

To: DPW Committee Members

March 15, 2016

Thank you for the opportunity to speak this evening. I have been involved with a group of dedicated residents who strongly oppose the placement of a new DPW facility on the Wolf Swamp fields and have authored several letters to the Select and Park Boards. These letters, which have been signed by more than two hundred people, are included in the packet just handed to you for your review. I would note that we had no difficulty getting two hundred signees and we believe, based on our outreach efforts, that there are many more parents of kids who use the fields who are in support of our position.

We applaud the Select Board for its decision to disband the initial DPW Committee and to appoint this Committee to look objectively at all options, including the current Pondsides Road location, and are confident that you will do so in a comprehensive and impartial manner.

As we have discovered, the deed for the Wolf Swamp property specifically states that the fields are to be used for recreational purposes. As part of the funding to purchase the Wolf Swamp property in 1977, the Town raised \$100,000 from its residents and the Warrant on which they voted again clearly states that the land is to be used for recreational purposes. Thus, the monies to purchase the land were requested by Town officials and approved by town residents with the clear understanding that the space would be used only for recreational purposes. In 2012, the Town updated its "Open Spaces Plan" which relates to the preservation of open spaces. That Plan contains a table which states that the Wolf Swamp recreation fields are "legally protected in perpetuity and recorded as such in the deed".

Surprisingly, none of these important facts were mentioned by any Town official at the November 3, 2015 Town Meeting where residents were asked to approve the expenditure of \$438,000 for continued architectural and engineering work primarily at the Wolf Swamp fields which was the initial Committee's preferred site. We would suggest that the omission of these facts from the Town's presentation was not inconsequential and we can only speculate whether the outcome of the vote by the small number of residents would have been different had they been told of the specific language of the deed, the Warrant and the Open Space Plan which provided that the fields were legally protected forever.

We have not yet seen any legal opinion from Town Counsel regarding the issue of a deed restriction. However, even if Town Counsel concludes that no legally binding restriction exists on the Town's use of the Wolf Swamp fields for a DPW facility, I would note that other attorneys who have examined the issue have reached a different conclusion so the matter is far from settled. More importantly, however, if you were to recommend the Wolf Swamp site as the preferred location for a DPW site, your recommendation would be contrary to the express assurances given Town residents in 1977 that the land would be used for recreational purposes as well as the Town's "Open Space Plan", approved by the Select Board, which stated that the fields were "legally protected in perpetuity and recorded as such in the deed". That is what residents were told by the Town at the time of the acquisition of the fields and what the Town subsequently committed to its residents and the Commonwealth when the "Open Spaces Plan" was approved. While we may disagree as to whether there is a legal obligation to honor the express provisions of the deed, there can be no argument that the Town has a moral and ethical

obligation to abide by the commitment made to its residents to use the Wolf Swamp fields only for recreational purposes and any decision made by this Committee should reflect that promise.

Finally, I would note that both Mr. Foster and Mr. Crane have stated publicly that the Wolf Swamp fields are subject to Article 97 which provides that recreation land must receive a unanimous vote from the Park Board, a two-thirds majority approval from Town Meeting and the state legislature. I understand that more than \$30,000 already has been spent, apparently almost exclusively on the Wolf Swamp site, and I would urge that this Committee request that the Park Board vote on this issue as soon as possible prior to the expenditure of additional monies. I have not seen or heard of any restrictions placed by the Select Board on your authority which would prevent you from making such a request.

I suspect you may be told that the Park Board needs additional information before it can vote. I would suggest that such an argument is spurious. The Town has spent considerable monies on a detailed presentation of the proposed Wolf Swamp site which has been shown to Town residents. The plan contained in Mr. Crane's power point presentation could be made available to the Park Board for review. Additionally, while we have been told that no compensatory fields are being sought at this time to replace those lost by the proposed DPW facility, this Committee could ask that the Board assume for purposes of its vote that such fields may or will be available at a future time. I would argue that the question to be decided by the Park Board is not whether it approves of the proposed building or landscaping design presented by Mr. Crane. The question is much more basic: Does the Park Board approve of the taking of Town park land for a new DPW facility? That is the question which should be answered before this Committee spends considerable time and effort to determine its preferred site.

Thank you for your time and consideration of these important issues.

John Glenn