

# STATE PROPERTIES REVIEW BOARD

## Minutes of Meeting Held On March 14, 2022 – remotely via telephone conference –

Pursuant to Governor Lamont's Executive Order No. 7B regarding suspension of In-Person Open Meeting requirements, the State Properties Review Board conducted its Regular Meeting at 9:30AM on March 14, 2022 remotely via telephone conference at (866)-692-4541, passcode 85607781.

### Members Present:

Edwin S. Greenberg, Chairman  
Bruce Josephy, Vice Chairman  
John P. Valengavich, Secretary  
Jack Halpert  
Jeffrey Berger  
William Cianci

### Members Absent:

### Staff Present:

Dimple Desai  
Thomas Jerram

### Guests Present

Mr. Valengavich moved and Mr. Halpert seconded a motion to enter into Open Session. The motion passed unanimously.

## OPEN SESSION

### 1. ACCEPTANCE OF MINUTES

Mr. Valengavich moved and Mr. Berger seconded a motion to approve the minutes of the March 10, 2022 Meeting. The motion passed unanimously.

### 2. COMMUNICATIONS

Director Desai informed the Board of a communication from Terry Obey, DOT Director of Rights of Way, regarding the Board's review of PRB #22-031 and that Staff will review those comments and present the information at an upcoming Board Meeting.

Director Desai also informed the Board of a follow up communication with the Department of Agriculture regarding their anticipated response to an earlier Board communication.

Mr. Berger informed the Board of Legislative Public Hearings scheduled for this week as well as his review of the posted Agendas that are available.

### 3. REAL ESTATE- UNFINISHED BUSINESS

### 4. REAL ESTATE – NEW BUSINESS

<i>PRB #</i>	22-018
<i>Transaction/Contract Type:</i>	RE – Sale
<i>Origin/Client:</i>	DOT/DOT
<i>DOT Project #:</i>	92-426-9A
<i>Grantee:</i>	Claudio Pinos
<i>Property:</i>	New Haven, Rosette St (3,601 sf)

**Project Purpose:** Sale by Sole Abutter Bid  
**Item Purpose:** QC Deed

**CONVEYANCE FEE: \$10,000**

Project Background

The subject property is located outside of the Metro-North operating area and is best described as "blight" property. The Office of Rail ("RAIL") has received complaints from both the City of New Haven and the abutting property owners concerning a rodent infestation and accumulation of trash at the site. Reports of hypodermic needles and other drug paraphernalia have been received from DOT staff. Because the property poses a significant health and safety hazard to anyone entering upon the property, maintenance has not been performed. Mr. Pinos has also complained about the condition of the property and the rodent problem which has affected his abutting property and home. Due to the deferred maintenance, Mr. Pinos has had to resort to "self-help" and even took it upon himself to maintain the state-owned lot without any compensation. Mr. Pinos requested to purchase the property in 2018 and has now maintained the lot at his sole expense for over 3 years. Although RAIL commenced processing Mr. Pinos' request, unfortunately, it has taken until now to obtain an appraisal and make an offer to Mr. Pinos. Mr. Pinos is the "logical" abutter, as the site has limited potential to be acquired by any other active market participant due to its small size, and lack of feasible access. Sale of the property to Mr. Pinos for the negotiated sale price of \$10,000 is strongly recommended. The sale price is considered fair and equitable and in the best interests of the State to avoid the future liability, cost and expense of maintaining the property to current zoning standards.

Under this Proposal (PRB #22-018) DOT is now seeking SPRB approval of a Quit Claim Deed for this Sale by Sole Abutter Bid for \$10,000. The Grantee, Claudio Pinos, had requested the sale in 2018. Mr. Pinos owns four properties on Howard Ave, of which two properties abut the Release Parcel.



The Release Area consists of an existing building lot of record containing 0.08267± acre (3,601± square feet) of land that is zoned within the High-Middle Density Residential (RM-2) zone. The release parcel, as per the provided map, appears trapezoid in shape with a notch removed from the south property boundary along the rail corridor. The land is level and is generally cleared of trees and common underbrush. The site is a rear lot without road frontage, but is accessible via an 8' wide right. The parcel has limited utility for structural development on its own given the irregular site shape, total area, and general configuration. There are no indications of wetland soils nor flood zone encumbrances impacting the property.

The Release parcel has no road frontage, however, is accessible on its own via an 8' wide right of way for all purposes under, over and across the northeasterly abutting parcel known as 32 Rosette Street.

The Release parcel is encumbered by an Easement for Access to and Maintenance of Retaining Wall and Catenary Tower totaling 339± square feet. This easement encumbers a 10' wide section of land abutting to the railway property line, less a notch surrounding the railway's catenary tower. Additionally, the Release Parcel shall be encumbered by an 8' (Defined) Easement for Rail Access for Safety Purposes totaling 287± square feet, and is essentially an extension of the 8' wide access easement over the Release which connects with the aforementioned access and maintenance easement serving the rail corridor's retaining wall.

The Appraiser's analysis of "Highest and Best Use" of the Release Land is as follows: The subject Release Land is positioned within a residential zone (RM-2), which allows for residential development of multifamily structures. The parcel is level and is generally a setback, postage-stamp lot accessed solely via an 8' wide right of way. The lot abuts to an active, subsurface (open air) railway corridor. The parcel's unique shape, small site area, and diminished accessibility in addition to the reserved, encumbering access easements diminish the parcel's development potential. The zone allows for development with at least 2,000 square feet of lot area per dwelling, or 1,400 square feet for an efficiency unit and 1,000 square feet for an elderly housing unit, and also requires a maximum of 30% lot coverage. The parcel is considered to be structurally developable with a maximum footprint of 1,080 square feet, assuming that setbacks from the property lines are adhered to. Despite the potential for development, the lot's rear location and the influences from the rear railway corridor put downward pressure on saleability of such a lot under current market conditions. The small lot has limited economies of scale regarding development of market-rate dwelling units. Alternatively, there is some synergy with regard to assemblage of the Release to an abutter, which would provide area for density and parking. As such, it is the opinion of your appraiser that the Highest and Best Use of the property is for its assemblage to an abutting parcel.

The Logical Abutter consists of 22,650± square feet of land that is abutting to the west of the Release Land. The assemblage has level topography with road grade and is cleared of trees and underbrush. The assemblage totals 150'± frontage per deeds along the eastern edge of Howard Avenue and has a generally square configuration, measuring 150'± deep to the east. The assemblage has four curb cut access points along Howard Avenue. There are no indications of wetlands nor flood zone issues impacting the Logical Abutter.

It is noted that the Logical Abutter assemblage is improved with three multifamily structures containing 8 dwelling units per the assessor. The wood framed structures, in addition to various site improvements and any ancillary accessory structures, are beyond the scope of this appraisal and provide a contributory value of "X." If the "X" component were valued, the value of the Release Land would result in the same conclusion.

Via a Hypothetical Condition, the assembled Release Land and Logical Abutter within the "After" condition shall now contain 26,251± square feet (22,650± Sq.Ft. + 3,601± Sq.Ft.) or 0.60264± acre. The total site area is increased by 15.9±% with the additional land located towards the rear. Access remains primarily from the 150'± of Howard Avenue frontage, but is slightly accentuated by the addition of the rear 8' right of way over the northeast abutter. When comparing the subject land within the "Before" condition to the "After" condition, in your appraiser's opinion the site utility, topography, municipal utilities, and wetlands and floodzone designations are unchanged.

The valuation of the subject property is subject to the following Extraordinary Assumptions and Hypothetical Conditions:

- The Extraordinary Assumption that the subject in whole is 'Free and Clear' of any and all

environmental contamination, hazardous waste material, and any and all other potentially negative soil conditions not specifically indicated, including but not limited to PCBs, VOCs, SVOCs, ACMs, lead paint, underground storage tanks, toxic chemicals and gases, and radioactive material. Your appraiser reserves the right to reconsider value after a qualified soil scientist and/or hazardous material remediation expert has delivered a signed inspection and remediation report.

**Valuation** – With the release of this parcel via a Sale by Sole Abutter Bid, DOT Appraiser Steven C. Miller appraised the property, as of May 26, 2021, in both the Before and After assemblage. Based on the sales comparison approach, the Appraiser utilized three sales of similarly-zoned land in New Haven that sold in 2019-2021 and concluded the fair market value of the Larger Parcel (land only) was  $\$5.50/\text{sf} \times 22,650 \text{ sf} = \$124,575$ , rounded to  $\$125,000$ .

It should be noted that the Appraiser’s selection of Comparable #3 is the 2019 sale of a portion of the Logical Abutter’s property (sold for  $\$20,000$ , or  $\$5.10/\text{sf}$ )

In the After Valuation, the Appraiser utilized the same three sales and concluded the fair market value of the subject property, as assembled, was  $\$5.50/\text{sf} \times 26,251 \text{ sf} = \$144,381$ , rounded to  $\$144,500$ .

**Value of the Release**

After Valuation	\$144,500
Before Valuation	\$125,000
Value of Release	\$19,500

**Sale by Abutter Bid & Negotiations –**

The property was appraised on May 26, 2021, by Staff Appraiser Steven Miller who determined the value to be  $\$19,500.00$ , which was accepted and registered by the Department of Transportation on June 8, 2021.

After extensive negotiation, Mr. Pinos agreed to pay  $\$10,000.00$  for the release parcel, which was accepted by the Office of Rails by means of an Administrative Acceptance signed on July 3, 2021.

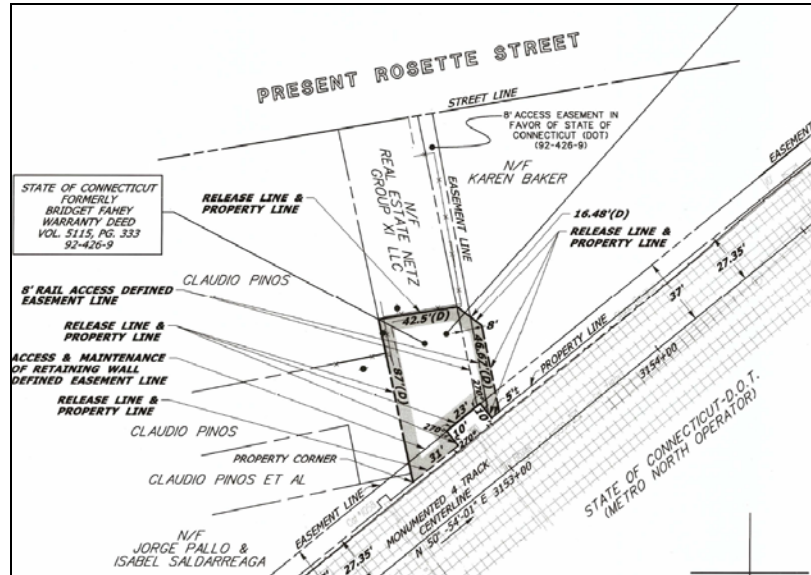
Staff inquired with DOT regarding the following issues:

1. Please clarify if the statutory authority under CGS §13b-36 cited in the Quit Claim Deed is the appropriate statute governing the release of this land. And, if it is the appropriate statutory authority, please clarify if State Properties Review Board review and approval is required under the statute (see CGS §13b-36(b)).
2. The DOT Appraiser stated the “Release Land consists of an existing building lot of record...” Do DOT policies/regulations require that a Sale by Public Bid be utilized in the release of this Parcel?
3. Please clarify why a Sale by Sole Abutter process was utilized when there are three other abutters to the Release Parcel.
4. Please clarify if requirements of CGS §3-14b are required under this conveyance.
5. Is a  $\$1,000$  Administrative Fee appropriate for this transaction?

**DOT 3-7-2022 email:** This file was sent to SPRB in error...Please consider this a formal request to remove the file from SPRB’s docket.

**Staff Response:** OK

**Recommendation** – Staff recommend return of the proposed Sale by Sole Abutter Bid in the amount of  $\$10,000$  pursuant to the 3-7-2022 DOT request.



**Sec. 13b-36. Acquisition of land, buildings, equipment or facilities; right of first refusal of railroad properties and facilities, when.** (a) The commissioner may purchase or take and, in the name of the state, may acquire title in fee simple to, or any lesser estate, interest or right in, any land, buildings, equipment or facilities which the commissioner finds necessary for the operation or improvement of transportation services. The determination by the commissioner that such purchase or taking is necessary shall be conclusive. Such taking shall be in the manner prescribed in subsection (b) of section 13a-73 for the taking of land for state highways.

(b) The commissioner may sell, lease, convey or enter into any other arrangement for the use of such property for the operation of transportation services, or for such other purposes as the commissioner determines to be consistent with the best interests of the state.

(c) Any company or corporation which conducts or has conducted rail operations in the state shall not, except as provided for in this subsection, sell, lease, transfer or otherwise dispose of any railroad properties and related facilities within the state that are abandoned, inactive or currently being used for railroad purposes to any party, without first offering such properties and facilities for sale to the Commissioner of Transportation. This provision shall not apply to any rail related facility that is to be replaced as a result of a rehabilitation program or emergency or routine maintenance programs. Such offer shall be made in writing and shall be sent by certified mail to the Commissioner of Transportation. Such offer shall include a map and description of the subject properties or facilities, the price, if available, for such properties or facilities, a description of the present or past railroad use of the subject property or facilities, and any other terms or conditions said company or corporation proposes to include as part of such sale. The commissioner, upon receipt of such offer, shall within forty-five days notify said company or corporation, in writing by certified mail, whether he is interested in acquiring the subject properties or facilities. Within one hundred thirty-five days of such written notice, the commissioner shall notify said company or corporation in writing by certified mail that he shall acquire such properties or facilities or that he shall not accept such offer and shall not acquire such properties or facilities. In no event shall said company or corporation offer to sell any railroad properties or related facilities which were the subject of negotiations between the commissioner and said company or corporation to any other party on terms more favorable to said party than the final terms offered to the commissioner during negotiations. Nothing in this section shall be construed to prevent a railroad company from transferring rail facilities within its own system or from selling, leasing or transferring or otherwise disposing of railroad properties or related facilities currently in use to another party provided that in no event shall the sale, lease, transfer or other disposition of such properties or facilities result in the discontinuance of existing rail service in the state. For the purposes of this section, the terms railroad properties and related facilities shall mean all the land, structures, buildings, rails, ties, ballast, signals and materials that have been or are used for rail transportation purposes and that are located either within the right-of-way as defined by railroad valuation maps or other suitable maps or abutting such right-of-way.

**PRB #** 22-019  
**Transaction/Contract Type:** RE – Sale  
**Origin/Client:** DOT/DOT  
**DOT Project #:** 58-33-33A  
**Graneer:** David J. McNary  
**Property:** Groton, Gold Star Hwy (5,490 sf)  
**Project Purpose:** Sale by Sole Abutter Bid  
**Item Purpose:** QC Deed

**CONVEYANCE FEE: \$15,000 plus \$1,000 Administrative Fee**

Under this Proposal (PRB #22-019) DOT is seeking SPRB approval of a Quit Claim Deed for this Sale by Sole Abutter Bid of a 5,490 square foot piece of land abutting 1459 Gold Star Highway for \$15,000, plus a \$1,000 Administrative Fee.

By way of background the Grantee, David McNary, acquired 1459 Gold Star Highway, the abutting 19,166 square foot lot, on July 3, 2019 for \$55,000, or \$2.87/sq.ft. The property was originally listed for \$99,000, with a price reduction to \$79,000 prior to the sale. The dimensional criteria set forth by the town zoning regulations require a minimum lot size of 15,000 square feet, minimum lot width 100 feet, minimum front setback of 50 feet, minimum side yard setback of 30 feet, minimum rear yard setback of 30 feet, maximum building height of 6 stories/75 feet, and a maximum lot coverage of 30%. After deducting front/rear/side yard setback requirements it appears that the site can support development of approximately 4,800 square feet (ground level).



The Release Area consists of a 5,490± square feet of unimproved, wooded land, that is within the Route 184 highway right of way. The release parcel is generally rectangular in shape with varying topography. There are no indications of wetland soils nor flood zone encumbrances impacting the property. The property is located adjacent to the CR (Commercial, Regional) Zone.

The appraiser noted the presence of a trail that appears to pass through the northeastern section of the subject release parcel and leads to land on the adjacent property owned by the City of Groton. The appraiser is not aware of any other easement/encumbrances impacting the subject release parcel.

Note: The Appraiser made the Extraordinary Assumption that the presence of the above-mentioned

trail that appears to pass through the northeastern section of the release parcel will not impact potential commercial development of the sole abutter property in any way either before or after the release parcel is assembled with the sole abutter.

The Appraiser opined the Highest & Best Use of the Release Parcel “As Is/As Vacant” was assemblage with the Sole Abutter property at 1459 Gold Star Highway.

The Logical Abutter consists of 19,166± square feet of unimproved land with 81 feet of frontage on the highway, abutting to the south of the Release Land. The lot has a rolling topography and is not impacted by wetlands or within a flood zone.

After the assemblage, the parcel consists of 24,656± square feet (0.57± acre) parcel with 82± feet of frontage on the south side of Gold Star Highway. It is a vacant unimproved lot consisting of overgrown vegetation and mature trees. It is in a CR zone and appears to be a legal conforming lot.

After deducting front/rear/side yard setback requirements from the assembled parcel it appears that the assembled site can support development of approximately 7,240 square feet (ground level).

**Restricted Use/Value Finding** – With the release of this parcel via a Sale by Sole Abutter Bid, DOT Appraiser James Mansfield appraised the property, as of January 28, 2021, in both the Before and After assemblage. Based on the sales comparison approach, the Appraiser utilized three sales of similarly-zoned land in Groton that sold in 2018-2019 and concluded the fair market value of the Larger Parcel (land only) was \$2.50/sf x 19,166 sf = \$47,915, rounded to \$48,000.

It should be noted that the Appraiser’s selection of Comparable #1 is the 2019 sale of a portion of the Logical Abutter’s property (sold for \$55,000, or \$2.87/sf)

In the After Valuation, the Appraiser utilized the same three sales and concluded the fair market value of the subject property, as assembled, was \$2.50/sf x 24,656 sf = \$61,640, rounded to \$61,500.

**Value of the Release**

Release Parcel:

Concluded “After Release” Sole Abutter Land Value:	\$61,500
Concluded “Before Release” Sole Abutter Land Value:	- \$48,000
	<u>\$13,500</u>
Discount Factor**	\$13,500 x 25%
	- \$3,375
Market Value of Release Parcel:	<u>\$10,125</u>
Rounded:	\$10,000

*\*\*The appraiser considers it prudent to discount the market value of the release parcel because there is only one realistic purchaser of this parcel, namely the sole abutter property. A discount of 25 % is considered appropriate.*

**Sale by Abutter Bid & Negotiations –**

The property was appraised on January 28, 2021 by staff appraiser Mr. James Mansfield who determined the value to be \$10,000.00, which was accepted and registered by the Department on February 3, 2021.

On February 23, 2021, an offer was made to David J. McNary, whom is the sole abutter to the subject release parcel, in the amount of \$16,000.00 which includes a \$1,000.00 Administrative Fee. Mr. McNary accepted the offer via email on June 9, 2021.

Staff inquired with DOT regarding the following issues:

1. Please clarify why a Sale by Sole Abutter process was utilized when there is one other abutter to the Release Parcel in addition to the Town which declined the conveyance.

*DOT Response: The release area is currently part of the highway ROW and as such the abutter enjoys legal access to its parcel through the right of way. The Department has determined that it does not need the release area as part of the right of way and has deemed it excess. If this parcel were to be sold to either of the adjacent property owners to the east or west, it would landlock the parcel and deny legal access to the purchaser and create a case of inverse condemnation. In addition, CGS 13a-80 (b) states".... If the sale or transfer of property pursuant to this section results in the existing property of an abutting landowner becoming a nonconforming use, pursuant to local zoning requirements, the commissioner may sell or transfer the property to such abutting landowner without public bid or auction." If anyone other than this abutter were to purchase the release parcel, the adjacent property would become non-conforming in that it would have no legal access to a public road. Please note, if this property is not sold to this abutter, it will remain part of the right of way.*

Staff Response: OK

2. Please have the Appraiser clarify the following:

- a) Provide rationale with respect to the conclusion of the land value (\$2.50/sf) in light of the Petitioner's 2019 acquisition of the Abutter (for \$2.87/sf). Have market conditions deteriorated over the last 2.5 years?

*DOT Response: As part of valuing the release parcel, the appraiser did use the petitioner's 2019 acquisition of the sole abutting property for \$2.87/psf as one of three vacant land comparable sales utilized in the Sales Comparison Approach to conclude a fair and reasonable unit land value of \$2.50/psf. The remaining two sales utilized by the appraiser were also located in Groton. These other two sales had before-adjustment unit values of \$2.05/psf and \$2.41/psf, resulting in a total unadjusted value range for all three sales of \$2.05 to \$2.87/psf before any adjustments. Although the sole abutting property sale was considered a good sale, it can't be isolated as the only means of valuing the release parcel.*

*After making all the necessary adjustments for the differences in all three sales, the adjusted range of value would fall between \$2.16 to \$2.87/psf. In the appraiser's opinion, the three chosen commercial land sales were given somewhat equal weight in determining the final \$2.50/psf as of the effective date of value, i.e. January 28, 2021.*

Staff Response: OK. The \$15,000 negotiated price equates to \$2.73/sf, or 95% of the \$2.87/sf price the Grantee/Petitioner paid for the Sole Abutter Parcel in 2019.

- b) Is it reasonable to conclude the addition of the Release Parcel to the Sole Abutter provides better access to the Abutter's Parcel, provides greater visibility to on-coming traffic (10,200 cars/day) and expands the development potential of the site, all indicating a premium to be paid by the Sole Abutter due to the assemblage of the two lots?

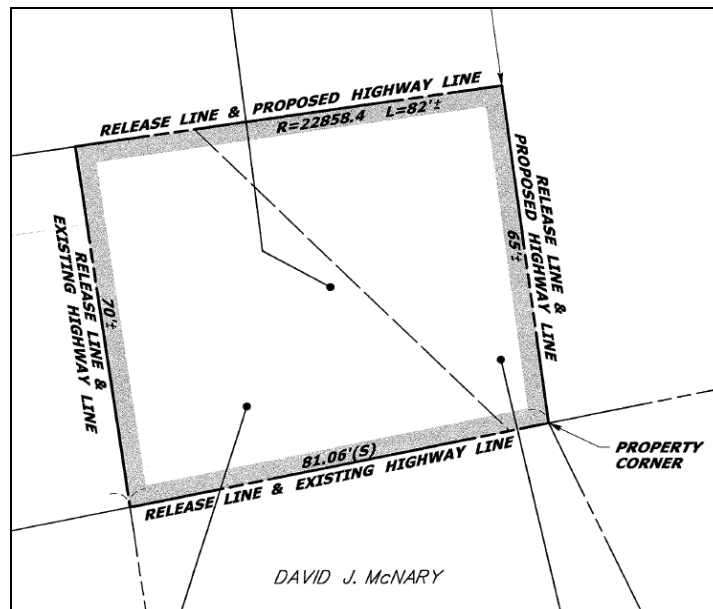
*DOT Response: All of the factors noted in this question and more that pertained to valuing the two parcels combined were considered by the appraiser. As of the effective date of the valuation, the appraiser was not aware of any pending or approved developments from the sole abutter, post-assemblage, therefore to speculate what the owner can or cannot do is beyond the scope of work of the appraiser.*

Staff Response: OK

**Recommendation** – Staff recommend **approval** of the proposed Sale by Sole Abutter Bid in the amount of \$15,000 (plus \$1,000 Admin Fee) for the following reasons:



- The proposed sale complies with Sections §3-14b(b), and §13a-80 of the CGS in that the Town of Groton declined the purchase and the legislative delegation received the required notification on December 11, 2020;
- The release value of \$15,000 (\$2.73/sf) is reasonable in that it represents 150% of the appraised value (111% net of Appraiser's 25% Discount Factor) and it will return the property to the Town of Groton tax rolls and relieve the State of all future expenses; and
- The description in the Quit Claim Deed is consistent with the compilation map to be filed in the Town of Groton Land Records.



**5. ARCHITECT-ENGINEER - UNFINISHED BUSINESS**

**6. ARCHITECT-ENGINEER - NEW BUSINESS**

**7. OTHER BUSINESS**

Director Desai received a communication from DCS Legal regarding suggested changes to an Easement Deed related to DCS Project #CF-RC-402 reviewed by the Board under PRB #21-176. The communication read:

In November of 2021, SPRB approved an easement at CCSU to allow the city to widen its road and sidewalk onto the state's property as part of the ongoing garage construction project. Since then, the project team has been faced with the need to widen the easement area slightly to accommodate a traffic light post. The change in the map resulted in a change in the map title and date, which is now later than the original group of signatures – so the easement must be re-signed.

As no changes were made to the language within the Easement Deed, other than that noted in the communication, no action was taken by the Board. DCS provide a copy of the updated Easement Deed approved by all related entities.

**8. VOTES ON PRB FILE:**

**PRB FILE #22-018** – Mr. Valengavich moved and Mr. Halpert seconded a motion to return PRB 22-018.

**PRB FILE #22-019** – Mr. Berger moved and Mr. Valengavich seconded a motion to approve PRB 22-019.

**9. NEXT MEETING** – Thursday, March 17, 2022.

The meeting adjourned.

**APPROVED:** \_\_\_\_\_ **Date:** \_\_\_\_\_  
John Valengavich, Secretary