

## Meeting Minutes

### Easton Board of Selectmen

November 5, 2015 – 7:30 p.m.

Adam Dunsby called the meeting to order at 7:30 p.m.

Present: Adam Dunsby, Robert Lessler and Carrie Colangelo

1. Robert Lessler moved and Adam Dunsby seconded to approve the minutes of the Easton Board of Selectmen Meeting of October 15, 2015. Carrie Colangelo abstained. Motion passed.
2. Public comment: A resident requested looking into technology that would enable audio of the Board of Selectmen meeting to be put on the Easton website. Another resident requested to submit ideas on South Park.
3. Robert Lessler moved and Carrie Colangelo seconded to approve the following tax refunds as recommended by Christine Calvert, Tax Collector: 1. FINANCIAL SER VEH TRUST - \$671.40; 2. FARMINGTON BANK - \$5158.05; 3. FRANK HEALY - \$496.28; 4. ALBERT M. LELLO SR. - \$59.80; 5. MELISSA BONET PANTAZI - \$218.18; 6. GORDON SURBEY - \$30.46; 7. JOHN L. DEBLOCK - \$15.81; 8. CHRISTEL KIEFER - \$19.76; 9. DANIEL LENT - \$74.31; 10. ARIFLEET - \$211.32. Motion passed unanimously.
4. Robert Lessler moved and Carrie Colangelo seconded to approve the release of Driveway Bond for 18 Vista Road in the amount of \$3,000.00, as recommended by Edward Nagy, Director of Public Works. Motion passed unanimously.
5. Carrie Colangelo moved and Robert Lessler seconded to approve the release of Driveway Bond for 1157 Sport Hill Road in the amount of \$3,000.00 as recommended by Edward Nagy, Director of Public Works. Motion passed unanimously.
6. After a discussion, Carrie Colangelo moved and Robert Lessler seconded naming the new pavilion on Morehouse Road, **The Easton Pavilion**. Motion passed unanimously.
7. A discussion of upcoming human resource process was held. Among the determinations the Board of Selectmen will have to make is the gross wage increase for non-represented employees and any changes to the health plan of the non-represented employees.

8. A discussion of scheduling of upcoming agenda items (e.g. South Park, presented water system ordinance) was held. Some items had been put on hold due to the recent election. Carrie Colangelo suggested putting South Park on the agenda for the next Board of Selectmen's meeting.
9. Executive Session was called at 8:05 p.m. Robert Lessler moved and Carrie Colangelo seconded going into Executive Session to discuss the pending litigation of Town of Easton v. Zeoli, property located at 639 Stepney Road. Motion passed unanimously. Attny. Mark Kovack and Robert Maquat of the Planning and Zoning Commission were invited to stay. The regular meeting resumed at 8:41 p.m.
10. Attny. Mark Kovack of Berchem Moses presented background and the key items of the Stipulation for Settlement in the case of Town of Easton v. Zeoli, property located at 639 Stepney Road. Robert Lessler moved to accept the settlement with the specific request that page 2, paragraph 2C includes the wording "including but not limited to chainsaws". Draft agreement with changes attached to these minutes.
11. Adam Dunsby referred to a Policy on Public Participation at Board of Selectmen Meetings adopted January 17, 2013. No recommendations on changes were brought forth at this time but it was agreed to put this item on the next meeting's agenda, time allowing.
12. Board member comment: Robert Lessler offered his congratulations to Carrie Colangelo on being elected our new Selectman.
13. Robert Lessler moved and Carrie Colangelo seconded to adjourn the meeting at 9:15 p.m. Motion passed unanimously.

3M~11-5-15

## **SETTLEMENT AGREEMENT AND MUTUAL RELEASES**

This **SETTLEMENT AGREEMENT AND MUTUAL RELEASES** ("**Agreement**") is entered into on this \_\_\_\_ day of November, 2015, by and between NIKKI ZEOLI a/k/a NIKKI Z. PORZIO ("**Porzio**") and THE TOWN OF EASTON ("**Easton**"), THE PLANNING AND ZONING COMMISSION OF THE TOWN OF EASTON, and PHILLIP A. DOREMUS, AS THE ZONING ENFORCEMENT OFFICER OF THE TOWN OF EASTON (collectively "**the Town**") (Porzio and the Town are sometimes hereinafter referred to together, as the "**Parties**"). This Agreement is made with reference to the following recitals:

**WHEREAS**, Porzio, is, and at all times relevant hereto, was the owner of record of that certain real property commonly known as 639 Stepney Road in Easton, Connecticut (the "**Property**");

**WHEREAS**, Porzio is, and at all times relevant hereto, was the President of BERT'S TREE SERVICE CORPORATION ("**Bert's**"), a tree cutting business having a place of business at 20 Meeker Road, Westport, Connecticut and operated by Porzio's husband, ROBERT PORZIO ("**Mr. Porzio**");

**WHEREAS**, Porzio is, and at all times relevant hereto, has allowed and permitted virgin timber harvested or obtained by Bert's from third party locations and/or cut from the Property to be stored on the Property, which timber, including, without limitation, any substitute or replacement timber permitted under the terms of this Agreement is hereinafter individually and collectively referred to as "**the Timber**";

**WHEREAS**, by writ, summons and complaint having a return date of January 13, 2015, the Town commenced an action against Porzio with respect to the Property in the Superior Court of the State of Connecticut, Judicial District of Fairfield at Bridgeport, in the case styled *Town of Easton, et al. v. Nikki Zeoli a/k/a Nikki Z. Porzio*, Docket No. FBT-CV-15-6047475-S (the "**Action**"), alleging that the Timber violated the Easton Zoning Regulations ("**the Regulations**") and Chapter 361-1 of Easton's Code of Ordinances and seeking varied relief; and

**WHEREAS**, Porzio denies all material allegations set forth in the Action and claims that the Town's claims violate her rights as a property owner, including the asserted right to apply for for a special permit for firewood production operations on the Property ancillary to the Property's alleged former use as a chicken farm in accordance with the Special Permit provisions of the Regulations, which claims the Town denies;

**WHEREAS**, Porzio had a "Compilation Plan" dated August 25, 2015 prepared of the Property by J. Edwards & Associates, LLC, thereon showing the existing storage areas of the Timber ("**the Survey**");

**WHEREAS**, J. Edwards & Associates, LLC subsequently measured the total quantity of Timber on the Property as shown on the Survey and the same measures at approximately 1,114 cubic yards;

**WHEREAS**, the Parties now mutually desire that all claims and allegations asserted by each Party against the other be compromised and fully settled and resolved without protracted litigation or a continuation of the Action, and without any admission of wrong doing or liability, upon the terms and conditions as set forth herein.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which the Parties hereby acknowledge, the Parties, intending to be legally bound, agree as follows:

1. Porzio's representations. Porzio represents, warrants and affirms: (a) that at all times the Timber was exclusively for personal uses and at no time was the Timber used for commercial purposes, processed for sale, sold or utilized for the commercial benefit of Porzio, Bert's, Porzio's family and/or any other business interests which Porzio and Mr. Porzio may have; and, subject to Porzio's right to seek a special permit for the same, (b) for so long as Porzio is the record owner of or has a beneficial or possessory interest in the Property, the Timber, including any replacement/substitute timber as permitted hereunder and/or scrap or cord wood deriving therefrom, will exclusively be for personal uses and shall not be used for commercial purposes, processed for sale, sold or utilized for the commercial benefit of Porzio, Bert's, Porzio's family and/or any other business interests which Porzio and Mr. Porzio may have.

2. Timber Restrictions. By no later than December 31, 2015, Porzio shall cause the existing approximately 1,114 cubic yards of timber to be reduced in size to no more than approximately 300 cubic yards of timber, as best the same can reasonably be measured, time being of the essence, and shall retain the services of J. Edwards & Associates, LLC to verify the same. Upon the Town's acceptance of said verification, Porzio agrees and represents that for so long as Porzio thereafter is the record owner of or has a beneficial or possessory interest in the Property: (a) the Timber, including any replacement/substitute timber permitted hereunder and/or scrap or cord wood deriving therefrom, shall not at any one time exceed the quantity of 300 cubic yards (i.e., approximately 60 cords) of wood, unless and until Porzio applies for and is granted a special permit by Easton for firewood production operations ancillary to a farming use of the Property; (b) After December 31, 2015, any and all additional timber delivered to the Property or existing or replacement timber removed from the Property, shall collectively not be delivered and/or removed more than one (1) time per week and that any such delivery or removal shall only take place on weekdays between the hours of 9:00 AM and 5:00 PM; (c) the use of any machinery, including, without limitation, chainsaws, with respect to and/or in connection with any wood on the Property, including, without limitation, the Timber (except in the case of an emergency) shall be limited to one (1) time per week and shall only take place between the hours of 9:00 AM and 5:00 PM, and not at all on Sundays; (d) that the Timber shall at all times be stacked as neatly as possible and in a safe and secure manner and so that it is located behind and screened by the existing smaller or front red barn a/k/a chicken coop on the Property as shown on the Survey and poses no risk of dislodging and/or falling toward Stepney Road; (e) any scrap or cord wood, including scrap or cord wood derived from the Timber, shall at all times be stacked as neatly as possible and in a safe and secure manner and so that it is located behind and screened by the existing smaller or front red barn a/k/a chicken coop on the Property as shown on the Survey and poses no risk of dislodging and/or falling toward Stepney Road; and (f) Porzio shall maintain in good and healthy condition the existing plantings installed by Oliver Nurseries

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as set forth in EXHIBIT A hereto in order to screen the view of the Timber from Stepney Road, including promptly replacing any such plantings as may subsequently become unhealthy or perish with a like or equal planting of good health.

3. Release of Porzio. As of the date of this Agreement, the Town fully and forever relinquishes, releases and discharges Porzio and any and all of her agents, servants, employees, attorneys, representatives, trustees, administrators, heirs, beneficiaries, successors and/or assigns from any and all claims, damages, actions, causes of action, losses, liabilities, attorneys' fees, costs and expenses of any nature whatsoever arising out of the Action, including, but not limited to, the allegations in the Complaint, Answer and Affirmative Defenses. Notwithstanding anything to the contrary contained herein, nothing in this release shall waive or release the Parties' rights and obligations under this Agreement.

6. Release of the Town. As of the date of this Agreement, Porzio fully and forever relinquishes, releases and discharges the Town and any and all of (as the case may be) their respective officials, members, officers, agents, servants, employees, attorneys, representatives, trustees, administrators, heirs, beneficiaries, successors and/or assigns from any and all claims, damages, actions, causes of action, losses, liabilities, attorneys' fees, costs and expenses of any nature whatsoever arising out of the Action, including, but not limited to, the allegations in the Complaint, Answer and Affirmative Defenses. Notwithstanding anything to the contrary contained herein, nothing in this release shall waive or release the Parties' rights and obligations under this Agreement.

7. Withdrawal of Action. The Town shall cause a Withdrawal of Action to be filed with respect to the Action within three (3) business days of the Town's acceptance of Porzio's verification that the existing timber has been reduced as reasonably as possible to approximately 300 cubic yards.

8. No Admission of Liability. The within compromise has been made for settlement purposes only and shall not be construed as an admission of liability by any of the Parties. The Parties have entered into this Agreement for the purpose of avoiding the burden, expense and inconvenience of further litigation, and the making of this Agreement is not intended, and shall not be construed, as an admission that the Parties have violated any federal, state or local law (statutory or common law), ordinance or regulation, or committed any wrong whatsoever.

9. Representation by Counsel. The Parties acknowledge that for purposes of this settlement they have been represented by legal counsel of their own choice, throughout all of the negotiations preceding the execution of this Agreement; that they have consulted with their attorneys prior to executing this Agreement; that they have executed this Agreement only after consultation with above-described independent legal counsel; that they have carefully read this Agreement in its entirety; that they had the provisions of this Agreement explained to them by their counsel who has answered to their satisfaction any questions they have asked with regard to the meaning of any of the provisions of this Agreement; that they fully understand the terms, conditions and significance of this Agreement, and that they voluntarily consent to all of the terms and conditions contained in this Agreement and are signing this Agreement voluntarily and of their own force and will; and that they intend to abide by all the provisions of this Agreement.

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10. Default: In the event of breach of this Agreement by Porzio, Easton shall be entitled to recover all legal fees and costs related to the enforcement of the same.

11. Miscellaneous: This Agreement represents the complete understanding between the Parties with respect to the subject matter hereof, there are no covenants, promises, agreements, conditions or understandings, either oral or written, between the parties other than those contained in or specifically referenced by this Agreement and no other promises or agreements shall be binding unless contained in a writing signed by the Parties or their duly authorized representatives. The Parties further agree that:

a. This Agreement may not be changed or modified orally;

b. This Agreement shall be construed and enforced in accordance with the laws of the State of Connecticut;

c. If at any time after the date of the execution of this Agreement, any provision of this Agreement shall be held to be illegal, void or unenforceable by a court of competent jurisdiction, such provision shall be of no force and effect. However, the illegality or unenforceability of such provisions shall have no effect upon, and shall not impair the enforceability of, any other provision of this Agreement;

d. This Agreement is binding upon, and shall inure to the benefit of the Parties, and their respective successors and assigns; and

e. The language of all parts of this Agreement shall in all cases be construed as a whole, according to its fair meaning, and, the Parties having had ample opportunity to participate in the drafting of this Agreement, the Agreement shall not be construed against the draftsman.

12. Counterparts: This Agreement may be executed in counterparts, each of which when executed shall be deemed to be an original and all of which together shall constitute a single instrument binding upon the Parties. Electronically signed copies of this Agreement shall be treated the same as an original and shall be admissible in any court proceeding to enforce the same.

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**WHEREFORE**, the Parties hereto have caused this Settlement Agreement and Mutual Release to be signed on the dates indicated below.

\_\_\_\_\_  
Nikki Zeoli a/k/a Nikki Z. Porzio

Dated: \_\_\_\_\_

**THE TOWN OF EASTON**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

**THE TOWN OF EASTON PLANNING &  
ZONING COMMISSION**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Dated: \_\_\_\_\_

\_\_\_\_\_  
**PHILLIP A. DOREMUS, ZONING  
ENFORCEMENT OFFICER**

\_\_\_\_\_  
Dated: \_\_\_\_\_

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STATE OF CONNECTICUT)  
 ) SS.:  
COUNTY OF FAIRFIELD )

On the \_\_\_ day of \_\_\_\_\_, 2015, before me personally came Nikki Zeoli a/k/a Nikki Z. Porzio, to me known, who, being by me duly sworn did acknowledge that she executed the foregoing instrument as her free act and deed.

\_\_\_\_\_  
Notary Public

STATE OF CONNECTICUT)  
 ) SS.:  
COUNTY OF FAIRFIELD )

On the \_\_\_ day of \_\_\_\_\_, 2015, before me personally came Adam Dunsby, to me known, who, being by me duly sworn did depose and say that that he is First Selectman of The Town of Easton, and did acknowledge that he signed his name thereto with full authorization of said Town and as his free act and deed and the free act and deed of said Town.

\_\_\_\_\_  
Notary Public

STATE OF CONNECTICUT)  
 ) SS.:  
COUNTY OF FAIRFIELD )

On the \_\_\_ day of \_\_\_\_\_, 2015, before me personally came Robert Maquat, to me known, who, being by me duly sworn did depose and say that that he is the Chairman of the Easton Planning and Zoning Commission, and did acknowledge that he signed his name thereto with full authorization of said Commission and as his free act and deed and the free act and deed of said Commission.

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\_\_\_\_\_  
Notary Public

STATE OF CONNECTICUT)

) SS.:

COUNTY OF FAIRFIELD )

On the \_\_\_\_ day of \_\_\_\_\_, 2015, before me personally came Phillip A. Doremus, as the Zoning Enforcement Officer of the Town of Easton, to me known, who, being by me duly sworn did acknowledge that he executed the foregoing instrument as his free act and deed as said Zoning Enforcement Officer.

\_\_\_\_\_  
Notary Public

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# **EXHIBIT A**

{00602079.DOC Ver. 1}

**Oliver Nurseries**

1159 Bronson Road  
Fairfield, CT 06824  
203-259-5609 FAX 203-254-2701

**Invoice**

DATE	INVOICE #
11/21/2014	1975

**BILL TO**

Nikki Zeoli  
639 Stepney Road  
Easton CT 06610

P.O. NO.	TERMS	PROJECT

QUANTITY	DESCRIPTION	RATE	AMOUNT
3	Betula nigra	325.00	975.00T
3	Betula papyrifera	595.00	1,785.00T
3	Calocedrus decurrens	595.00	1,785.00T
5	Juniperus Emerald Sentinel	525.00	2,625.00T
1	Viburnum Summer Snowflake	325.00	325.00T
2	Sustane	45.00	90.00T
	Labor- Tractor and installation labor	2,500.00	2,500.00T
	CT Sales Tax	6.35%	640.40
<div style="border: 1px solid black; border-radius: 50%; width: 80px; height: 80px; display: flex; align-items: center; justify-content: center; margin: 20px auto;"> D3 </div>			
		<b>Total</b>	<b>\$10,725.40</b>