



FAIRHAVEN SELECT BOARD

Agenda

Monday, September 27, 2021

6:30 p.m.

Town Hall – 40 Center Street – Fairhaven

Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and via remote means, in accordance with applicable law. This means that members of the public body as well as members of the public may access this meeting in person, or via virtual means. In person attendance will be at the meeting location listed above, and it is possible that any or all members of the public body may attend remotely, with in-person attendance consisting of members of the public.

Log on to:

<https://us06web.zoom.us/j/87686309137?pwd=RW1WeEpSakFOeGxVNklGUHZZBbGxjQT09>

or call 1-929-205-6099

Meeting ID: 876 8630 9137

Passcode: 379348

The meeting can also be viewed on Channel 18 or on FairhavenTV.com

A. MINUTES

1. Approve the minutes of September 13, 2021 – Open Session
2. Approve the minutes of September 13, 2021—Executive Session
3. Approve the minutes of September 16, 2021—Open Session
4. Approve the minutes of September 16, 2021 – Executive Session

B. TOWN ADMINISTRATOR REPORT

C. COMMITTEE LIAISON REPORTS

D. ACTION

1. 61A (agricultural tax land) notice of intent to sell, 372 Sconticut Neck Road. Town option to purchase.
2. Acceptance of Easement—Reynold's Drive
3. Change of Officers and Directors: 99 Restaurants of Boston, LLC
4. Request to join Lagoa Friendship Pact Committee: Charles Murphy, Sr.
5. Appointment to SRTA Advisory Board: Representative and Designee
6. Approval of stop signs;
 - a. Gilbert & Raymond Streets/Sconticut Neck Road
 - b. Plymouth Avenue/Francis Street

E. APPOINTMENTS

1. 6:50 pm Meet and Greet Precinct 2
2. 7:00 pm Fairhaven Police Department—Accreditation /Service Awards—Lt. Kevin Kobza/Detective Glenn Cudmore
3. 7:10 pm Veterans Agent Brad Fish: Veterans Day Parade

F. POSSIBLE ACTION/DISCUSSION

RECEIVED
TOWN CLERK
2021 SEP 23 P 3:11
FAIRHAVEN,
MASS.

1. Retirement of Town Counsel
2. Rogers School - Discuss Town Counsel guidance on disposition of Rogers School property
3. Consider reinstating the Wellness Committee
4. Consider Date for Fall Town Meeting
5. Mask Mandate update

G. NOTES AND ANNOUNCEMENTS

1. The next **regularly** scheduled meeting of the Select Board is Tuesday, October 12, 2021 at 6:30 p.m. in the Town Hall Banquet Room

ADJOURNMENT

Subject matter listed in the agenda consists of those items that are reasonable anticipated (by the Chair) to be discussed. Not all items listed may be discussed and other items not listed (such as urgent business not available at the time of posting) may also be brought up for discussion in accordance with applicable law.

MGL, Ch. 30A, § 20(f) requires anyone that intends to record any portions of a public meeting, either by audio or video, or both, to notify the Chair at the beginning of the meeting.



Fairhaven Select Board Meeting Minutes September 13, 2021

Present: Chairman Robert Espindola, Vice-Chairwoman Stasia Powers, Clerk Keith Silvia, Interim Town Administrator Wendy Graves, Cable operator Nick Doyle and Administrative Assistant Vicki Oliveira

The meeting was videotaped by Cable Access and Zoom meeting application.

Chairman Robert Espindola opened the meeting at 5:03 pm in the Town Hall Banquet Room.

Minutes

Ms. Powers made a motion to approve the open session minutes of August 16, 2021. Mr. Silvia seconded. Vote was unanimous. (3-0)

Ms. Powers made a motion to approve the open session minutes of August 23, 2021. Mr. Silvia seconded. Vote was unanimous. (3-0)

Ms. Powers made a motion to approve the open session minutes of August 30, 2021. Mr. Silvia seconded. Vote was unanimous. (3-0)

Town Administrator Report

Ms. Graves said the first introductory meeting with the ARPA consultant was last week.

Ms. Graves reminded the Board the tax possession auction will be on September 28, 2021.

Ms. Graves will discuss the Wood School bond and the Town's S&P Global rating later in the meeting.

Committee Liaison Reports

Ms. Powers had a meeting with the Lagoa Friendship Committee where they discussed the exhibition the Azorean delegation will be sending to Fairhaven.

Mr. Silvia said the Marine Resources Committee will be doing a study for dredging at West Island. Committee member Erik Dawicki has offered the services of the students at Northeast Maritime Institute to paint the building at Hoppy's Landing.

Mr. Silvia expressed his gratitude for all our safety personnel who responded recently to a boat fire at Pope's Island.

Mr. Silvia said the Town Hall Street Lamp project that was voted down at Town meeting will be funded by private donations. Thank you to Nils Isaksen and Wayne Oliveira for their hard work on this project.

Mr. Silvia said the Nimrod Cannon has been soaking in a special solution for twenty years for its preservation and is now ready to come out of the solution that it has been bathing in. The Northeast Maritime Institute has been gracious enough to host the Nimrod Cannon in the lobby of the School all these years until it was ready to be removed and displayed.

Mr. Espindola has been working with the ARPA group and will meet soon with the Economic Development Committee, the Broadband Study Committee and the SMMPO.

Request to Use Town Hall Auditorium: Cable Access TV

Cable Access Derek Frates met via zoom with the Board to request the use of the auditorium for a movie screening of “To Dust All Return” by Alyssa Botelho. Mr. Frates said there will be a limit on the number of attendees and everyone will be required to wear a mask. Ms. Powers made a motion to approve the October 1, 2021 short film screening by Alyssa Botelho. Mr. Silvia seconded. Vote was unanimous. (3-0)

Request to Join Historical Commission

Natalie Mello was in attendance to answer any questions from the Board.

Ms. Powers made a motion to appoint Natalie Mello to the Historical Commission as an associate member. Mr. Silvia seconded. Vote was unanimous. (3-0)

Request to Join Belonging Committee:

Mr. Espindola said this is a new committee and there are openings for seven (7) members. There were two (2) letters that came in after the deadline but he would like to consider those too. Mr. Silvia had a concern for the folks who may winter out of state, if they would still be able to participate. Mr. Espindola reminded the Board, all meetings must have a zoom link, so therefore participation can be done from any place. Leon Correy, Diane Hahn and John Hinds all expressed to the Board their eagerness to join the committee.

Ms. Powers made a motion to appoint Leon Correy, Greg Weider, John Hinds, Diane Hahn, Kylie Bateman, Jessica Fidalgo and Geoff Haworth to the Belonging Committee. Mr. Silvia seconded. Vote was unanimous. (3-0)

Approval of Surplus Property Disposition

Mr. Espindola reminded the Board about the Annual Town Auction that is scheduled for Saturday, September 18, 2021. Ms. Powers made a motion to declare the items on the list surplus and to authorize the Town Administrator to add and delete as necessary. Mr. Silvia seconded. Vote was unanimous. (3-0)

Update the Charge of The Economic Development Committee

Mr. Espindola said there was an error in the motion to update the charge of the Economic Development Committee (EDC) at the last meeting.

Ms. Powers made a motion to reconsider the previous motion for the EDC at the meeting of August 23, 2021. Mr. Silvia seconded. Vote was unanimous.

Ms. Powers made a motion to amend the EDC charge in paragraph 2 to read Five (5) at-large members. Mr. Silvia seconded. Vote was unanimous. (3-0)

Update the Charge of The Lagoa Friendship Pact Committee

Mr. Espindola said the charge of the Lagoa Friendship Pact Committee calls for a member from the Fairhaven Business Association (FBA) but at this time it does not appear that the FBA is still in existence. Ms. Powers made a motion to amend the Lagoa charge to remove the FBA and replace with one member from the Fairhaven Business Community. The Economic Development Committee representative and the Historical representative will be appointed by their committees. Mr. Silvia seconded. Vote was unanimous. (3-0)

Sign Refinance of Wood School Bonds

Ms. Graves told the Board she had an opportunity to refinance the Wood School bond at .999889%, this will be a savings of \$861,207.37. (Attachment A) Ms. Graves said before a refinance can be done, the town has to have a S&P Global rating updated and Fairhaven has been given a AA+ rating. (Attachment B) Ms. Graves thanked the hard work and assistance of Town Accountant Anne Carreiro and Planning Director Paul Foley.

Ms. Powers made a motion to sign the Bond from Piper Sander Company for .999889%. Mr. Silvia seconded. Vote was unanimous. (3-0)

Meet and Greet Precinct 1

Precinct One residents Lee Robinson and Cathy Delano have concerns with the speeding traffic on Washington Street. Chairman Espindola noted their concerns and suggested going to the Police website to file the form regarding speed issues. Ms. Delano also had concerns regarding the condition of the Post Office building. Amy DeSalvatore expressed her pleasure with the work of the Tree Warden.

Salvation Army Serve-A-Thon: September 25, 2021

Mr. Espindola disclosed that Mr. Tapper is his brother in law.

Mr. Chris Tapper met with the Board to discuss the upcoming serve-a that serves the Salvation Army and Mobile Loaves. Mr. Tapper has been involved with this program for 8 years and some of the projects completed include Cooke Park and Veterans Park. Most of the volunteers come from the YMCS in Dartmouth and 100% of the donations go back to the Salvation Army. Mr. Tapper has been in contact with Veterans Agent Brad Fish regarding doing some volunteer work at Veteran's Park. Mr. Tapper told the Board if anyone is looking to volunteer they can go to: www.lift-in-love.org. Ms. Power suggested reaching out to the High School for students who are looking for volunteer opportunities.

Tree Warden: Discuss Tree Removal

Tree Warden Don Collasius met via zoom with the Board to discuss the recent removal of 55 shade trees in town. Town Planner Paul Foley expressed his concerns regarding the number of trees that were removed and the process that was followed. Mr. Foley has asked the Board for

permission to apply to the DCR Urban and Community Forestry Challenge Grant to fund a comprehensive street tree inventory and management plan performed by a professional tree care company (Attachment C). This matching grant opportunity is time sensitive and the Board has to show their support by submitting a letter of intent by October 1, 2021. Ms. Powers made a motion for the Select Board to show support for submitting a grant application for an urban and community forestry challenge grant with a possible \$20,000 match contingent on receiving a match funding from the ARPA program. Mr. Silvia seconded. Vote was unanimous. (3-0)

Mr. Collasius said he had partnered with Eversource to have the dangerous trees removed but going forward he does not see the removal of more trees in the near future. Mr. Collasius stated he will hold public hearings in the future prior to removing any trees but he feels because of the removal of these trees there were no power outages in the recent storm.

Residents James Anderson and Cathy Delano thanked the Tree Warden for removing a tree near each of their homes. Resident Barbara Acksen told the Board the town needs to be proactive in planning and preserving trees. Resident Ann Richard said trees are important and would like to see the tree survey done for the entire town, not just the center.

Mr. Foley expressed the importance of maintaining the town's character as well as following the master plan and will be looking to create some tree by-laws. Mr. Foley is concerned the process of removing trees was not followed when the 55 trees were taken down and there is no written protocol for when there are emergencies. Mr. Foley would like to create a memorandum of understanding (MOU) to protect the town's trees. Mr. Foley will be creating a bylaw to be placed on the next town meeting warrant regarding the tree removal process.

Rogers School National Historic Register Application

Rogers Re-Use Committee members Sue Loo, Doug Brady, Beverly Rasmussen and Barbara Acksen (via zoom) were in attendance. Mr. Brady discussed the process for applying to the State for the National Historic register (Attachment D). Planning Director Paul Foley will be including a letter of recommendation in the packet.

Ms. Powers made a motion to submit the Rogers School packet to the State to apply for the National historic register along with the letter from the Planning Director. Mr. Silvia seconded. Vote was unanimous. (3-0)

Virtual Public Hearing Participation—An Act Relative to The Board of Selectmen of The Town of Fairhaven

Mr. Espindola said Annual Town Meeting Article 47 has advanced forward to the legislature and there will be a public hearing at 11 am on September 14, 2021. The Town Moderator has written a letter to the State on behalf of the Town Meeting members. Ms. Powers said she would like to submit something but will write it from herself and not on behalf of the Select Board. Ms. Powers made a motion to submit a letter in favor of H3948, an act An Act Relative to The Board of Selectmen of The Town of Fairhaven. Mr. Espindola seconded. Vote passed. (3-1)

Town Tax Possession Auction Listing

Auctioneer Paul Zekos joined the meeting via zoom to discuss the up coming tax possession auction. Mr. Zekos explained all properties were obtained through the tax title process. There are 2 buildings on the list that pose a risk to the town and need to be back as part of the community

again. The auction is set for September 28, 2021 and the goal is to generate as much revenue for the town and the properties back on the tax rolls. Conservation Agent Whitney McClees would like to see some of the parcels that have wet lands or have habitats for rare and endangered species transferred to the conservation department. Ms. Powers had some concerns regarding certain properties that possibly should not be on the auction list.

Residents Martin and Janice Lomp of 21 Buist Street presented a power point to the Board (Attachment E) explaining that one of the listed properties abuts theirs and they have been taking care of the property for 27 years and feel they should be entitled to the property through adverse possession. Mr. Lomp stated he may sue the town if the property is sold at the auction. Ms. Graves told the Lomp's that M.G.L. does not allow her to sell a property to an individual and the properties must go to auction. Mr. Zekos explained that the entire auction process has to be fair and transparent. The Board discussed the parcels and would like to discuss more details in an executive session meeting.

Ms. Powers made a motion to hold a Select Board meeting for the purpose of executive session to discuss the auction properties. Mr. Silvia seconded. Vote was unanimous. (3-0)

Consider Date for Fall Town Meeting

The Board discussed holding a special town meeting and reviewed the calendar to find possible dates. Conservation Agent/Sustainability Coordinator Whitney McClees told the Board she does not have a firm deadline for the solar project at the schools but the sooner the better for the Town to save money. Ms. Graves will reach out to the Town Moderator and the ARPA committee for their input. Ms. Powers made a motion to set the target date of December 14, 2021 and December 15, 2021 for a Special Town Meeting. Mr. Silvia seconded. Vote was unanimous. (3-0)

Mask Mandate Update

Ms. Graves said there was nothing new to report at this time.

Resignation on Millicent Library Trustees: Cheryl Moniz

Mr. Espindola read an email from Library Director Kyle DeCicco-Carey stating that longtime trustee member Cheryl Moniz has resigned from the Board after serving since 1996.

Ms. Powers made a motion to accept the resignation of Cheryl Moniz from the Library Board of Trustees and thank her for her service. Mr. Silvia seconded. Vote was unanimous. (3-0)

Fairhaven Police Department: Donation

Mr. Espindola read a letter from Fairhaven Police Chief Myers thanking BASK, Inc. for their generous donation of \$7500 to help launch the new canine program. The Board thanked BASK for the donation.

Fairhaven Village Militia Revolutionary War Encampment

Mr. Espindola read a letter from Commander Wayne Oliveira reminding the Select Board about the upcoming Revolutionary War encampment at Fort Phoenix and the firing of the Fort's large cannons.

Notes and Announcements

Mr. Espindola read a memo from Health Agent Dave Flaherty noting there is no mold in the Rogers School. (Attachment F)

Ms. Powers said the Pickleball Association has offered free Pickleball lessons to town employees.

Mr. Silvia requested a request system for the use of Town Counsel and to monitor what departments are using the services.

At 9:41 pm Ms. Powers made a motion to adjourn to Executive session not to reconvene to open session for Strategy with respect to litigation: MGL chapter 30a, section 21(a) 3: New England Preservation and Development, LLC law suit (Rogers School). Mr. Silvia seconded. Vote was unanimous. (3-0)

Roll Call Vote: Ms. Powers in favor, Mr. Silvia in favor, Mr. Espindola in favor.

Respectfully submitted,



Vicki L. Oliveira
Administrative Assistant

- A. Bid Results
- B. S&P Global rating
- C. Memo from Planning Director Paul Foley
- D. Rogers School National Historic Register application
- E. 21 Buist Street power point presentation
- F. Memo from Health Agent David Flaherty regarding Rogers School



Fairhaven Select Board Meeting Minutes September 16, 2021

Present: Chairman Robert Espindola, Vice-Chairwoman Stasia Powers, Clerk Keith Silvia, Interim Town Administrator Wendy Graves, Town Counsel Tom Crotty and Administrative Assistant Vicki Oliveira

Also Present: Building Commissioner Chris Carmichael, Conservation Agent Whitney McClees, Auctioneer Paul Zekos.

The meeting was videotaped by Cable Access and Zoom meeting application.

Mr. Espindola opened the meeting at 4:36 pm in the Town Hall East Room.

Chairman Espindola announced the meeting will adjourn to executive session and reconvene to open session.

Mr. Espindola called for a moment of silence for John Rogers who passed away suddenly at age 83. Mr. Rogers was a former Tax Collector, former call fire fighter, member of the EMA, Commissioner of Trust Funds, Chairman of the Apparatus Study Committee and keeper of the antique fire trucks.

At 4:39 pm Ms. Powers made a motion to adjourn to executive session and to reconvene in open session. Mr. Silvia seconded. Vote was unanimous. (3-0)

Roll call vote: Ms. Powers in favor, Mr. Silvia in favor, Mr. Espindola in favor.

The Open Session reconvened at 4:40 pm

Mr. Espindola stated that the tax possession auction process was discussed in executive session.

Mr. Espindola said the next regularly scheduled meeting for the Select Board will be September 27, 2021

Ms. Powers made a motion to adjourn at 5:21 pm. Mr. Silvia seconded. Vote was unanimous. (3-0)

Respectfully submitted,

Vicki L. Oliveira
Administrative Assistant

D1

David W. Hebert
173 Dogwood Street
Fairhaven, MA 02719
[REDACTED]

RECEIVED
2021 SEP 15 P 12:31
BOARD OF SELECTMAN
FAIRHAVEN MASS

Board of Selectman
40 Center Street
Fairhaven, MA 02719

Re: Notice of Intent to Sell Land Valued, Assessed, and Taxed under M.G.L. c.61A

Dear Members of the Board,

Notice is hereby given in accordance with the provisions of M.G.L. c.61A that I, David W. Hebert, have entered into an agreement to sell and convert the remaining lots of the property at 732 Sconticut Neck Road, Fairhaven, MA 02719 (map 42 lot 6) to residential house lots to buyer Scott Snow. Kindly refer to the attached executed Purchase and Sales Agreements, as well as the subdivision map dated 7/29/19. The buyer's portion is referred to as lots 1, 2, & 4. Lot 1 includes a parcel of land of 30,580 square feet. Lot 2 includes a residence described as a garage with a 2 bedroom apartment above as well as a 321,399 square foot lot. Lot 4 includes a 45,286 square foot parcel of land.

I respectfully request to be added to your agenda for the next scheduled meeting to answer any further questions. If the Board does not intend to exercise its right to purchase the property, I would appreciate if the Board would notify myself or my attorney's office, Pateakos & Poulin, P.C. (324 Union Street New Bedford, MA), in writing so the parties may proceed with the closing.

Sincerely,



David W. Hebert

PURCHASE AND SALE AGREEMENT

1. PARTIES

AGREEMENT, made this 26 day of August, 2021, between David W. Hebert, Trustee of the Sconticut Neck Farms Realty Trust of 173 Dogwood Street, Fairhaven, MA 02719, hereinafter called the SELLER, who agrees to sell and Scott Snow OR Scott Snow Construction LLC of PO Box 154, Mattapoisett, MA 02739, hereinafter called the BUYERS, who agree to buy, upon the terms and considerations hereinafter set forth, the following bounded and described premises:

2. DESCRIPTION OF PREMISES

The land with any and all buildings thereon shown in **Plan Book 180, Page 9 as LOT 4 Sconticut Neck Road, Fairhaven, MA 02719** as the premises further described in a deed recorded in the Bristol County S.D. Registry of Deeds Book 13381, Page 263.

All structures, and improvements on the land and the fixtures, including, but not limited to: any and all storm windows and doors, screens, screen doors, awnings, shutters, window shades and blinds, curtain rods, furnaces, heaters, heating equipment, oil and gas burners and fixtures, hot water heaters, plumbing and bathroom fixtures, towel racks, built-in dishwashers, garbage disposals and trash compactors, stoves, ranges, chandeliers, electric and other lighting fixtures, burglar and fire alarms systems, mantelpieces, wall to wall carpets, stair carpets, exterior television antennas and satellite dishes, fences, gates, landscaping including trees, shrubs, flowers: and the following built-in components, if any: air conditions, vacuum systems, cabinets, shelves, bookcases and stereo speakers and further appliance to include:

But excluding: _____

3. PURCHASE PRICE

The agreed purchase price for said premises is ONE HUNDRED EIGHTY THOUSAND (\$180,000.00) Dollars, AND 61A Lien to be paid, of which:

\$ 10,000.00 were paid as a deposit with the offer to purchase; and
\$ TBD the 61A Tax Lien Roll Back; and
\$ 00.00 is to be paid at the time for performance by certified funds, bank check or Attorney's Iolita Check
\$ 170,000.00 to be paid by Promissory Note to Seller
\$ **180,000.00** TOTAL + Rollback taxes 61A lien TBD

4. ESCROW

~~All deposits made hereunder shall be held in a non-interest-bearing escrow by as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time of performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending instructions mutually given in writing by the SELLER and BUYER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid.~~

5. **TIME FOR PERFORMANCE**

The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price on or before 3:00 pm on or before the **16th day of October 2021, Pateakos & Poulin, P.C. 324 Union Street, New Bedford, MA.** TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land).

6. **TITLE/ PLANS**

The SELLER shall convey the Premises by a good and sufficient quitclaim deed running to the Buyer or to the BUYER'S nominee, conveying good and clear record and marketable title to the premises, free from liens and encumbrances, except:

- a. Real estate taxes assessed on the Premises which are not yet due and payable;
- b. Betterment assessments, if any, which are not a recorded lien on the date of closing;
- c. Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;
- d. Rights and obligations in party walls;
- e. Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Premises as now used;
- f. Utility easements in the adjoining ways;
- g. Matters that would be disclosed by an accurate survey of the Premises; and
- h. _____

(insert in (h) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred)

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **TITLE INSURANCE**

BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the premises without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this agreement.

8. **CLOSING CERTIFICATIONS AND DOCUMENTS**

The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney, BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the premises; (b) the creation of mechanics' or materialmen's liens; (c) the HUD-1 Settlement Statement and other financial affidavits and agreements as may reasonably be required by the lender or lender's attorney; (d) the citizenship and residency of SELLER as required by law; and (1) information required to permit the closing agent to report the transaction to the Internal Revenue Service. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time

thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks, credit unions, insurance companies and other institutional lender may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. POSSESSION AND CONDITION OF PREMISES

At the time for performance the SELLER shall give the BUYER possession of the entire Premises, free of all occupants and tenants and of all personal property, except property included in the sale or tenants permitted to remain. At the time for performance the Premises also shall comply with the requirements of paragraph 6, and be broom clean and in the same condition as the Premises were at the time of BUYER'S inspection, reasonable wear and tear excepted, with the SELLER to have performed all maintenance customarily undertaken by the SELLER between the date of this Agreement and the time for performance, and there shall be no outstanding notice of violation of any building, zoning, health or environmental law, bylaw, code or regulation, except as agreed. The BUYER shall have the right to enter the Premises within Forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph. At the time of recording of the deed, or as otherwise agreed, the SELLER shall deliver to BUYER all keys to the Premises, garage door openers and any security codes. Until delivery of the deed, the SELLER shall maintain fire and extended coverage insurance on the Premises in the same amount as currently insured.

10. EXTENSION OF TIME FOR PERFORMANCE

If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Premises as agreed, or if at the time of the delivery of the deed the Premises do not conform with the requirements set forth in this Agreement or the BUYER is unable to obtain title insurance in accordance with paragraph 7, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Premises conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of one-half (1/2) of one percent of the purchase price to make the title or the Premises conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Premises conform, as agreed, or cannot deliver possession, as agreed, or if during the period of this Agreement or any extension thereof, the SELLER has been unable to use proceeds from an insurance claim, if any, to make the Premises conform, then, at the BUYER'S election, any payments made by the BUYER pursuant to this Agreement shall be immediately returned. Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other.

11. NONCONFORMANCE OF PREMISES

If the Premises do not conform to the requirements of paragraph 9 because they have been damaged by fire or other casualty (occurring after the date of this Agreement) that this covered by

insurance, then the BUYER shall have the right to elect whether or not to proceed to accept the Premises and take title. If BUYER elects to proceed BUYER shall have the right to elect to have the SELLER pay or assign to the BUYER, at the time for performance, the proceeds recoverable on account of such insurance, less any cost reasonably incurred by the SELLER for any incomplete repairs or restoration. If the SELLER, despite reasonable efforts, has neither been able to restore the Premises to its former condition or to pay or assign to the BUYER the appropriate portion of insurance proceeds, the BUYER shall have the right to elect to have the SELLER give the BUYER a credit toward the purchase price, for the appropriate amount of insurance proceeds recoverable less any costs reasonably incurred by the SELLER for any incomplete restoration.

12. ACCEPTANCE OF DEED

The BUYER shall have the right to accept such title to the Premises as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Premises in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Premises and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, the warranties, if any, made by the SELLER shall survive delivery of the deed.

13. ADJUSTMENT

At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes, fuel value, water rates, sewer use charges, collected rents, uncollected rents (if and when collected by either party), security deposits, prepaid premiums on insurance if assigned. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time of performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment from the other within twelve months of the date that the amount of the current year's tax is established.

14. ACKNOWLEDGEMENT OF FEE DUE TO BROKER

Per Listing Agreement professional services shall be paid by the SELLER to the "BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with BROKER, the terms of the prior fee agreement shall control unless BROKER has expressly agreed to a change in writing. The BUYER and SELLER acknowledge receipt of a notice from BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the BROKER with the BUYER and/or SELLER. The BUYER further represents and warrants that there is no other BROKER with whom the BUYER has dealt in connection with the purchase of the Premises.

15. BROKER WARRANTY

The Broker(s) named herein, _____
warrant that the Broker(s) are duly licensed as such by the Commonwealth of Massachusetts.

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If the BUYER or BUYER'S Nominee breaches this Agreement, %50 of the deposit paid or deposited by the BUYER shall be paid to the SELLER as liquidated damages. Receipt of such payment shall constitute the SELLER'S sole remedy, at law, in equity or otherwise, for BUYER'S default. The BUYER and SELLER agree that in the event of default by the BUYER the amount of damages suffered by the SELLER will not be easy to ascertain with certainty and, therefore, BUYER and SELLER agree that the amount of the BUYER'S deposit represents a reasonable estimate of the damages likely to be suffered.

17. BUYER'S FINANCING

BUYER to apply for a loan in the amount of \$180,000.00. Buyers obligation to purchase is contingent upon Buy's ability to qualify for said loan.

18. INSPECTIONS

~~Buyer has had an opportunity to conduct all inspections and accepts the condition of the property as is, subject to any work expressly agreed in writing to be performed at the expense of Seller. Notwithstanding the foregoing, the Buyer has 10 days from the date of this Agreement to complete inspection of the premises by consultant(s) regularly in the business of conducting said inspections, of BUYER'S own choosing, and at BUYER'S sole cost. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this Agreement. Upon receipt of such notice this Agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that BUYER does not exercise the right to have such inspection(s) or to so terminate, the SELLER and the listing broker are such released from claims relating to the condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered.~~

19. LEAD PAINT LAWS

For premises built before 1978 BUYER acknowledges receipt of the "Department of Public Health Property Transfer Notification" regarding the Lead Law, acknowledges verbal notification of the possible presence of lead hazards and the provisions of the Federal and Massachusetts Lead Law and regulations, including the right to inspect for dangerous levels of lead. Occupancy of the premises containing dangerous levels of lead by a child under six years of age is prohibited, subject to exceptions permitted by law. BUYER further acknowledges that neither the SELLER nor any real estate agent has made any representation, express or implied, regarding the absence of lead paint or compliance with any lead law, except as set forth in writing. BUYER assumes full responsibility for compliance with all laws relating to lead pain removal, if required by law, and related matters (in particular, without limitation, Mass. G.L., c. 111 § 197), and BUYER assumes full responsibility for all tests, lead paint removal and other costs of compliance. Pursuant to 40 CMR 745.113(a), the Property Transfer Notification Certification is ATTACHED to this agreement.

20. CERTIFICATION OF APPROVED INSTALLATION

The BUYER shall equip the residential structure on the Premises with approved smoke detectors and Carbon Monoxide Detectors and furnish BUYER with Certificate of Approved Installation from the local Fire Department at the time for performance to the extent required by law as well as any wood stove permit, if any, required by law, regulation or ordinance.

21. WARRANTIES AND REPRESENTATIONS

The SELLER represents and warrants that the Premises is ~~is not~~ [choose one] served by a septic system or cesspool. [If yes, a copy of the Title V Addendum is attached]. The SELLER further represents that there is ~~is not / has no knowledge of~~ [choose one] underground storage tank. The SELLER further represents and warrants that SELLER has full authority to enter into this Agreement. The buyer is not relying upon any representation, verbal or written, from any real estate broker or licensee concerning legal use. Any reference to the category (single family, multi-family, residential, commercial) or the use of this property in any advertisement or listing sheet, including the number or units, number of rooms or other classification is not a representation concerning legal use or compliance with zoning by-laws, building code, sanitary code or other public or private restrictions by broker. The BUYER understands that if this information is important to BUYER, it is the duty of the BUYER to seek advice from an attorney or written confirmation from the municipality. In addition, the BUYER acknowledges that there are no warranties or representations made by the SELLER or any broker on which BUYER relies in making this Offer, except those previously made in writing and the following:

NONE

(If none, state "none", if any listed, indicate by whom the warranty or representation was made)

22. NOTICES

All notices required or permitted to be made under this Agreement shall be in writing and delivered in hand, sent by certified mail, return receipt requested or sent by United States Postal Service overnight Express Mail or other overnight delivery service, or sent via facsimile or electronic mail addressed to the BUYER or SELLER or their authorized representative at the address set forth in this paragraph. Such notice shall be deemed to have been given upon deliver or, if sent by certified mail on the date of delivery set forth in the receipt or in the absence of a receipt three business days after deposited or, if sent by overnight mail or delivery, the next business day after deposit with the overnight mail or delivery service, whether or not a signature is required. Acceptance of any notice, whether by delivery or mail or facsimile or electronic mail, shall be sufficient if accepted or signed by a person having express or implied authority to receive same. Notice shall also be deemed adequate if given in any other form permitted by law. *(If there are multiple buyers, identify the mailing address of each buyer in paragraph 23.)*

In the case of Buyer:
Scott Snow-Snow Construction
P.O. Box 154
Mattapoisett, MA 02739

Attorney for Buyer:
Jenessa E. Gerard-Pateakos
324 Union Street
New Bedford, MA 02740

In the case of Seller:
David W. Hebert
P.O. Box 428 or 18 Winsegansett Ave
Fairhaven, MA 02719

Attorney for Seller:

23. COUNTERPARTS/ FACSIMILES/ CONSTRUCTION OF AGREEMENT

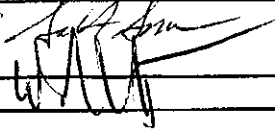
The Agreement may be executed in counterparts. Signatures transmitted by facsimile shall have the effect of original signatures. This Agreement shall be construed as a Massachusetts contract; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and is intended to benefit the BUYER and SELLER and each of their respective heirs, devisees, executors,

successors and assigns; and may be canceled, modified or amended only by written agreement executed by both the SELLER and the BUYER. If two or more persons are named as BUYER their obligations are joint and several. If the SELLER or BUYER is a trust, corporation, limited liability company or entity whose representative executes this Agreement in a representative or fiduciary capacity, only the principal or the trust or estate represented shall be bound, and neither the trustee, officer, shareholder or beneficiary shall be personally liable for any obligation, expressed or implied. The captions and any notes are used only as a matter of convenience and are not to be considered a part of this Agreement and are not to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this Agreement and which is the subject of a Title Standard or Practice Standard of the Massachusetts Conveyancers Association at the time for performance shall be governed by the Title Standard or Practice Standard of the Real Estate Bar Association for Massachusetts formerly known as the Massachusetts Conveyancers Association.

24. **ADDITIONAL PROVISIONS:**

- a. BUYER shall be authorized to enter onto said property for marketing and to make any changes including but not limited to removal of trees, engineering work, excavation, etc. All to be performed at his own expense and liability.
- b. Seller shall cooperate and participate as necessary in any engineering meetings and obtaining necessary documentation and/or authorizing the work to be performed.
- c. BUYER shall have the right to market the property from the execution date of this Purchase & Sale Agreement.
- d. Buyer shall pay at closing any rollback taxes due under the 61A LIEN.
- e. This agreement is subject to the Town's right of first refusal to purchase the subject property. If the town exercises its right to purchase then all deposits shall be fully refunded to the Buyer.
- f. Closing date shall be automatically extended at thirty (30) day intervals until the Town has voted to exercise or forgo its right of first refusal on the subject property.
- g. Seller taking back a mortgage in the amount of \$170,000 at a rate of zero interest and a term of 18 months. Payments shall be

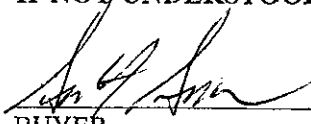
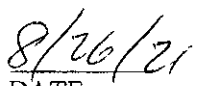
8 MONTHS

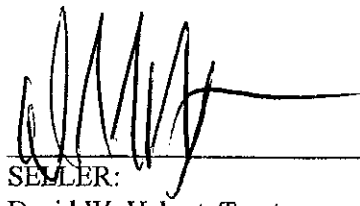
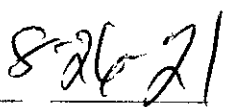


THE BELOW PARTIES CERTIFY THAT THEY HAVE REQUESTED PATEAKOS & POULIN, PC TO PREPARE SAID AGREEMENT. ALL PARTIES UNDERSTAND THAT PATEAKOS &

POULIN, PC CANNOT REPRESENT BOTH PARTIES TO THE SAME TRANSACTION AND THEREFORE WAIVE ANY CONFLICT OF INTEREST.

UPON SIGNING, THIS DOCUMENT WILL BECOME A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, SEE ADVICE FROM AN ATTORNEY.

			
BUYER	DATE	BUYER	DATE
Scott Snow, Manager			
Snow Construction, LLC			

			
SELLER:	DATE	SELLER	DATE
David W. Hebert, Trustee			
Sconticut Neck Farms Realty Trust			

PURCHASE AND SALE AGREEMENT

1. PARTIES

AGREEMENT, made this 26 day of July, 2021, between David W. Hebert, Trustee of the Sconticut Neck Farms Realty Trust of 173 Dogwood Street, Fairhaven, MA 02719, hereinafter called the SELLER, who agrees to sell and Scott Snow OR Scott Snow Construction LLC of PO Box 154, Mattapoisett, MA 02739, hereinafter called the BUYERS, who agree to buy, upon the terms and considerations hereinafter set forth, the following bounded and described premises:

2. DESCRIPTION OF PREMISES

The land with any and all buildings thereon shown as, **LOT 1 in Plan Book 180, Page 9 on Sconticut Neck Road, Fairhaven, MA 02719** being a portion of the premises further described in a deed recorded in the Bristol County S.D. Registry of Deeds Book 13381, Page 263.

All structures, and improvements on the land and the fixtures, including, but not limited to: any and all storm windows and doors, screens, screen doors, awnings, shutters, window shades and blinds, curtain rods, furnaces, heaters, heating equipment, oil and gas burners and fixtures, hot water heaters, plumbing and bathroom fixtures, towel racks, built-in dishwashers, garbage disposals and trash compactors, stoves, ranges, chandeliers, electric and other lighting fixtures, burglar and fire alarms systems, mantelpieces, wall to wall carpets, stair carpets, exterior television antennas and satellite dishes, fences, gates, landscaping including trees, shrubs, flowers: and the following built-in components, if any: air conditions, vacuum systems, cabinets, shelves, bookcases and stereo speakers and further appliance to include:

None

But excluding: None

3. PURCHASE PRICE

The agreed purchase price for said premises is ONE HUNDRED FIFTY THOUSAND (\$150,000.00) Dollars, AND Rollback taxes for 61A Lien, of which:

\$ 10,000.00 were paid as a deposit with the offer to purchase; and
\$ TBD Plus the 61A Tax Lien Roll Back taxes; and
\$ 00.00 is to be paid at the time for performance by certified funds, bank check or Attorney's Iolita Check
\$ 140,000.00 to be paid by Promissory Note to Seller
\$ 150,000.00 TOTAL + Rollback taxes for 61A lien TBD

4. ESCROW

~~All deposits made hereunder shall be held in a non-interest-bearing escrow by as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time of performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending instructions mutually given in writing by the SELLER and BUYER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid.~~

5. **TIME FOR PERFORMANCE**

The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price on or before 3:00pm on or before the ^{16th} day of October 2021, Pateakos & Poulin, P.C. 324 Union Street, New Bedford, MA. TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land).

6. **TITLE/ PLANS**

The SELLER shall convey the Premises by a good and sufficient quitclaim deed running to the Buyer or to the BUYER'S nominee, conveying good and clear record and marketable title to the premises, free from liens and encumbrances, except:

- a. Real estate taxes assessed on the Premises which are not yet due and payable;
- b. Betterment assessments, if any, which are not a recorded lien on the date of closing;
- c. Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;
- d. Rights and obligations in party walls;
- e. Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Premises as now used;
- f. Utility easements in the adjoining ways;
- g. Matters that would be disclosed by an accurate survey of the Premises; and
- h. _____

(insert in (h) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred)

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **TITLE INSURANCE**

BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the premises without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this agreement.

8. **CLOSING CERTIFICATIONS AND DOCUMENTS**

The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney, BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the premises; (b) the creation of mechanics' or materialmen's liens; (c) the HUD-1 Settlement Statement and other financial affidavits and agreements as may reasonably be required by the lender or lender's attorney; (d) the citizenship and residency of SELLER as required by law; and (1) information required to permit the closing agent to report the transaction to the Internal Revenue Service. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time

thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks, credit unions, insurance companies and other institutional lender may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. POSSESSION AND CONDITION OF PREMISES

At the time for performance the SELLER shall give the BUYER possession of the entire Premises, free of all occupants and tenants and of all personal property, except property included in the sale or tenants permitted to remain. At the time for performance the Premises also shall comply with the requirements of paragraph 6, and be broom clean and in the same condition as the Premises were at the time of BUYER's inspection, reasonable wear and tear excepted, with the SELLER to have performed all maintenance customarily undertaken by the SELLER between the date of this Agreement and the time for performance, and there shall be no outstanding notice of violation of any building, zoning, health or environmental law, bylaw, code or regulation, except as agreed. The BUYER shall have the right to enter the Premises within Forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph. At the time of recording of the deed, or as otherwise agreed, the SELLER shall deliver to BUYER all keys to the Premises, garage door openers and any security codes. Until delivery of the deed, the SELLER shall maintain fire and extended coverage insurance on the Premises in the same amount as currently insured.

10. EXTENSION OF TIME FOR PERFORMANCE

If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Premises as agreed, or if at the time of the delivery of the deed the Premises do not conform with the requirements set forth in this Agreement or the BUYER is unable to obtain title insurance in accordance with paragraph 7, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Premises conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of one-half (1/2) of one percent of the purchase price to make the title or the Premises conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Premises conform, as agreed, or cannot deliver possession, as agreed, or if during the period of this Agreement or any extension thereof, the SELLER has been unable to use proceeds from an insurance claim, if any, to make the Premises conform, then, at the BUYER'S election, any payments made by the BUYER pursuant to this Agreement shall be immediately returned. Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other.

11. NONCONFORMANCE OF PREMISES

If the Premises do not conform to the requirements of paragraph 9 because they have been damaged by fire or other casualty (occurring after the date of this Agreement) that this covered by

insurance, then the BUYER shall have the right to elect whether or not to proceed to accept the Premises and take title. If BUYER elects to proceed BUYER shall have the right to elect to have the SELLER pay or assign to the BUYER, at the time for performance, the proceeds recoverable on account of such insurance, less any cost reasonably incurred by the SELLER for any incomplete repairs or restoration. If the SELLER, despite reasonable efforts, has neither been able to restore the Premises to its former condition or to pay or assign to the BUYER the appropriate portion of insurance proceeds, the BUYER shall have the right to elect to have the SELLER give the BUYER a credit toward the purchase price, for the appropriate amount of insurance proceeds recoverable less any costs reasonably incurred by the SELLER for any incomplete restoration.

12. ACCEPTANCE OF DEED

The BUYER shall have the right to accept such title to the Premises as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Premises in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Premises and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, the warranties, if any, made by the SELLER shall survive delivery of the deed.

13. ADJUSTMENT

At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes, fuel value, water rates, sewer use charges, collected rents, uncollected rents (if and when collected by either party), security deposits, prepaid premiums on insurance if assigned. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time of performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment from the other within twelve months of the date that the amount of the current year's tax is established.

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(If none, state "none", if any listed, indicate by whom the warranty or representation was made)

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Scott Snow-Snow Construction
P.O. Box 154
Mattapoisett, MA 02739

Attorney for Buyer:
Jenessa E. Gerard-Pateakos
324 Union Street
New Bedford, MA 02740

In the case of Seller:
David W. Hebert
P.O. Box 428 or 18 Winsegansett Ave
Fairhaven, MA 02719

Attorney for Seller:

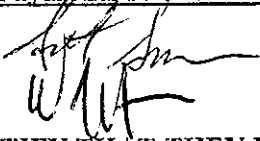
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The Agreement may be executed in counterparts. Signatures transmitted by facsimile shall have the effect of original signatures. This Agreement shall be construed as a Massachusetts contract; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and is intended to benefit the BUYER and SELLER and each of their respective heirs, devisees, executors, successors and assigns; and may be canceled, modified or amended only by written agreement executed

by both the SELLER and the BUYER. If two or more persons are named as BUYER their obligations are joint and several. If the SELLER or BUYER is a trust, corporation, limited liability company or entity whose representative executes this Agreement in a representative or fiduciary capacity, only the principal or the trust or estate represented shall be bound, and neither the trustee, officer, shareholder or beneficiary shall be personally liable for any obligation, expressed or implied. The captions and any notes are used only as a matter of convenience and are not to be considered a part of this Agreement and are not to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this Agreement and which is the subject of a Title Standard or Practice Standard of the Massachusetts Conveyancers Association at the time for performance shall be governed by the Title Standard or Practice Standard of the Real Estate Bar Association for Massachusetts formerly known as the Massachusetts Conveyancers Association.

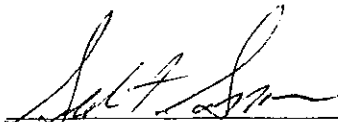
24. **ADDITIONAL PROVISIONS:**

- a. BUYER shall be authorized to enter onto said property for marketing and to make any changes including but not limited to removal of trees, engineering work, excavation, etc. All to be performed at his own expense and liability.
- b. Seller shall cooperate and participate as necessary in any engineering meetings and obtaining necessary documentation and/or authorizing the work to be performed.
- c. BUYER shall have the right to market the property from the execution date of this Purchase & Sale Agreement.
- d. Buyer shall pay at closing any rollback taxes due under the 61A LIEN.
- e. This agreement is subject to the Town's right of first refusal to purchase the subject property. If the town exercises its right to purchase then all deposits shall be fully refunded to the Buyer.
- f. Closing date shall be automatically extended at thirty (30) day intervals until the Town has voted to exercise or forgo its right of first refusal on the subject property.
- g. Seller taking back a mortgage in the amount of \$310,000 at a rate of zero interest and a term of 18 months. Payments shall be

8 months 

THE BELOW PARTIES CERTIFY THAT THEY HAVE REQUESTED PATEAKOS & POULIN, PC TO PREPARE SAID AGREEMENT. ALL PARTIES UNDERSTAND THAT PATEAKOS & POULIN, PC CANNOT REPRESENT BOTH PARTIES TO THE SAME TRANSACTION AND THEREFORE WAIVE ANY CONFLICT OF INTEREST.

UPON SIGNING, THIS DOCUMENT WILL BECOME A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, SEE ADVICE FROM AN ATTORNEY.



BUYER

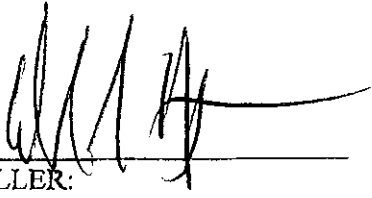
8/26/2021

DATE

BUYER

DATE

Scott Snow, Manager
Snow Construction, LLC



SELLER:

DATE

8/26/2021

SELLER

DATE

David W. Hebert, Trustee
Sconticut Neck Farms Realty Trust

PURCHASE AND SALE AGREEMENT

1. PARTIES

AGREEMENT, made this 26 day of July, 2021, between David W. Hebert, Trustee of the Sconticut Neck Farms Realty Trust of 173 Dogwood Street, Fairhaven, MA 02719, hereinafter called the SELLER, who agrees to sell and Scott Snow OR Scott Snow Construction LLC of PO Box 154, Mattapoisett, MA 02739, hereinafter called the BUYERS, who agree to buy, upon the terms and considerations hereinafter set forth, the following bounded and described premises:

2. DESCRIPTION OF PREMISES

The land with any and all buildings thereon shown in Plan Book 180, Page 9 as, **LOT 2 on Sconticut Neck Road, Fairhaven, MA 02719** as the premises further described in a deed recorded in the Bristol County S.D. Registry of Deeds Book 13381, Page 263.

All structures, and improvements on the land and the fixtures, including, but not limited to: any and all storm windows and doors, screens, screen doors, awnings, shutters, window shades and blinds, curtain rods, furnaces, heaters, heating equipment, oil and gas burners and fixtures, hot water heaters, plumbing and bathroom fixtures, towel racks, built-in dishwashers, garbage disposals and trash compactors, stoves, ranges, chandeliers, electric and other lighting fixtures, burglar and fire alarms systems, mantelpieces, wall to wall carpets, stair carpets, exterior television antennas and satellite dishes, fences, gates, landscaping including trees, shrubs, flowers: and the following built-in components, if any: air conditions, vacuum systems, cabinets, shelves, bookcases and stereo speakers and further appliance to include:

The appliances – stove and washer and dryer

But excluding: The appliances that are in storage in the garage.

3. PURCHASE PRICE

The agreed purchase price for said premises is **THREE HUNDRED TWENTY THOUSAND (\$320,000.00) Dollars, AND 61A Lien to be assumed**, of which:

\$ 10,000.00 were paid as a deposit with the offer to purchase; and
\$ 00.00 is to be paid at the time for performance by certified funds, bank check or Attorney's Iolita Check
\$ 310,000.00 to be paid by Promissory Note to Seller
\$ 320,000.00 TOTAL

4. ESCROW

50,000.00
370,000.00 xtra 50,000.00 18 months

All deposits made hereunder shall be held in a non-interest-bearing escrow by as escrow agent subject to the terms of this agreement and shall be duly accounted for at the time of performance of this agreement. In the event of any disagreement between the parties, the escrow agent shall retain all deposits made under this agreement pending instructions mutually given in writing by the SELLER and BUYER. The escrow agent shall abide by any Court decision concerning to whom the funds shall be paid.

5. **TIME FOR PERFORMANCE**

The SELLER shall deliver the deed and the BUYER shall pay the balance of the purchase price on or before 3:00pm on or before the 6th day of October 2021, Pateakos & Poulin, P.C. 324 Union Street, New Bedford, MA. TIME IS OF THE ESSENCE AS TO EACH PROVISION OF THIS AGREEMENT. Unless the deed and other documents required by this Agreement are recorded at the time for performance, all documents and funds are to be held in escrow, pending prompt rundown of the title and recording (or registration in the case of registered land).

6. **TITLE/ PLANS**

The SELLER shall convey the Premises by a good and sufficient quitclaim deed running to the Buyer or to the BUYER'S nominee, conveying good and clear record and marketable title to the premises, free from liens and encumbrances, except:

- a. Real estate taxes assessed on the Premises which are not yet due and payable;
- b. Betterment assessments, if any, which are not a recorded lien on the date of closing;
- c. Federal, state and local laws, ordinances, bylaws, rules and regulations regulating use of land, including building codes, zoning bylaws, health and environmental laws;
- d. Rights and obligations in party walls;
- e. Any easement, restriction or agreement of record presently in force which does not interfere with the reasonable use of the Premises as now used;
- f. Utility easements in the adjoining ways;
- g. Matters that would be disclosed by an accurate survey of the Premises; and
- h. _____

(insert in (h) references to any other easement, restriction, lease or encumbrance which may continue after title is transferred)

If the deed refers to a plan needed to be recorded with it, at the time for performance the SELLER shall deliver the plan with the deed in proper form for recording or registration.

7. **TITLE INSURANCE**

BUYER'S obligations are contingent upon the availability (at normal premium rates) of an owner's title insurance policy insuring BUYER'S title to the premises without exceptions other than the standard exclusions from coverage printed in the current American Land Title Association ("ALTA") policy cover, the standard printed exceptions contained in the ALTA form currently in use for survey matters and real estate taxes (which shall only except real estate taxes not yet due and payable) and those exceptions permitted by paragraph 6 of this agreement.

8. **CLOSING CERTIFICATIONS AND DOCUMENTS**

The SELLER shall execute and deliver simultaneously with the delivery of the deed such certifications and documents as may customarily and reasonably be required by the BUYER'S attorney, BUYER'S lender, BUYER'S lender's attorney or any title insurance company insuring the BUYER'S title to the Premises, including, without limitation, certifications and documents relating to: (a) parties in possession of the premises; (b) the creation of mechanics' or materialmen's liens; (c) the HUD-1 Settlement Statement and other financial affidavits and agreements as may reasonably be required by the lender or lender's attorney; (d) the citizenship and residency of SELLER as required by law; and (1) information required to permit the closing agent to report the transaction to the Internal Revenue Service. At the time of delivery of the deed, the SELLER may use monies from the purchase to clear the title, provided that all documents related thereto are recorded with the deed or within a reasonable time thereafter acceptable to the BUYER and, provided further, that discharges of mortgages from banks,

credit unions, insurance companies and other institutional lender may be recorded within a reasonable time after recording of the deed in accordance with usual conveyancing practices. The SELLER'S spouse hereby agrees to release all statutory, common law or other rights or interest in the Premises and to execute the deed, if necessary.

9. POSSESSION AND CONDITION OF PREMISES

At the time for performance the SELLER shall give the BUYER possession of the entire Premises, free of all occupants and tenants and of all personal property, except property included in the sale or tenants permitted to remain. At the time for performance the Premises also shall comply with the requirements of paragraph 6, and be broom clean and in the same condition as the Premises were at the time of BUYER's inspection, reasonable wear and tear excepted, with the SELLER to have performed all maintenance customarily undertaken by the SELLER between the date of this Agreement and the time for performance, and there shall be no outstanding notice of violation of any building, zoning, health or environmental law, bylaw, code or regulation, except as agreed. The BUYER shall have the right to enter the Premises within Forty-eight (48) hours prior to the time for performance or such other time as may be agreed and upon reasonable notice to SELLER for the purpose of determining compliance with this paragraph. At the time of recording of the deed, or as otherwise agreed, the SELLER shall deliver to BUYER all keys to the Premises, garage door openers and any security codes. Until delivery of the deed, the SELLER shall maintain fire and extended coverage insurance on the Premises in the same amount as currently insured.

10. EXTENSION OF TIME FOR PERFORMANCE

If the SELLER cannot convey title as required by this Agreement or cannot deliver possession of the Premises as agreed, or if at the time of the delivery of the deed the Premises do not conform with the requirements set forth in this Agreement or the BUYER is unable to obtain title insurance in accordance with paragraph 7, upon written notice given no later than the time for performance from either party to the other, the time for performance shall be automatically extended for thirty (30) days, except that if BUYER'S mortgage commitment expires or the terms will materially and adversely change in fewer than thirty (30) days, the time for performance set forth in paragraph 5 shall be extended to one business day before expiration of the mortgage commitment. SELLER shall use reasonable efforts to make title conform or to deliver possession as agreed, or to make the Premises conform to the requirements of this Agreement. Excluding discharge of mortgages and liens, about which the SELLER has actual knowledge at the time of signing this Agreement, the SELLER shall not be required to incur costs or expenses totaling in excess of one-half (1/2) of one percent of the purchase price to make the title or the Premises conform or to deliver possession as agreed. If at the expiration of the time for performance, or if there has been an extension, at the expiration of the time for performance as extended, the SELLER, despite reasonable efforts, cannot make the title or Premises conform, as agreed, or cannot deliver possession, as agreed, or if during the period of this Agreement or any extension thereof, the SELLER has been unable to use proceeds from an insurance claim, if any, to make the Premises conform, then, at the BUYER'S election, any payments made by the BUYER pursuant to this Agreement shall be immediately returned. Upon return of all such funds, all obligations of the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER and SELLER shall terminate and this Agreement shall automatically become void and neither the BUYER nor SELLER shall have further recourse or remedy against the other.

11. NONCONFORMANCE OF PREMISES

If the Premises do not conform to the requirements of paragraph 9 because they have been damaged by fire or other casualty (occurring after the date of this Agreement) that this covered by insurance, then the BUYER shall have the right to elect whether or not to proceed to accept the Premises

and take title. If BUYER elects to proceed BUYER shall have the right to elect to have the SELLER pay or assign to the BUYER, at the time for performance, the proceeds recoverable on account of such insurance, less any cost reasonably incurred by the SELLER for any incomplete repairs or restoration. If the SELLER, despite reasonable efforts, has neither been able to restore the Premises to its former condition or to pay or assign to the BUYER the appropriate portion of insurance proceeds, the BUYER shall have the right to elect to have the SELLER give the BUYER a credit toward the purchase price, for the appropriate amount of insurance proceeds recoverable less any costs reasonably incurred by the SELLER for any incomplete restoration.

12. ACCEPTANCE OF DEED

The BUYER shall have the right to accept such title to the Premises as the SELLER can deliver at the time for performance and if extended, shall have such right at the time for performance, as extended. The BUYER shall also have the right to accept the Premises in the then current condition and to pay the purchase price without reduction of price. Upon notice in writing of BUYER'S decision to accept the Premises and title, the SELLER shall convey title and deliver possession. Acceptance of a deed by the BUYER or BUYER'S nominee, if any, shall constitute full performance by the SELLER and shall be deemed to release and discharge the SELLER from every duty and obligation set forth in this Agreement, except any duty or obligation of the SELLER that the SELLER has agreed to perform after the time for performance. Notwithstanding the foregoing, the warranties, if any, made by the SELLER shall survive delivery of the deed.

13. ADJUSTMENT

At the time for performance of this Agreement adjustments shall be made as of the date of performance for current real estate taxes, fuel value, water rates, sewer use charges, collected rents, uncollected rents (if and when collected by either party), security deposits, prepaid premiums on insurance if assigned. The net total of such adjustments shall be added to or deducted from the purchase price payable by the BUYER at the time of performance. If the real estate tax rate or assessment has not been established at the time for performance, apportionment of real estate taxes shall be made on the basis of the tax for the most recent tax year with either party having the right to request apportionment from the other within twelve months of the date that the amount of the current year's tax is established.

14. ACKNOWLEDGEMENT OF FEE DUE TO BROKER

Per Listing Agreement professional services shall be paid by the SELLER to the "BROKER", at the time for performance. In the event of a conflict between the terms of this Agreement and a prior fee agreement with BROKER, the terms of the prior fee agreement shall control unless BROKER has expressly agreed to a change in writing. The BUYER and SELLER acknowledge receipt of a notice from BROKER, pursuant to 254 of the Code of Massachusetts Regulations Section 3.0 (13), regarding any agency relationship of the BROKER with the BUYER and/or SELLER. The BUYER further represents and warrants that there is no other BROKER with whom the BUYER has dealt in connection with the purchase of the Premises.

15. BROKER WARRANTY

The Broker(s) named herein, _____
warrant that the Broker(s) are duly licensed as such by the Commonwealth of Massachusetts.

16. BUYER'S DEFAULT

If the BUYER or BUYER'S Nominee breaches this Agreement, %50 of the deposit paid or

deposited by the BUYER shall be paid to the SELLER as liquidated damages. Receipt of such payment shall constitute the SELLER'S sole remedy, at law, in equity or otherwise, for BUYER'S default. The BUYER and SELLER agree that in the event of default by the BUYER the amount of damages suffered by the SELLER will not be easy to ascertain with certainty and, therefore, BUYER and SELLER agree that the amount of the BUYER'S deposit represents a reasonable estimate of the damages likely to be suffered.

17. BUYER'S FINANCING

BUYER to apply for a loan in the amount of \$320,000.00. Buyer's obligation to purchase is contingent upon Buyer's ability to qualify for said loan.

18. INSPECTIONS

~~Buyer has had an opportunity to conduct all inspections and accepts the condition of the property as is, subject to any work expressly agreed in writing to be performed at the expense of Seller. Notwithstanding the foregoing, the Buyer has 10 days from the date of this Agreement to complete inspection of the premises by consultant(s) regularly in the business of conducting said inspections, of BUYER'S own choosing, and at BUYER'S sole cost. If the results are not satisfactory to BUYER, in BUYER'S sole discretion, BUYER shall have the right to give written notice received by the SELLER or SELLER'S agent by 5:00 p.m. on the calendar day after the date set forth above, terminating this Agreement. Upon receipt of such notice this Agreement shall be void and all monies deposited by the BUYER shall be returned. Failure to provide timely notice of termination shall constitute a waiver. In the event that BUYER does not exercise the right to have such inspection(s) or to so terminate, the SELLER and the listing broker are such released from claims relating to the condition of the Premises that the BUYER or the BUYER'S consultants could reasonably have discovered.~~

19. LEAD PAINT LAWS

For premises built before 1978 BUYER acknowledges receipt of the "Department of Public Health Property Transfer Notification" regarding the Lead Law, acknowledges verbal notification of the possible presence of lead hazards and the provisions of the Federal and Massachusetts Lead Law and regulations, including the right to inspect for dangerous levels of lead. Occupancy of the premises containing dangerous levels of lead by a child under six years of age is prohibited, subject to exceptions permitted by law. BUYER further acknowledges that neither the SELLER nor any real estate agent has made any representation, express or implied, regarding the absence of lead paint or compliance with any lead law, except as set forth in writing. BUYER assumes full responsibility for compliance with all laws relating to lead paint removal, if required by law, and related matters (in particular, without limitation, Mass. G.L., c. 111 § 197), and BUYER assumes full responsibility for all tests, lead paint removal and other costs of compliance. Pursuant to 40 CMR 745.113(a), the Property Transfer Notification Certification is ATTACHED to this agreement.

20. CERTIFICATION OF APPROVED INSTALLATION

The BUYER shall equip the residential structure on the Premises with approved smoke detectors and Carbon Monoxide Detectors and furnish BUYER with Certificate of Approved Installation from the local Fire Department at the time for performance to the extent required by law as well as any wood stove permit, if any, required by law, regulation or ordinance.

21. WARRANTIES AND REPRESENTATIONS

The SELLER represents and warrants that the Premises is /is not [choose one] served by a septic system or cesspool. [If yes, a copy of the Title V Addendum is attached]. The SELLER further represents that there is/ is not / has no knowledge of [choose one] underground storage tank. The SELLER further represents and warrants that SELLER has full authority to enter into this Agreement. The buyer is not relying upon any representation, verbal or written, from any real estate broker or licensee concerning legal use. Any reference to the category (single family, multi-family, residential, commercial) or the use of this property in any advertisement or listing sheet, including the number or units, number of rooms or other classification is not a representation concerning legal use or compliance with zoning by-laws, building code, sanitary code or other public or private restrictions by broker. The BUYER understands that if this information is important to BUYER, it is the duty of the BUYER to seek advice from an attorney or written confirmation from the municipality. In addition, the BUYER acknowledges that there are no warranties or representations made by the SELLER or any broker on which BUYER relies in making this Offer, except those previously made in writing and the following:

NONE

(If none, state "none", if any listed, indicate by whom the warranty or representation was made)

22. NOTICES

All notices required or permitted to be made under this Agreement shall be in writing and delivered in hand, sent by certified mail, return receipt requested or sent by United States Postal Service overnight Express Mail or other overnight delivery service, or sent via facsimile or electronic mail addressed to the BUYER or SELLER or their authorized representative at the address set forth in this paragraph. Such notice shall be deemed to have been given upon deliver or, if sent by certified mail on the date of delivery set forth in the receipt or in the absence of a receipt three business days after deposited or, if sent by overnight mail or delivery, the next business day after deposit with the overnight mail or delivery service, whether or not a signature is required. Acceptance of any notice, whether by delivery or mail or facsimile or electronic mail, shall be sufficient if accepted or signed by a person having express or implied authority to receive same. Notice shall also be deemed adequate if given in any other form permitted by law. *(If there are multiple buyers, identify the mailing address of each buyer in paragraph 23.)*

In the case of Buyer:
Scott Snow-Snow Construction
P.O. Box 154
Mattapoisett, MA 02739

Attorney for Buyer:
Jenessa E. Gerard-Pateakos
324 Union Street
New Bedford, MA 02740

In the case of Seller:
David W. Hebert
P.O. Box 428 or 18 Winsegansett Ave
Fairhaven, MA 02719

Attorney for Seller:

23. COUNTERPARTS/ FACSIMILES/ CONSTRUCTION OF AGREEMENT

The Agreement may be executed in counterparts. Signatures transmitted by facsimile shall have the effect of original signatures. This Agreement shall be construed as a Massachusetts contract; is to take effect as a sealed instrument; sets forth the entire agreement between the parties; is binding upon and is

intended to benefit the BUYER and SELLER and each of their respective heirs, devisees, executors, successors and assigns; and may be canceled, modified or amended only by written agreement executed by both the SELLER and the BUYER. If two or more persons are named as BUYER their obligations are joint and several. If the SELLER or BUYER is a trust, corporation, limited liability company or entity whose representative executes this Agreement in a representative or fiduciary capacity, only the principal or the trust or estate represented shall be bound, and neither the trustee, officer, shareholder or beneficiary shall be personally liable for any obligation, expressed or implied. The captions and any notes are used only as a matter of convenience and are not to be considered a part of this Agreement and are not to be used in determining the intent of the parties. Any matter or practice which has not been addressed in this Agreement and which is the subject of a Title Standard or Practice Standard of the Massachusetts Conveyancers Association at the time for performance shall be governed by the Title Standard or Practice Standard of the Real Estate Bar Association for Massachusetts formerly known as the Massachusetts Conveyancers Association.

24. **ADDITIONAL PROVISIONS:**

- a. BUYER shall be authorized to enter onto said property for marketing and to make any changes including but not limited to removal of trees, engineering work, excavation, etc. All to be performed at his own expense and liability.
- b. Seller shall cooperate and participate as necessary in any engineering meetings and obtaining necessary documentation and/or authorizing the work to be performed.
- c. BUYER shall have the right to market the property from the execution date of this Purchase & Sale Agreement.
- d. Buyer shall ASSUME the 61A LIEN.
- e. This agreement is subject to the Town's right of first refusal to purchase the subject property. If the town exercises its right to purchase then all deposits shall be fully refunded to the Buyer.
- f. Closing date shall be automatically extended at thirty (30) day intervals until the Town has voted to exercise or forgo its right of first refusal on the subject property.
- g. Seller taking back a mortgage in the amount of \$310,000 at a rate of zero interest and a term of 78 months. Payments shall be

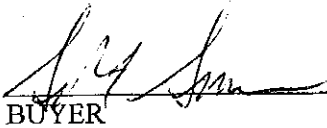
8 months
WAAA

8 months
Seth

THE BELOW PARTIES CERTIFY THAT THEY HAVE REQUESTED PATEAKOS & POULIN, PC TO PREPARE SAID AGREEMENT. ALL PARTIES UNDERSTAND THAT PATEAKOS & POULIN, PC CANNOT REPRESENT BOTH PARTIES TO THE SAME TRANSACTION AND THEREFORE WAIVE ANY CONFLICT OF INTEREST.

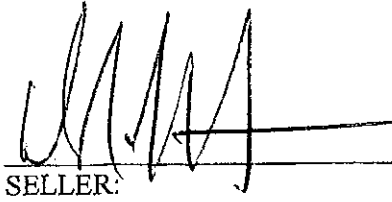
UPON SIGNING, THIS DOCUMENT WILL BECOME A LEGALLY BINDING AGREEMENT. IF NOT UNDERSTOOD, SEE ADVICE FROM AN ATTORNEY.

Seller Responsible for removal of trees tail of 20K off price
WAAA Seth

 8/24/21

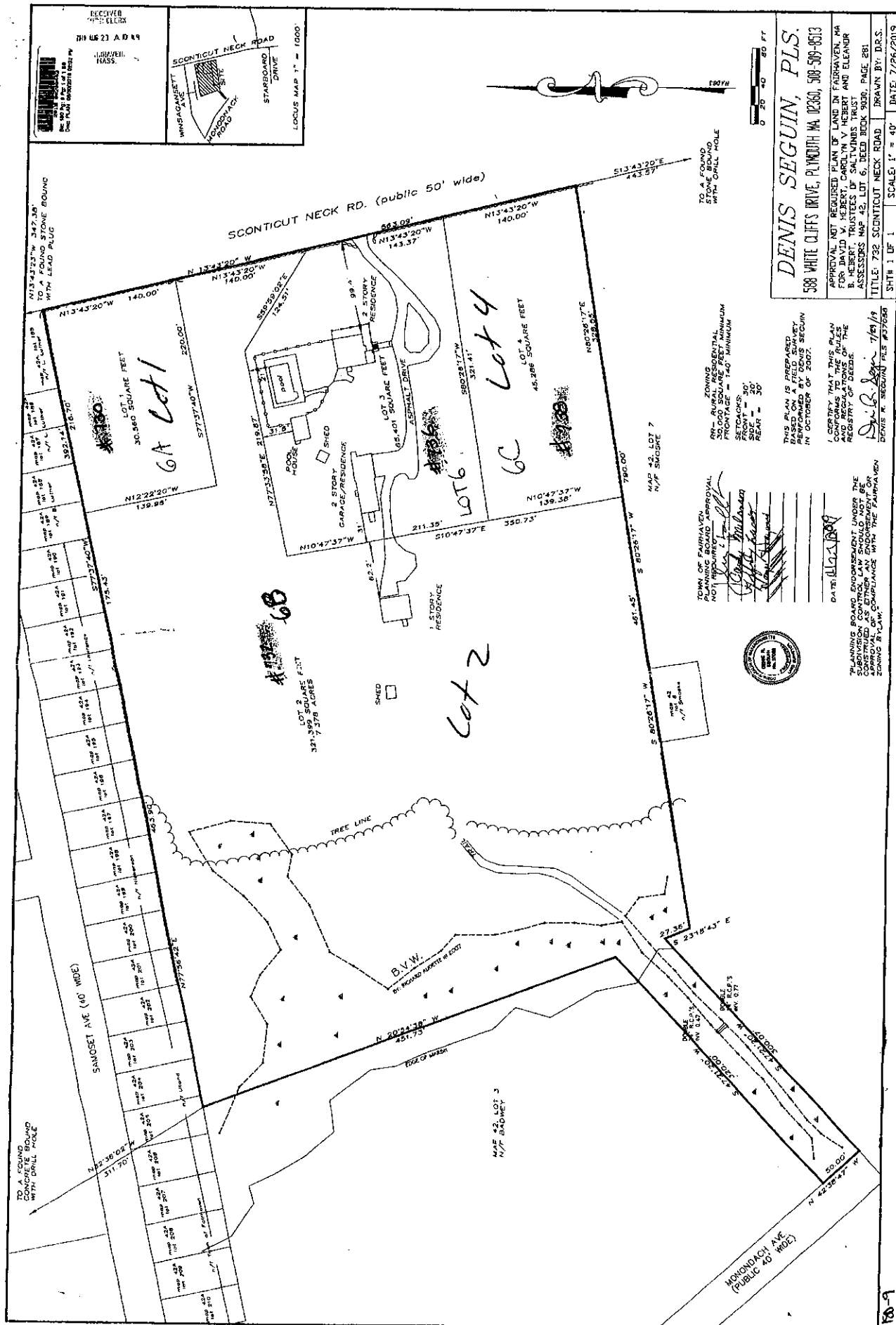
BUYER
Scott Snow, Manager
Snow Construction, LLC

BUYER DATE

 8-26-21

SELLER:
David W. Hebert, Trustee
Sconticut Neck Farms Realty Trust

SELLER DATE





Wendy Graves <wgraves@fairhaven-ma.gov>

RE: 732 Sconticut Neck Rd. 61A Notice**Thomas P. Crotty** <tomcrotty@tcrottylaw.com>

Wed, Sep 22, 2021 at 12:22 PM

Reply-To: tomcrotty@tcrottylaw.com

To: Vicki Oliveira <vloliveira@fairhaven-ma.gov>

Cc: Wendy Graves <wgraves@fairhaven-ma.gov>, Bob Espindola <selectmanbobespindola@gmail.com>

Vicki

You should put this on the agenda as an action item.

Under G. L. c. 61A sec.14, the town has the option of buying the property for the amount of a bona fide offer to purchase. The notice of intent to sell must contain a copy of the purchase and sales agreement, which constitutes a bona fide offer.

That section of the law provides:

"For the purposes of this chapter, a bona fide offer to purchase shall mean a good faith offer, not dependent upon potential changes to current zoning or conditions or contingencies relating to the potential for, or the potential extent of, subdivision of the property for residential use or the potential for, or the potential extent of development of the property for industrial or commercial use, made by a party unaffiliated with the landowner for a fixed consideration payable upon delivery of the deed."

...

"If the notice of intent to sell or convert does not contain all of the material described above, then the town or city, within 30 days after receipt, shall notify the landowner in writing that notice is insufficient and does not comply."

The agreements for purchase of the three lots do not appear to meet the requirements of a bona fide offer, that is payment of a fixed consideration payable upon delivery of the deed.

- The agreement for lot 2 calls for no payment at the time of delivery, the balance due of \$310,000 is to be paid by promissory note from the buyer to seller, and the final price is dependent on the removal by seller of "boats and oil" from the property.
- The agreement for lot 1 calls for the payment of roll-back taxes to be determined, and the balance due of \$140,000 is to be paid by promissory note from the buyer to seller, however the additional provisions at Art. 24 of the P+S call for a \$310,000 promissory note.

- The agreement for lot 4 calls for the payment of roll-back taxes to be determined, and the balance due of \$170,000 is to be paid by promissory note from the buyer to seller.

Given the contingencies in price that are undetermined at this time, the agreements fail to reflect a bona fide offer for payment of a fixed consideration, and so do not appear to meet the statutory requirement for notice under sec. 14. It also seems that the use of promissory notes from buyer to seller would not qualify as fixed consideration payable upon delivery of the deed. That is because the promissory notes provide for payments to be made after, and not upon, delivery of the deed.

I would recommend that within 30 days after receipt of the landowner's letter the board notify the landowner that the documents fail to conform to the notice requirements of G. L. c. 61A sec. 14 for the reasons I have addressed above.

In the meantime the Board should seek out the advice of the assessors, planning board and conservation commission as to whether the town should exercise the option to purchase the property, assuming that the issues I have pointed out are corrected, and the sale price of the properties is in the area of \$700,000+.

Let me know if you have any questions in this regard.

Tom

Thomas P. Crotty

Thomas P. Crotty & Associates, PLLC

5 Dover Street, Suite 102

New Bedford, MA 02740-4992

TomCrotty@tcrottylaw.com

Tel: 508-990-9101 Fax: 508-990-9108

Cell/SMS: 508-916-7862

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TOWN OF FAIRHAVEN, MASSACHUSETTS

CONSERVATION COMMISSION

Town Hall • 40 Center Street • Fairhaven, MA 02719

Memorandum

Date: September 23, 2021

To: Select Board

From: Whitney McClees, Conservation Agent and Sustainability Coordinator

RE: 732 Sconticut Neck Road, Notice of Removal from Chapter 61A

At their September 20, 2021 meeting, the Conservation Commission unanimously voted to recommend that the Select Board explore exercising Right of First Refusal to acquire all of 732 Sconticut Neck Road given its proximity to other protected open space and the presence of wetlands, salt marsh, and open fields on the property.

I have included an excerpt from my staff report from the meeting:

- The property is across from Shipyard Farm Conservation Area and abuts the Monondach Salt Marsh Conservation Area, both owned by the Fairhaven Acushnet Land Preservation Trust.
- The property contains open field, bordering vegetated wetland, salt marsh, and access to the water via Monondach Avenue.
- Coordinating with Buzzards Bay Coalition, FALPT, the Planning Department, the Conservation Commission, and the Community Preservation Committee, Fairhaven could further protect this area of Sconticut Neck for public enjoyment.

Furthermore, the 2017-2024 Open Space and Recreation Plan identifies the following goals in the area of open space and recreation:

- Set aside more land for conservation, open space, and water supply protection purposes
- Preserve our cultural and historic places and landscapes
- Increase access to the waterfront and water-based recreation opportunities
- Preserve/protect forests/woodlands, habitat, and native inland and coastal vegetative communities
- Provide quality, life-long recreational opportunities for all citizens regardless of age or ability
- Increase awareness and stewardship of our conservation, recreation, and open space assets
- Preserve our farmland and working agricultural landscape

Pursuing exercising right of first refusal for this property supports many of the above goals.

ACCEPTANCE OF EASEMENT

The undersigned, constituting a majority of the Town of Fairhaven Board of Selectmen, hereby accept from Grantor the rights and easements granted hereby pursuant to the Special Town Meeting vote on Article 15 of the Town's November 13, 2018, Special Town Meeting.

EXECUTED under seal this _____ day of _____.

TOWN OF FAIRHAVEN
By its Board of Selectmen

Chairman

Vice Chair

Clerk

Selectman

Selectman

COMMONWEALTH OF MASSACHUSETTS

Bristol, ss

On this ____ day of _____, 20____, before me, the undersigned notary public, personally appeared the members of the Town of Fairhaven Board of Selectmen and proved to me through satisfactory identification, being: ☐ photographic identification with signature issued by federal or state governmental agency, ☐ oath or affirmation of a credible witness known to me who knows the above signatory, or ☐ my own personal knowledge of the identity of the signatory, to be the person whose name is signed on the preceding or attached document, and acknowledged to me that they signed it voluntarily for its stated purpose as the Town of Fairhaven Board of Selectmen.

Notary Public:
My Commission Expires:

ARTICLE 15. STREET ACCEPTANCE: REYNOLDS DRIVE

To see if the Town will vote to take by eminent domain and/or accept the layout of parcel of land known as Reynolds Drive as a public way as described as follows:

BEGINNING AT THE INTERSECTION OF THE SOUTHERLY SIDELINE OF FARMFIELD STREET AND THE WESTERLY SIDELINE OF GREEN STREET; THENCE

A BEARING OF S 00° 01' 05" E, ALONG THE WESTERLY SIDELINE OF GREEN STREET, DISTANCE OF 328.27' TO A POINT OF BEGINNING; THENCE

A BEARING OF S 00° 01' 05" E, ALONG THE WESTERLY SIDELINE OF GREEN STREET, 30.00' TO A POINT; THENCE

A BEARING OF S 89° 59' 22" W, ALONG THE SOUTHERN SIDELINE OF REYNOLDS DRIVE, DISTANCE OF 295.81' TO A POINT; THENCE

A BEARING OF N 05° 02' 05" W, ALONG THE EASTERLY SIDELINE OF FORT STREET, DISTANCE OF 30.12' TO A POINT;

A BEARING OF N 89° 52' 22" E, ALONG THE NORTHERLY SIDELINE OF REYNOLDS DRIVE, A DISTANCE OF 298.44' TO THE POINT OF BEGINNING

As shown on a plan entitled "Street Layout and Acceptance Plan for Reynolds Drive", scale: 1" = 30', dated April 19, 2018 and prepared by GCG Associates, Inc., Wilmington, MA., said Reynolds Drive is 30.00 feet in width and contains 8914 square feet +/-, or take any other action relative thereto.

Petitioned by: Board of Public Works

Board of Selectmen Recommendation: Adoption

Finance Committee Recommendation: Yield to Petitioner

Motion: Move that the town take by eminent domain, or accept, as a public way the layout of that parcel of land known as Reynolds Drive as more fully described by its metes and bounds in Article 15 of the warrant."

SELECT BOARD'S MEETING

Monday, September 27, 2021

Action Item

Application submitted for:

A CHANGE OF OFFICERS/DIRECTORS/LLC MANAGERS

From:

99 Restaurants of Boston, LLC
32 Sconticut Neck Road (Unit #24)
Fairhaven, MA 02719

Taxes: ok
WC: ok
Bldg.: Not required for this transaction
Bd. of Health: Not required for this transaction
Tips: ok



The Commonwealth of Massachusetts
Alcoholic Beverages Control Commission
239 Causeway Street Boston, MA 02114
www.mass.gov/abcc

RETAIL ALCOHOLIC BEVERAGES LICENSE APPLICATION
MONETARY TRANSMITTAL FORM

RECEIVED

2021 SEP 21 A 9:40

APPLICATION FOR AMENDMENT-Change of Officers, Stock or Ownership Interest

BOARD OF SELECTMAN
FAIRHAVEN MASS

APPLICATION SHOULD BE COMPLETED ON-LINE, PRINTED, SIGNED, AND SUBMITTED TO THE LOCAL
LICENSING AUTHORITY.

ECRT CODE: RETA

Please make \$200.00 payment here: <https://www.paybill.com/mass/abcc/retail/>
PAYMENT MUST DENOTE THE NAME OF THE LICENSEE CORPORATION, LLC, PARTNERSHIP, OR INDIVIDUAL

EPAY CONFIRMATION NUMBER

A.B.C.C. LICENSE NUMBER (IF AN EXISTING LICENSEE, CAN BE OBTAINED FROM THE CITY)

00024-RS-0384

ENTITY/ LICENSEE NAME 99 Restaurants of Boston, LLC

ADDRESS 32 Sconticut Neck Rd. 24

CITY/TOWN Fairhaven

STATE MA

ZIP CODE 02719

For the following transactions (Check all that apply):

- | | | | |
|---|---|---|---|
| <input type="checkbox"/> New License | <input type="checkbox"/> Change of Location | <input type="checkbox"/> Change of Class (i.e. Annual / Seasonal) | <input type="checkbox"/> Change Corporate Structure (i.e. Corp / LLC) |
| <input type="checkbox"/> Transfer of License | <input type="checkbox"/> Alteration of Licensed Premises | <input type="checkbox"/> Change of License Type (i.e. club / restaurant) | <input type="checkbox"/> Pledge of Collateral (i.e. License/Stock) |
| <input type="checkbox"/> Change of Manager | <input type="checkbox"/> Change Corporate Name | <input type="checkbox"/> Change of Category (i.e. All Alcohol/Wine, Malt) | <input type="checkbox"/> Management/Operating Agreement |
| <input checked="" type="checkbox"/> Change of Officers/
Directors/LLC Managers | <input type="checkbox"/> Change of Ownership Interest
(LLC Members/ LLP Partners,
Trustees) | <input type="checkbox"/> Issuance/Transfer of Stock/New Stockholder | <input type="checkbox"/> Change of Hours |
| | | <input type="checkbox"/> Other <input type="text"/> | <input type="checkbox"/> Change of DBA |

THE LOCAL LICENSING AUTHORITY MUST MAIL THIS
TRANSMITTAL FORM ALONG WITH
COMPLETED APPLICATION, AND SUPPORTING DOCUMENTS TO:

ALCOHOLIC BEVERAGES CONTROL COMMISSION
239 CAUSEWAY STREET
BOSTON, MA 02241-3396



Commonwealth of Massachusetts
Department of Revenue
Geoffrey E. Snyder, Commissioner

mass.gov/dor

Letter ID: L0944152768
Notice Date: June 14, 2021
Case ID: 0-001-191-110



CERTIFICATE OF GOOD STANDING AND/OR TAX COMPLIANCE



99 RESTAURANTS OF BOSTON LLC
3038 SIDCO DR
NASHVILLE TN 37204-4506

Why did I receive this notice?

The Commissioner of Revenue certifies that, as of the date of this certificate, 99 RESTAURANTS OF BOSTON LLC is in compliance with its tax obligations under Chapter 62C of the Massachusetts General Laws.

This certificate doesn't certify that the taxpayer is compliant in taxes such as unemployment insurance administered by agencies other than the Department of Revenue, or taxes under any other provisions of law.

This is not a waiver of lien issued under Chapter 62C, section 52 of the Massachusetts General Laws.

What if I have questions?

If you have questions, call us at (617) 887-6400 or toll-free in Massachusetts at (800) 392-6089, Monday through Friday, 9:00 a.m. to 4:00 p.m..

Visit us online!

Visit mass.gov/dor to learn more about Massachusetts tax laws and DOR policies and procedures, including your Taxpayer Bill of Rights, and MassTaxConnect for easy access to your account:

- Review or update your account
- Contact us using e-message
- Sign up for e-billing to save paper
- Make payments or set up autopay

Edward W. Coyle, Jr., Chief
Collections Bureau



THE COMMONWEALTH OF MASSACHUSETTS
EXECUTIVE OFFICE OF LABOR AND WORKFORCE DEVELOPMENT
DEPARTMENT OF UNEMPLOYMENT ASSISTANCE

Charles D. Baker
GOVERNOR

Karyn E. Polito
LT. GOVERNOR



350590950

Rosalin Acosta
SECRETARY

Richard A. Jeffers
DIRECTOR

Restaurant Growth Services LLC
3038 SIDCO DRIVE
NASHVILLE, TN 37204

EAN: 21983661
May 26, 2021

Certificate Id:48234

The Department of Unemployment Assistance certifies that as of 5/26/2021 ,Restaurant Growth Services LLC is current in all its obligations relating to contributions, payments in lieu of contributions, and the employer medical assistance contribution established in G.L.c.149,§189.

This certificate expires in 30 days from the date of issuance.

Richard A. Jeffers, Director

Department of Unemployment Assistance



Town of Fairhaven

40 Center Street
Fairhaven, MA 02719

N/A - Birth certificate

N/A - Marriage license

✓ - Passport

✓ - CORI form

✓ - TIPS certification

N/A - Serve Safe

Documents on file with the Licensing Clerk



Town of Fairhaven
Massachusetts
Office of the Select Board

D4

Lagoa Friendship Pact
Committee Charge

The Lagoa Friendship Pact Committee shall provide input and suggestions for a variety of current and foreseeable community, civic, cultural, educational and other activities that expand its partnership with the Municipality of Lagoa, Portugal. The Committee is advisory in its capacity and shall not supersede or take the place of the Select Board to determine ultimate courses of action.

In accordance with the Friendship Pack, the Committee is charged with the following:

- Nurture partnerships that promote mutual business development, commercial and professional exchanges, and sharing the advances in business and education;
- Expand our relationship through youth exchanges, cultural development, tourism and other importance activities that will benefit the two localities;
- Create a deeper understanding of each areas' lives and traditions that have a community of interest;
- Support and administer exchanges between citizens of both countries to develop cooperation and a lasting friendship.
-

The Committee shall meet with the Select Board after its formation to discuss suggestions and guidelines.

The Committee shall work closely with the general public, business community, and others, to insure all citizens have input into proposed projects and activities.

The Committee shall be responsible for other opportunities as requested by the Select Board.

The Committee shall serve as an advisory body to the Select Board to provide feedback, input, and guidance as well as function as the conduit for the Town to solicit, create, plan and implement activities, programs and exchanges that expand and broaden its relationship with Lagoa and its environs.

The Lagoa Friendship Committee Charge shall consist of not less than nine (9) members: five (5) at-large members and one (1) member from the Fairhaven Business Community shall be appointed by Select Board; and one (1) member each shall be designated by the School Committee; the Town Economic Development Committee, and the Historical Commission.

All members shall serve for a term of two years, staggered. The Select Board may appoint any additional members at its discretion and reserve the right to release members and appoint new members at any time as necessary or warranted. In the event of a vacancy, said vacancy shall be filled in the manner of the original appointment. The Committee shall serve until disbanded by Select Board.

Accepted by vote of the Board of Selectmen, June 5, 2017

Amended by vote of the Select Board on September 13, 2021 changing the Fairhaven Business Association to Business Community

BOARDS AND COMMITTEES

Board/Committees	Name	Title
Lagoa Friendship Pact Committee	Maria Cavalho	Historical Comm. Rep
Appointed by Selectmen	Kyle Bueno	School Dept. Rep
2 years staggered	Vacant	Fhvn Business Commu
Created 7/2017	Eddie Lopez	EDC Rep
<i>see charge</i>	Vacant- at large	at large
Four (4) designated Five(5) at large	Vacant- at large	at large
	Vacant- at large	at large
	Vacant- at large	at large
	Vacant- at large	at large
	Stasia Powers	BOS -Ex Officio

September 12, 2021

Dear Fairhaven Select Board

I am writing to request an appointment to the Lagoa Friendship Pact Committee for the Town of Fairhaven. I was fortunate to be able to travel to the Azores, through my own personal means, and sign the pact in person and deliver my speech in Portuguese and begin this Friendship Pact. I was a member of the original committee and would like to get involved with this committee once again.

I serve as an officer for the Our Lady of Angels Catholic Association, which was initiated by immigrants from this part of the Azores, and feel it would be a benefit to have a member of this organization also on Lagoa Friendship Pact Committee. I appreciate your consideration for this appointment.

Sincerely,

Charlie Murphy, CRC, LRC, LMHC

[REDACTED]

RECEIVED
2021 SEP 13 A 8:08
BOARD OF SELECTMAN
FAIRHAVEN MASS



D5

September 14, 2021

Select Board
Town of Fairhaven
40 Center Street
Fairhaven, MA 02719

RECEIVED
2021 SEP 16 P 12:05
BOARD OF SELECTMAN
FAIRHAVEN MASS

Dear Select Board:

According to Massachusetts General Law Chapter 161B, a Regional Transit Authority's (RTA) Advisory Board is comprised of the Mayor or Chair of the Select Board (Representative) of each member Community or the Designee as noted by this form.

Please advise who will represent the Town of Fairhaven on the Southeastern Regional Transit Authority (SRTA) Advisory Board by annotating the space provided at the bottom of this letter or by completing the attached form. The completed letter and/or form can be returned to the SRTA via mail or simply emailed to info@srtabus.com. If there are any changes to the Representative or Designee throughout the year, we kindly ask that you inform us of such.

Please note that Advisory Board material – including meeting dates – is distributed via email.

Your response by September 30, 2021 will be greatly appreciated as we continue into the new fiscal period.

Respectfully Submitted,

Erik B. Rousseau
Administrator

Our records indicate the following:

	Correct	Change
Representative: Daniel Freitas	<input type="checkbox"/>	<input type="checkbox"/>
Designee: Paul Foley	<input type="checkbox"/>	<input type="checkbox"/>

Please indicate if the information above is accurate. If so, please sign below and return. If any changes are needed, please complete the form on the following page and return with this page.

Executed by (Sign)

Title

Executed by (Print)

Date

Serving the Communities of

Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, Mattapoisett, New Bedford, Somerset, Swansea, Westport

700 Pleasant St., Suite 530, New Bedford, MA 02740
srtabus.com, (P) 508-999-5211 (F) 508-993-9196



SRTA Advisory Board Representative / Designee Change Form

Representative:

_____ will represent the Town of Fairhaven on the
SRTA Advisory Board.

Email Address: _____ Phone Number: _____

Mailing Address: _____

Designee:

_____ will represent the Town of Fairhaven on the
SRTA Advisory Board.

Email Address: _____ Phone Number: _____

Mailing Address: _____

Executed by (Sign)

Title

Executed by (Print)

Date

Serving the Communities of

Acushnet, Dartmouth, Fairhaven, Fall River, Freetown, Mattapoisett, New Bedford, Somerset, Swansea, Westport

700 Pleasant St., Suite 530, New Bedford, MA 02740
srtabus.com, (P) 508-999-5211 (F) 508-993-9196



FAIRHAVEN POLICE DEPARTMENT
REQUEST FOR TRAFFIC OR PARKING CONTROL

****OFFICIAL USE ONLY****

Location: Gilbert & Raymond Street Intersection of: Scout Neck Rd.
Control: Stop Signs Approval Date: _____

TO BE FILLED IN BY REQUESTING PARTY

Requested by: <u>Chief Myers</u>	Location: <u>Gilbert St. AND Raymond St.</u>
Address: <u>1 Bryant Ln.</u>	Intersection of: <u>Scout Neck Rd.</u>
Telephone: <u>508-997-7421</u>	Date: <u>9/21/21</u>
Type of Control Requested: <u>Stop signs on both Gilbert and Raymond streets</u> <u>running East and West at the intersection of Scout Neck Rd.</u>	
Reason for Request: <u>Per the Uniform Traffic Control Code Section 2D.04 s 03</u> <u>A and 04 B. Intersection of a less important Rd. with a main Rd.</u> <u>and ability to see conflicting traffic on approach.</u>	

****OFFICIAL USE ONLY****

Approved: ✓

Investigated by: Chief Myers

Denied: _____

Investigation: Per the UTCC Section 2B.04 s 03A & 04B through a traffic count
study we recorded that Scout Neck Rd. is a main Rd. with significantly
higher traffic count compared to both less important Rd.'s of Gilbert &
Raymond streets. Further, no sight lines approaching from the west causes unfamiliar
drivers to recognize the intersection of Scout Neck Rd.

Police Chief

9/21/21

Approval Date

Board of Selectmen

Compliance Date



FAIRHAVEN POLICE DEPARTMENT
REQUEST FOR TRAFFIC OR PARKING CONTROL

****OFFICIAL USE ONLY****

Location: Plymouth Avenue
Control: Stop Signs

Intersection of: Francis Street
Approval Date: _____

NOT TO BE FILLED IN BY REQUESTING PARTY

Requested by: <u>Chief Myers</u>	Location: <u>Plymouth Ave.</u>
Address: <u>1 Bryant Ln.</u>	Intersection of: <u>Francis St.</u>
Telephone: <u>508-997-7421</u>	Date: <u>9/21/21</u>
Type of Control Requested: <u>Stop Signs for traffic traveling East or West on Plymouth Ave. @ Francis St.</u>	
Reason for Request: <u>Per the Uniform Traffic Control Code this is an unsignaled intersection in a signalized area per Section 23-04 s 04 C.</u>	

****OFFICIAL USE ONLY****

Approved: ✓
Denied: _____

Investigated by: Chief Michael J. Myers

Investigation: In compliance with the Uniform Traffic Control Code this is an unsignaled intersection in a signalized area. It is the only intersection in the sector of Town North of the High School that does not have a control device. This can be confusing for those unfamiliar with the area

9/21/21
Police Chief

Approval Date

Board of Selectmen

Compliance Date

6:50 PM

E1

Meet Precinct TWO



7:00 PM

E2



Chief Myers
will be in attendance to
present
Accreditation/Service Award

7:10 PM

E3



**Department of
Veterans' Services**
Town of Fairhaven

22 September 2021

TO: Fairhaven Selectboard

This letter pertains to the Veterans Day Parade. Will we be able to hold it or not due to Covid 19 pandemic? George Brownell from the Fairhaven VFW and myself would appreciate some guidance on this issue. We wish to begin organizing this event as soon as possible if you approve.

Thank You
Bradford Fish

A handwritten signature in black ink, appearing to read "Bradford Fish", is written over the typed name.



F1

Vicki Oliveira <vloliveira@fairhaven-ma.gov>

Re: Meet for coffee

Bob Espindola <selectmanbobespindola@gmail.com>

Tue, Sep 14, 2021 at 10:54 AM

To: Tom Crotty <tomcrotty@tcrottylaw.com>

Cc: Wendy Graves <wgraves@fairhaven-ma.gov>, Vicki Paquette <vloliveira@fairhaven-ma.gov>, Stasia Powers <spowers@fairhaven-ma.gov>, Keith Silvia <ksilvia@fairhaven-ma.gov>

Tom,

Thank you for your time this morning.

In an effort not to lose anything in translation, I am forwarding your email summarizing the options you proposed for possible transition plans, following your call to me to explain that you are planning to shut down your practice and retire later this year / early next year.

By way of this email, I am notifying fellow Select Board members of your notice and asking Wendy and Vicki to place an item on our next regular meeting agenda, Monday, September 27th, to "Discuss pending retirement of Town Counsel, Tom Crotty and requisite transition plans"

Our Board should not discuss beyond this notification until we are able to discuss in Open Session on the 27th.

Additionally, out of respect for Tom, I think we should extend him the courtesy of not making his plans known publicly until it is posted on our agenda for our September 27th meeting.

Thank you.

Bob
Cell (774) 263-1046

On Thu, Sep 2, 2021 at 10:34 AM Thomas P. Crotty <tomcrotty@tcrottylaw.com> wrote:

Bob

I'll be in New Hampshire that weekend coming back on the 13th, probably late in the day. (Spending the overnight at one of the AMC huts.)

Then I'll be heading to New York on the 15th. So there's not much open that week. Let's plan on a telephone call Tuesday morning if you are available. I'll be in the office all day on Tuesday.

In the meantime here are some thoughts on two different options:

1. The town could hire a new town counsel to start on January 1, 2022, I will be available to work with that attorney formally as "of counsel" and my time would be billed through that attorney's office. I would continue that way until the transition is complete, which I would guess would be no more than 3 – 6 months. Alternatively, I would consult with that attorney as needed for the transition, but I would be independent from his firm and would bill the town directly, at a reduced rate since I would have no office overhead.
2. I would work as "in house" counsel for the town – with an office in town hall (or wherever there is space). All litigation would be referred to outside counsel. I would transfer my computer equipment and all data to the town

negation would be referred to outside counsel. I would transfer my computer equipment and all data to the town, as well as office equipment if needed, and would occasionally rely on the town clerical staff for support. I would continue to bill at an hourly rate – but substantially reduced, since the town would be covering office support so I would have little or no overhead cost. I would estimate that I would work 10 – 20 hours a week, and use less than 5 hours of clerical support a week. I would report to, and work with the town administrator. I would expect to continue that way for up to two years. At that point the town might decide to continue with an “in house” attorney, or may go back to having all legal work done by outside counsel.

Tom

From: Bob Espindola [mailto:selectmanbobespindola@gmail.com]

Sent: Wednesday, September 1, 2021 4:51 PM

To: Tom Crotty

Subject: Meet for coffee

Tom,

I will be out of Town for a while and then returning to a deadline for something I am still doing for Acushnet Company so I am thinking Monday, September 13th if that will work for you to meet to discuss your transition.

Thanks,

Bob



Vicki Oliveira <vloliveira@fairhaven-ma.gov>

agenda 09/24/2021 draft

8 messages

Bob Espindola <selectmanbobespindola@gmail.com>

Wed, Sep 22, 2021 at 12:55 PM

To: Paul Foley <pfoley@fairhaven-ma.gov>, Vicki Paquette <vloliveira@fairhaven-ma.gov>, Wendy Graves <wgraves@fairhaven-ma.gov>, tomcrotty@tcrottylaw.com

OK,

Thanks Tom

On Wed, Sep 22, 2021 at 12:31 PM Thomas P. Crotty <tomcrotty@tcrottylaw.com> wrote:

Bob

The best way to establish the value would be by a real estate appraiser. And where the proposal is for the building to undergo improvements, that appraisal should take into account the property in its (proposed) improved condition. If some of the improvements are to be paid for by the tenant, that may result in a rent adjustment, that the appraiser could take into consideration.

Tom

[Quoted text hidden]

Bob Espindola <selectmanbobespindola@gmail.com>

Wed, Sep 22, 2021 at 11:53 AM

To: Tom Crotty <tomcrotty@tcrottylaw.com>

Cc: Vicki Oliveira <vloliveira@fairhaven-ma.gov>, Wendy Graves <wgraves@fairhaven-ma.gov>, Paul Foley <pfoley@fairhaven-ma.gov>

Tom,

Thank you again for your answers.

I am trying to figure out how much of this we can include in our packets for public consumption.

One question for clarity ...

In step number two from your prior email "**determine the value of the property – in this case, the rental value**", what options does the Town have for determining the value of the property if not through an RFP? Paul Foley has applied for a grant to, among other things, call for study of current market conditions for the property. Are there any other options that you can think of that would qualify to determine the rental value of the property and shouldn't that market assessment be required to include assumptions about the Town's capital investment in the property (i.e. The Town Meeting article proposed the Town would pay up to \$475K for renovations prior to leasing the property)?

[Quoted text hidden]

Thomas P. Crotty <tomcrotty@tcrottylaw.com>

Wed, Sep 22, 2021 at 9:22 AM

Reply-To: tomcrotty@tcrottylaw.com

To: Bob Espindola <selectmanbobespindola@gmail.com>, Vicki Oliveira <vloliveira@fairhaven-ma.gov>, Wendy Graves <wgraves@fairhaven-ma.gov>, Paul Foley <pfoley@fairhaven-ma.gov>

Bob

If the board intends to solicit proposals generally, which would allow proposals from private as well as public entities

Bob

If the board intends to solicit proposals generally, which would allow proposals from private as well as public entities such as SMEC , then the state procurement laws require the town to publish an RFP.

If the board decides to deal exclusively with SMEC the procurement laws will not require an RFP. That is because under GL c.40 sec. 4E(h) SMEC is considered a public entity.

Under the state procurement law, GL c. 30B sec. 16, if the town disposes of property by agreement (including a lease) with another political subdivision of the commonwealth, the town must do three things.

First, declare the property available for disposition.

Second, determine the value of the property – in this case, the rental value.

Third, if the agreement calls for payment of less than the determined value, post notice in the central register explaining the reason for the decision to accept less than the determined value.

Please let me know if you have any questions in this regard.

Tom

Thomas P. Crotty

Thomas P. Crotty & Associates, PLLC

5 Dover Street, Suite 102

New Bedford, MA 02740-4992

TomCrotty@tcrottylaw.com

Tel: 508-990-9101 Fax: 508-990-9108

Cell/SMS: 508-916-7862

This e-mail message is generated from the law firm of Thomas P. Crotty & Associates, PLLC, and may contain information that is confidential and may be privileged as an attorney/client communication or as attorney work product. The information is intended to be disclosed solely to the addressee(s). If you are not the intended recipient, any disclosure, copying, distribution or use of the contents of this e-mail information is prohibited. If you have received this e mail in error, please notify the sender by return e-mail and delete it from your computer system.

RE: agenda 09/24/2021 draft

Inbox



Thomas P. Crotty

to me

Sep 22, 2021, 9:53 AM (2 days ago)

Bob

You can reference the existing lawsuit, and in terms of discussing a lease with SMEC it can't be avoided. You can also reference the possibility of further litigation.

The lis pendens is still in effect, and will be until the existing lawsuit is resolved. So far the case is going in our favor, but it is on appeal. And that means the lis pendens has not gone away. And the lis pendens was a major issue with SMEC the last time around. (We can lease the property to SMEC even though the lis pendens acts as an attachment on the property. But if Zach Mayo wins the case, the lease would have to be terminated.)

With regard to potential for a further lawsuit – that was in the context of reopening discussions with a developer whose prior proposal was rejected, which raised the question whether we should publish a new RFP before reopening those discussions. My suggestion was that, although the law is not explicit on when a new RFP should be posted, given the litigious nature of some parties, it would be the safer route to go ahead and publish a new RFP.

Tom

From: Bob Espindola [mailto:selectmanbobespindola@gmail.com]

Sent: Wednesday, September 22, 2021 9:36 AM

To: Paul Foley; Wendy Graves; tomcrotty@tcroftlaw.com

Subject: Re: agenda 09/24/2021 draft

Tom,

I have not copied Sue Loo on this question.

Are we to take the fact that you made no reference to potential of a law suit (mentioned in your prior email) to mean we should not discuss that publicly?

It seems to me that is the only thing that will mean anything to some people involved in this.

Wed, Sep 22, 9:53 AM (2 days ago)

Thomas P. Crotty

Bob

You can reference the existing lawsuit, and in terms of discussing a lease with SMEC it can't be avoided. You can also reference the possibility of further litigation.

The lis pendens is still in effect, and will be until the existing lawsuit is resolved. So far the case is going in our favor, but it is on appeal. And that means the lis pendens has not gone away. And the lis pendens was a major issue with SMEC the last time around. (We can lease the property to SMEC even though the lis pendens acts as an attachment on the property. But if Zach Mayo wins the case, the lease would have to be terminated.)

With regard to potential for a further lawsuit – that was in the context of reopening discussions with a developer whose prior proposal was rejected, which raised the question whether we should publish a new RFP before reopening those discussions. My suggestion was that, although the law is not explicit on when a new RFP should be posted, given the litigious nature of some parties, it would be the safer route to go ahead and publish a new RFP.

Tom

Thomas P. Crotty

to me

Sep 20, 2021, 3:55 PM (4 days ago)

Bob

Here's suggested language:

"There is no specific provision of the law that requires the town to post a new request for proposals where it turns down a party's initial proposal, but continues to negotiate with that party to try to reach an agreement. However, where a different party comes forward with a suggested proposal, not in response to a posted RFP, I recommend that a new RFP be posted to insure that all parties have an opportunity to respond."

Tom

From: Bob Espindola [mailto:selectmanbobespindola@gmail.com]

Sent: Monday, September 20, 2021 12:09 PM

To: Tom Crotty

Subject: Fwd: Rogers School 2020-21 RFP

Tom,

The Rogers Re-use Committee met last week and they are asking for our Board to reengage the SMEC Group.

I would like to be able to say that we will place this on our agenda for discussion but they should be aware that Town Counsel has advised us that we should issue an RFP before engaging any potential developers.

Would it be OK to pull the excerpt below (in quotes) from your prior email and make that public.

I would plan to copy Paul Foley and the Rogers Re-use committee, Wendy and ask for the agenda item to be about an update on the RFP process instead.

If you think it is not appropriate to quote you in that form, can you please provide the proper wording so that I can explain this is an important issue and that we have legal advice on it?

Thank you,

Bob

RE: agenda 09/24/2021 draft

Inbox



Thomas P. Crotty

to me

Sep 22, 2021, 9:53 AM (2 days ago)

Bob

You can reference the existing lawsuit, and in terms of discussing a lease with SMEC it can't be avoided. You can also reference the possibility of further litigation.

The lis pendens is still in effect, and will be until the existing lawsuit is resolved. So far the case is going in our favor, but it is on appeal. And that means the lis pendens has not gone away. And the lis pendens was a major issue with SMEC the last time around. (We can lease the property to SMEC even though the lis pendens acts as an attachment on the property. But if Zach Mayo wins the case, the lease would have to be terminated.)

With regard to potential for a further lawsuit – that was in the context of reopening discussions with a developer whose prior proposal was rejected, which raised the question whether we should publish a new RFP before reopening those discussions. My suggestion was that, although the law is not explicit on when a new RFP should be posted, given the litigious nature of some parties, it would be the safer route to go ahead and publish a new RFP.

Tom

From: Bob Espindola [mailto:selectmanbobespindola@gmail.com]

Sent: Wednesday, September 22, 2021 9:36 AM

To: Paul Foley; Wendy Graves; tomcrotty@tcroftylaw.com

Subject: Re: agenda 09/24/2021 draft

Tom,

I have not copied Sue Loo on this question.

Are we to take the fact that you made no reference to potential of a law suit (mentioned in your prior email) to mean we should not discuss that publicly?

It seems to me that is the only thing that will mean anything to some people involved in this.

Bob

On Wed, Sep 22, 2021 at 9:22 AM Thomas P. Crotty <tomcrotty@tcrottylaw.com> wrote:

Bob

If the board intends to solicit proposals generally, which would allow proposals from private as well as public entities such as SMEC, then the state procurement laws require the town to publish an RFP.

If the board decides to deal exclusively with SMEC the procurement laws will not require an RFP. That is because under GL c.40 sec. 4E(h) SMEC is considered a public entity.

Under the state procurement law, GL c. 30B sec. 16, if the town disposes of property by agreement (including a lease) with another political subdivision of the commonwealth, the town must do three things.

First, declare the property available for disposition.

Second, determine the value of the property – in this case, the rental value.

Third, if the agreement calls for payment of less than the determined value, post notice in the central register explaining the reason for the decision to accept less than the determined value.

Please let me know if you have any questions in this regard.

Tom

Thomas P. Crotty

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Discuss reinstating the Wellness Committee



Special Town Meeting Discussion

**MASK
MANDATE TO
BE
DISCUSSED
AT MEETING**