

12 May 2023

To: Select Board Members (SB)

From: Sergio Modigliani

Re: Peaked Hill Pastures Committees

Thank you for hard work on many fronts, and my welcome to our new member Marie Larsen.

I am writing since at your next SB meeting you are considering the appointment of the 5th member to the Peaked Hill Pastures RFP Committee. I am not a voter, but would like to offer how I, and perhaps others, see this matter, which appears to differ from your perspectives. Please note that my comments are not intended as critical of the individuals mentioned below, nor of their character and good will, but rather as to the process that has unfolded under your direction.

Committee Appointments:

I do have questions about the composition of this Committee. At the May 3, 2022, Select Board meeting, Mr. Malkin clearly stated that the Committee would be chaired by a Planning Board member and two persons from the neighborhood, Valerie Sonnetal and John Keene, would be appointed. Instead, the first meeting of the Committee on May 23, 2022, included Ms. Scott and Mr. Khedouri as members (and Mr. Goldman as Chair). When and how were they appointed?

The Conflict of Interest matter has also been troubling to me, and that aspect has also been part of the Board's recent discussions.

Conflict of Interest Issues (COI):

A recent filing by Mr. Khedouri with the State Ethics Board is an appropriate and useful step (Ms. Scott should do the same if she has not), but it is an undisputed fact that they are direct abutters based on the Town of Chilmark's software program used to notify abutters for Planning and ZBA cases. I understand Mr. Khedouri's current position to be that he is not an abutter and further, that the PHP RFP Committee is simply issuing an RFP and then is to disband, rendering any abutter status "inconsequential" or the Committee's role as "solely advisory". I see this as too narrow and naïve a view, because:

- the Committee engaged a Civil Engineer who has proceeded well beyond a forensic and objective evaluation of the Site for topo, drainage, soils and septic by then following the *Committee's directives* to layout the various structures. That the 9 rental units are now located *as far away* from the two abutters on the Committee as the Site permits at least opens the perception of COI;
- this Committee presumably will continue the rest of the Engineering Phase 1 referenced by Ms. Scott at the May 11 meeting, completing a Site Planning phase which customarily is done only after, and by, the designated Developer from the RFP process in conjunction with the Town's representatives;
- the Committee is likely to engage with Ms. Barrett over the form and substance of the RFP itself, which must include critical issues around State and Federal funding sources that carry

restrictions around AMI's. The viewpoint of direct abutters may be different than that of the Town voters. For example, I believe Mr. Khedouri has consistently publicly mischaracterized the Warrant requirement for "...various income levels..." up to 150% by stating the units would be available for those with incomes to 150% AMI and that having lower AMI requirements for some percentage of applicants would disadvantage those above. Use of State and Federal funding typically requires a mix of 80%-140% AMI's (which is why the Warrant language used that terminology).

- I would note that in many Towns, neighborhood concerns on evolving projects of interest are typically voiced through attendance at public meetings, or, appointment of neighborhood representatives who are not direct abutters. This important distinction was clearly noted by your Board discussion last May in your considering the interest expressed by, for example, John Keene, for just this reason.

I believe that the SB must consider these COI factors now as you contemplate the selection of an additional member to this Committee; and that these COI considerations be weighed carefully in your considerations of the membership of the future Committee (alluded to as the "building committee").

For these reasons, it would be my view that the work of the current PHP RFP Committee be brought to as rapid a close as possible to lessen the potential perception that any COI, (whether real or simply an appearance), has led to decisions that the Town will need to abide by for years to come.

Respectfully submitted,

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