

REPORT OF THE *AD HOC* SMYK PROPERTY STUDY COMMITTEE  
To The Board of Selectmen  
April 30, 2018

Executive Summary

The Smyk Property Committee (Committee) was established by the Select Board as an ad hoc committee to research both the advantages and limitations offered by the Mary and Walter Smyk Trust (Smyk) bequest of the home and property located at 7 Bunker Hill Avenue to the Town. The Committee met approximately weekly from February 8, 2018 through April 17. After these several weeks of study and discussion, the Committee has unanimously concluded that acceptance of the bequest is beneficial for the Town.

The Committee began by examining that portion of the Trust document which pertains to the Town. We found it to have very severe limitations on what could and could not be done with the property. Town department heads were surveyed for their interest and feedback on potential uses of the land and/or house. No specific proposals were forthcoming. In fact, one of the departments most intuitively likely to use the area, Recreation, had no specific interest. Additionally, many proposed uses were discussed by members of the Committee leading to speculation on how these uses would fit into the framework of the terms of the Trust. Discussion centered on two aspects of the property, the land and the house.

On March 22 Assistant Attorneys General Terry Knowles and Tom Donovan met with the Committee to help us focus on what could, and could not be done with the property. As the “cops on the beat” who would oversee enforcement of the terms of the Trust, they clarified the limitations inherent with the bequest. It became readily apparent that potential uses are even more limited than we originally thought.

The Committee’s work culminated with a well-attended public informational listening session on April 17. Several of those in attendance spoke, with general agreement that the property presented a unique, exciting, and beneficial opportunity for the Town of Stratham. Following the public input, the Committee voted unanimously to recommend to the Board that the bequest be accepted by the Town. A more thorough account of the Committee’s work follows.

## Background

Pursuant to the wishes of Walter and Mary Smyk, their homestead property was offered to the Town by the Walter and Marilyn Smyk Family Trust, along with a \$300,000 endowment, upon the death of Mary Smyk, Walter's successor. Attached to the bequest are a number of limiting stipulations. The Selectmen formed the Smyk Property Study Committee to advise them on the benefits and liabilities of accepting this gift using a cost/benefit analysis to include potential uses by the Town, and ramifications of rejecting the bequest. The Committee was comprised of nine members of the public, Dave Canada, Dan Crow, Pamela Hollasch, Jennifer Hubbell, Allison Knab, April Mason, Stella Scamman, Richard Swett, and Roger Thompson. They were assisted by Town staff members Paul Deschaine, Bruno Federico, Seth Hickey and Colin Lavery. Dan Crow was elected to chair the Committee at the organizational meeting held February 8.

## Terms of the bequest

There are several stipulations associated with the acceptance of the property which severely limit the ways in which the Town can use the property. Any use must be of a cultural or recreational nature and be for the benefit of the residents of Stratham. No trees may be removed unless they are dead and must then be replaced by "reasonable mature trees". No significant topographical changes may be made to the grounds. The home may be removed or replaced but any replacement must not exceed the original footprint of the building. Additional new buildings are restricted to a pavilion and small structures ancillary to public use. They may not be located within 400 feet of Bunker Hill Avenue or Portsmouth Avenue. To put that in perspective, the house sits, at its closest point, 554 feet from Portsmouth Avenue, 416 feet from Bunker Hill Avenue, and 148 feet from the rear property line. Replacement structures are limited to 20 feet in height.

## Discussion of possible uses

Throughout the two months of weekly meetings the Committee discussed various ways the land and building could be used for the benefit of the Town. These included direct use by the Town to support ongoing activities by Town departments and non-Town use by which to generate income to support the maintenance of the property. Direct Town uses identified for the building include a Senior Center, cultural center, general meeting space, and recreational programs such as a gymnasium. Uses identified for the land include future cemetery space, a new park, a skate park and disc golf (which would generate income). Other additional uses were considered in an attempt to identify revenue sources to offset upkeep of a park and building. They include a B&B (to be managed by a private company), renting the house as a dwelling, renting office space, renting artist studio spaces, building a pavilion (a 3000 square foot pavilion is allowed under the terms of the Trust) to be rented for events, and a wedding/event venue. There was much

speculation on the how these applications would fit within the terms of the bequest. To get definitive answers to these questions and more, we met with staff from the Attorney General's office. While they were supportive of the Committee's hope to identify ways to make the area self-supporting, they ruled out most revenue generating ideas. They ruled out using the property as a cemetery. They outlined the very limited means by which we could amend the terms of the Trust, none of which would be viable at this point. It was further noted that the Trustees of the Smyk Trust did not have the authority to alter the terms; they could only offer interpretations of the terms. It was noted that picnic areas could be fashioned with tables, grills, etc. installed for residents' use without violating the significant topographical changes prohibition.

### Financial considerations

Public Works Director Colin Laverty, based on his own professional experience and in consultation with the Smyk's long time maintenance provider, developed cost estimates for maintaining the grounds and house. Initially there would be equipment purchases required which would cost \$11,500. Yearly non-capital maintenance expenditures on the grounds are estimated at \$22,000. In addition, maintenance and operating costs for the house are \$14,400.

The Smyks intended that the interest generated by their \$300,000 endowment would help support ongoing expenses associated with the property. Different investment yields were projected to see how much of the yearly expenses could be offset by this interest income. It was noted that historic returns on funds held by the Town are below 5%; however, at a 5% annual return, left to compound for 8 years, the endowment would rise to \$443,237 yielding an income of \$22,162. In other words, if the income was not touched for 8 years the land would be self-sustaining in 2026 (not including any capital needs and not accounting for inflation). Including the costs of maintaining the house, it would be self-sustaining in 2036. The Trustees of the Trust Funds believe a sustained yield of 5% or more is attainable.

Income generated by the property could offset taxpayer costs to an extent. If a pavilion was built, which is specifically allowed by the Trust, a charge would be assessed to the users much like at Stratham Hill Park. Renting artist studio space in the house is a possibility which may be allowed under certain scenarios and restrictive criteria. The grounds could be rented for events hosted by Stratham residents if they were recreational or cultural in nature. What does that include? Weddings? Company events? We do not have any guidelines on how generously we can interpret "recreational and cultural purposes". The Trustees and Attorney General would need to be consulted for more definitive answers.

The home on the property may be a liability. If a Town or income producing use cannot be found which complies with the terms of the Trust it will become an unused burden costing taxpayers close to \$15,000 yearly. We received a quote of \$22,000 to tear down the building and fill the

existing residential swimming pool. One suggestion was to sell the Bartlett-Cushman House and dedicate the proceeds to boosting the Smyk endowment. This would obviously bring the income from these dedicated funds that much closer to fully supporting the land maintenance costs. The Committee makes no recommendation to the Selectmen on the disposition of the house. The choices seem to be 1) find a use for the building which satisfies the terms of the bequest; 2) maintain the house for occasional use; 3) tear down the house; or 4) seal the house up and defer razing it until it becomes disreputable or a use is found for it.

### Non-financial considerations

Time and again, from Committee members and the public, we have heard what an asset the land would be to the Town. Comments such as “amazing gift”, “incredible piece of land”, “maintenance costs are inconsequential-we need to accept” were all met with approval by the public. At just under 11 acres, this rolling expanse of lawn and open woods will make a serene and delightful area for residents’ enjoyment. Very significantly, it abuts Town owned property which abuts other conservation easements and undeveloped lands. As a gateway to the area, the Smyk property has the potential to be the anchor of an extensive trail system. As Stratham develops and builds out, especially along its commercial corridor of Portsmouth Avenue, this will make a refreshing, rewarding, and perpetual patch of green amidst the infill of development. If the Town rejected the gift it would be sold on the open market by the Smyk Trustees, probably at public auction. The Committee feels it is likely that the property would be purchased by a housing developer and several houses would be built on the property.

In addition to the desirability of having this beautiful piece of land for residents’ enjoyment in perpetuity, there is a more immediate practicality to this acquisition. The State recently added the much needed improvements and signalization of the Bunker Hill Avenue/Portsmouth Avenue intersection to its ten year construction list. This project will, of necessity, involve taking land from both sides of Bunker Hill Avenue. This process will be greatly simplified by Town ownership of both the parcels involved.

### Conclusion

The Committee unanimously recommends that the Town accept this generous bequest. At least initially, there will be a net cost to taxpayers. If the endowment income is compounded and added to the corpus we envision the Walter and Mary Smyk Park to be self-sustaining in the foreseeable future. Even if the income from the endowment is used immediately to reduce expenses raised from property taxes, the result will be a reasonable cost for this addition to our park system which is likely to see much use by residents. Our conclusions were confirmed by an enthusiastic sampling of Stratham residents. We feel the Town will be highly supportive of this acquisition even with its associated costs.

### Addendum

- 1) The latest version of the Committees working paper entitled: "Smyk Property Discussion"
- 2) Projected annual maintenance estimate
- 3) Summary of the tenth amendment to the Smyk Family Trust (as it pertains to the Town)