by the Board of Overseers

A two-thirds majority of those present and voting is required to pass this amendment to the By-Laws.

Board of Overseers Report: This proposal removes the two-thirds vote required for special assessment taxation while retaining it for the incurrence of indebtedness. It would allow a majority of voters to decide how best to fund expenses and prevent a minority from controlling that funding.

Presently the BIVC receives 60% of the taxes paid to Freeport by Bustins property owners to cover the operating expenses of the BIVC. Over the past few years this amount has been barely sufficient to meet all expenses. Extraordinary expenses over the last two years have seriously depleted reserves. In addition, changes in school funding being considered throughout Maine may shift the taxing authority for school costs from the town to a school district. This would significantly reduce the tax raised by Freeport and subsequently the amount received by the BIVC. In that case, any school district to which Freeport may belong would levy the school tax and would have no obligation to transfer any portion of those taxes to the BIVC. Bustins needs to position itself for this possibility.

The Board of Overseers recommends approval of this article.

ARTICLE 8. ELECTION

To elect a Clerk and Treasurer of the BIVC for a term of one year each; and to elect two members of the Board of Overseers for a three-year term each by ballot as provided in the BIVC By-Laws.

(SWEARING IN OF NEW OFFICERS BY THE CLERK OR MODERATOR.)

ARTICLE 9. HEAR COMMITTEE REPORTS

To listen to and pass upon reports from any and all committees.

ARTICLE 10. OTHER MATTERS

To consider and act upon any other business which may lawfully come before said meeting.

Given our hands at Bustins Island, Freeport, Maine this 13th day of July, 2008.

The Board of Overseers of the BUSTINS ISLAND VILLAGE CORPORATION

Anthony DeBruyn, Chair

Scott Bonney

Patricia LaFleur, Vice-Chair

William Roberts

Roger Leland

- ATTACHMENTS AND SCHEDULES:
Schedule A – Accept Portions of Public Ways (Article 4)
Attachment A – Treasurer’s Report and Budget (Article 3)

Schedule A

Description of Property
"Tennis Court Road" Section E
Bustins Island Freeport, Maine
May 16, 2008

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A certain lot or parcel of land on Bustins Island in the Town of Freeport, County of Cumberland, State of Maine, bounded and described as follows:

Beginning at an iron pipe found on the Southwesterly line of land formerly of Amanda G. Swett, shown as "Merrill Bros line" on a "Plan (of) Bustins Island Cottage Lots ... Owned by Amanda G. Swett" by H.N. Skolfield dated October 1921 and recorded in the Cumberland County Registry of Deeds, Plan Book 28 Page 1, at the Southwesterly corner of a parcel of land conveyed by Grace Y. Taisey to the Bustins Island Village Corporation as described in said Registry, Book 4461 Page 93, and as shown on a "Plan of Property ... made for Bustins Island Village Corporation and Taisey Brothers ..." by H.I. & E.C. Jordan dated April 30, 1979, and recorded in said Registry, Plan Book 123 Page 26; thence by the following courses and distances:

- 1) N 16°56'41" E by land now or formerly of Taisey Brothers Inc. as described in said Registry, Book 15320 Page 165, a distance of One Hundred Nine and 56/100 (109.56) Feet to an iron pipe found;
- 2) N 41°07'24" E by said land now or formerly of Taisey Brothers Inc. a distance of Twenty-Nine and 60/100 (29.60) Feet to an iron rod found at the Southerly corner of land now or formerly of the Bustins Island Village Corporation as described in said Registry, Book 23151 Page 116;
- 3) N 50°55'00" E a distance of Forty and 00/100 (40.00) Feet to a capped iron rod set;
- 4) N 62°07'05" E a distance of Sixty and 71/100 (60.71) Feet to an iron pipe found at the Easterly corner of said land now or formerly of the Bustins Island Village Corporation and the Southerly corner of land now or formerly of William B. Loughton as described in said Registry, Book 1250 Page 4;

Description of Property

“Tennis Court Road”

Section E Bustins Island Freeport, Maine

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- 5) N 58°53'51” E by said land now or formerly of Loughton and by land now or formerly of Mary A. Wellington as described in said Registry, Book 1376 Page 151, a distance of One Hundred Seventy-Five and 15/100 (175.15) Feet to a capped iron rod set on the Southwesterly sideline of Island Avenue, so called;
- 6) S 35°17'04” E along the Southwesterly line of Island Avenue a distance of Sixteen and 54/100 (16.54) Feet to a capped iron rod set at the Northerly corner of land now or formerly of Kim Norman Larson and Claudia Larson as described in said Registry, Book 10506 Page 257;
- 7) S 58°53'51” W by said land now or formerly of Larson a distance of Two Hundred Fifty-Nine and 21/100 (259.21) Feet to an iron pipe found at the Northerly corner of a parcel of land conveyed by the Bustins Island Village Corporation to Richard C. Taisey Jr. et al. as described in said Registry, Book 4161 Page 96;
- 8) S 44°28'34” W by said land now or formerly of Richard C. Taisey et al. a distance of Thirty-Eight and 76/100 (38.76) Feet to an iron pipe found;
- 9) S 16°56'41” W by said land now or formerly of Richard C. Taisey et al. a distance of One Hundred One and 89/100 (101.89) Feet to an iron rod found on the “Merrill Bros line” as shown on said “Plan (of) Bustins Island Cottage Lots ... Owned by Amanda G. Swett”;
- 10) N 85°26'26” W along said “Merrill Bros line” a distance of Sixteen and 89/100 (16.89) Feet to the point of beginning.

The above described parcel of land contains 6901 square feet and is a portion of the land now or formerly of the Bustins Island Village Corporation as described in said Registry, Book 1177 Page 215, Book 1208 Page 392, Book 4461 Page 93, and Book 23151 Page 116.

Bearings are referenced to True North as determined by astronomic observation. Capped iron rods set are 5/8” rebar with 2” aluminum caps inscribed “BIVC Road”. Reference is made to a “Standard Boundary Survey (of) Tennis Court Road Section E” by Island Surveys dated May 16, 2008.