

Mislick Property Purchase FAQ

(From questions asked at the Region 4 BOE meeting on November 4, 2019)

On November, 4, 2019 the Region 4 Board of Education held a special meeting to learn about the details of the August 31, 2017 purchase of the Mislick property. During the meeting, the current administrative staff committed to answering, to the extent possible, all questions posed by community members during the public audience portion of the meeting. The following responses to these questions were shared verbally at the Region 4 Board meeting on December 05, 2019. In keeping with the commitment of the Board and the current administrative team to provide effective communication and transparency, this FAQ is being made available on the website.

The following questions and responses pertain to the August 31, 2017 purchase of the Mislick property by Regional School District No. 4:

1) Q: Who authorized the purchase?

A: On August 2, 2017 the Region 4 Board of Education unanimously voted to approve the following Resolutions (*from the minutes*):

RESOLVED, that **REGIONAL SCHOOL DISTRICT NO. 4**, a regional school district having a mailing address of P.O. Box 187, Deep River, Connecticut 06417 (the “District”), be, and it hereby is, authorized and empowered to purchase the real property commonly known as “12 lots - Old Orchard Estates, Deep River, Connecticut” a/k/a Kelsey Hill Road & Old Orchard Drive, Deep River, Connecticut (the “Property”) from ESSEX SAVINGS BANK, a Connecticut corporation with an office at 35 Plains Road, Essex, Connecticut 06426, duly qualified as the TRUSTEE UNDER THE SHIRLEY S. MISLICK LIVING TRUST DATED APRIL 12, 1993, AS AMENDED (the “Seller”) in accordance with the terms and conditions of that certain Purchase and Sale Agreement by and between the District and the Seller dated as of June 26, 2017, as the same may be amended from time to time (as amended and modified, the “Purchase and Sale Agreement”); and it is

FURTHER RESOLVED, that Ruth Levy, Ed. D., Superintendent of Schools, or any individual acting at her direction, be, and hereby is, authorized and empowered in the name of and on behalf of the District to execute any and all documents necessary to effectuate the above-referenced Purchase and Sale Agreement and the transactions completed thereby, and further pay to Seller the purchase price referenced therein; and it is

FURTHER RESOLVED, that the said Ruth Levy, Ed. D., or any individual acting at her direction, be, and hereby is, authorized and empowered in the name of and on behalf of the District to negotiate the terms of and to execute and deliver for and on behalf of the District, each of the instruments, documents and agreements as may be necessary or convenient to carry out any of the foregoing resolutions, all with such changes, and in such form, as she may approve, the execution and delivery of each document to be conclusive evidence of said approval; and it is

FURTHER RESOLVED, that the said Ruth Levy, Ed. D., or any individual acting at her direction, be, and hereby is, authorized to do and perform all such further acts and things as may be necessary or convenient in order to consummate the transactions authorized in the foregoing resolutions and any actions heretofore or hereafter taken by the said Ruth Levy, Ed. D., or any individual acting at her direction, in carrying out the purposes of these resolutions are confirmed, approved and ratified in all respects.

2) Q: When were the towns notified about the possibility of Regional School District No. 4 purchasing the Mislick property?

A: Agendas (prior to the meetings) were filed with the towns of Chester, Deep River & Essex. Additionally the agendas (prior to the meetings) and the minutes were posted on the website for the following meetings:

- *February 08, 2017 Region 4 Budget Workshop II (from the minutes):*
“...Bruce Glowac presented on the possibility of purchasing land adjacent to Valley Regional High School property. There was a discussion regarding the feasibility of making such a purchase...”
- *May 04, 2017 Region 4 BOE Meeting (from the minutes):*
“...EXECUTIVE SESSION – DISCUSSION AND POSSIBLE VOTE REGARDING MISLICK PROPERTY
The Board moved into Executive Session at 9:57 p.m. for the following matters:

Strategy and Negotiations – Discuss possible real estate acquisition...”

“...Dr. Levy, Mr. Sawyer, and Bruce Glowac were invited to attend the Executive Session

The Board moved out of Executive Session at 10:28 p.m.

On motion duly made and seconded, the Board VOTED (4 yes - Jane Cavanaugh, Jennifer Clark, Leigh Ranking, Jim Olson / 2 no - Chris Riley, Elaine Fitzgibbons / 1 abstention – Susan Hollister = Motion passed) to allow the Superintendent or her designee to negotiate the purchase of property adjacent to Valley Regional High School...”
- *June 01, 2017 Joint BOE Meeting - including Region 4 only portion (from the minutes):*
“...Region 4 Only - Executive Session – Strategy and Negotiations – Discuss Possible Real Estate Acquisition – The Region 4 Board went into Executive Session at 9:07 pm...”

The Board came out of Executive Session at 9:40pm...”
- *August 02, 2017 Region 4 BOE Meeting (from the minutes):*
“...The Board discussed the possible acquisition of Mislick Property adjacent to VRHS and the resolutions that would be required for purchase.

On motion duly made and seconded, the Board unanimously VOTED to move to approve the following resolutions:

RESOLVED, that **REGIONAL SCHOOL DISTRICT NO. 4**, a regional school district having a mailing address of P.O. Box 187, Deep River, Connecticut 06417 (the

“District”), be, and it hereby is, authorized and empowered to purchase the real property commonly known as “12 lots - Old Orchard Estates, Deep River, Connecticut” a/k/a Kelsey Hill Road & Old Orchard Drive, Deep River, Connecticut (the “Property”) from ESSEX SAVINGS BANK, a Connecticut corporation with an office at 35 Plains Road, Essex, Connecticut 06426, duly qualified as the TRUSTEE UNDER THE SHIRLEY S. MISLICK LIVING TRUST DATED APRIL 12, 1993, AS AMENDED (the “Seller”) in accordance with the terms and conditions of that certain Purchase and Sale Agreement by and between the District and the Seller dated as of June 26, 2017, as the same may be amended from time to time (as amended and modified, the “Purchase and Sale Agreement”); and it is

FURTHER RESOLVED, that Ruth Levy, Ed. D., Superintendent of Schools, or any individual acting at her direction, be, and hereby is, authorized and empowered in the name of and on behalf of the District to execute any and all documents necessary to effectuate the above-referenced Purchase and Sale Agreement and the transactions completed thereby, and further pay to Seller the purchase price referenced therein; and it is

FURTHER RESOLVED, that the said Ruth Levy, Ed. D., or any individual acting at her direction, be, and hereby is, authorized and empowered in the name of and on behalf of the District to negotiate the terms of and to execute and deliver for and on behalf of the District, each of the instruments, documents and agreements as may be necessary or convenient to carry out any of the foregoing resolutions, all with such changes, and in such form, as she may approve, the execution and delivery of each document to be conclusive evidence of said approval; and it is

FURTHER RESOLVED, that the said Ruth Levy, Ed. D., or any individual acting at her direction, be, and hereby is, authorized to do and perform all such further acts and things as may be necessary or convenient in order to consummate the transactions authorized in the foregoing resolutions and any actions heretofore or hereafter taken by the said Ruth Levy, Ed. D., or any individual acting at her direction, in carrying out the purposes of these resolutions are confirmed, approved and ratified in all respects.

3) Q: Was the board aware of superintendent Levy’s decisions throughout the process?

A: Please see the full Answer to Question 2) above; and also the excerpt from the minutes posted on the website for the following meeting:

- *September 07, 2017 Region 4 BOE Meeting (from the minutes):*
“...Dr. Levy reported that the purchase of the Mislick property, adjacent to the high school, closed last Thursday. The funds came entirely from Region 4 sinking funds; no additional funds were procured which would have required repayment to any outside entity. There are no development plans at this point, but all were in agreement that it was a once in a lifetime opportunity to obtain the property immediately adjacent to the high school for possible future use as needed...”

4) Q: Did Regional School District No. 4 have legal representation at the time contract was signed?

A: Per Shipman and Goodwin; Shipman & Goodwin LLP did not become involved in this transaction until July 5, 2017, after the Board had voted to negotiate the purchase of the Mislick Property and after the District had entered into the purchase and sale agreement.

5) Q: Who retained Shipman and Goodwin as Regional School District No. 4's law firm?

A: From the minutes of the June 01, 2017 Joint BOE meeting:

“...Upon motion duly made and seconded the Chester, Deep River, and Essex Boards unanimously **VOTED** to approve the Superintendent’s recommendation to appoint Shipman and Goodwin as legal counsel for the Boards of Education of Chester, Deep River, and Essex.

On motion duly made and seconded, the Region 4 Board **VOTED** (Ayes-5 = Riley, Cavanaugh, Hollister, Olson, Fitzgibbons; Opposed – 0; Abstentions – 1 = Gioco; = **MOTION PASSED**) to approve the Superintendent’s recommendation to appoint Shipman and Goodwin as legal counsel for 2017-18....”

6) Q: What did the pre-closing attorney costs cover?

A: Per Shipman and Goodwin; in connection with the closing of the purchase of the Mislick Property, Regional School District No. 4 incurred legal fees of approximately \$14,300. Shipman and Goodwin would be pleased to review any questions that Regional School District No. 4 may have with respect to the narratives that were included in our invoices.

7) Q: What did Regional School District No. 4 pay in total for title fees (remedying the issue with respect to the erroneous legal description)?

A: Per Shipman and Goodwin; in connection with remedying the issue with respect to the erroneous legal description, Regional School District No. 4 incurred legal fees in the amount of \$19,379.36. By ten (10) separate checks, First American Title Insurance Company paid Shipman & Goodwin LLP the amount of \$19,379.36 in satisfaction of remedying the issue with the erroneous legal description. Shipman & Goodwin LLP provided billing credits to Regional School District No. 4 for any related legal fees they had paid prior to payment by First American Title Insurance Company for all claims. Thus, Regional School District No. 4 paid no part of the legal fees incurred with respect to the post-closing title matter.

8) Q: Why didn't Title Company use their own attorney to resolve Title matter?

A: Per Shipman and Goodwin; by correspondence dated January 22, 2019, First American Title Insurance Company stated that the post-closing title matter had not yet ripened into a title claim, and that it would consider reimbursement of the costs that Shipman & Goodwin LLP incurred in its efforts to remedy the issue with the erroneous legal description with respect to the Mislick Property.

9) Q: Who did survey of the property?

A: Don Carlson

10) Q: Was a landscape architect engaged to determine if the land is appropriate for fields?

A: No

11) Q: Did the Board receive an appraisal for the intended use – athletic fields?

A: No

12) Q: Was advice obtained about suitability of the land?

A: No

13) Q: Does it make sense to move forward with the fields plan; what are the real needs moving forward?

A: The current administration has committed to developing a long range athletic facilities and grounds plan to be presented with recommendations to the Region 4 Board in the spring of 2020.

14) **Q: What was the policy for Capital reserve funds prior to 2006?**

A: CT General Statute

Sec. 10-51. Fiscal year. Budget. Payments by member towns; adjustments to payments.

Investment of funds. Temporary borrowing. Reserve funds... (d) (1) Prior to June 7, 2006, upon the recommendation and the approval of a majority of members on the board, a regional board of education may create a reserve fund to finance a specific capital improvement or the acquisition of any specific piece of equipment. Such fund shall thereafter be termed "reserve fund for specific capital improvements or equipment purchases". No annual appropriation to such fund shall exceed one per cent of the annual district budget. Appropriations to such fund shall be included in the share of net expenses to be paid by each member town until the fund established pursuant to this subdivision is discontinued. The board shall annually submit a complete and detailed report of the condition of such fund to the member towns. Such fund may be discontinued, after recommendation by the board and approval by the board, and any amounts held in the fund shall be transferred to the general fund of the district.

15) **Q: Was the account a capital reoccurring fund at the time of the land purchase?**

A: No

16) **Q: Is it correct that we paid taxes at the closing?**

A: Per Shipman and Goodwin; at the closing of the purchase of the Mislick Property, the trust received a credit in the amount of \$4,271.04 for real property taxes already paid on the Mislick Property. This credit was authorized by the Superintendent as set forth in the executed closing statement.

17) **Q: How did we end up with a tax liability post closing?**

A: Per Shipman and Goodwin; On August 31, 2017 Regional School District #4 acquired certain real property in the town of Deep River adjacent to Valley Regional High School. The property was subdivided by its previous owner and the town of Deep River assesses the property on 14 different property tax bills. The town of Deep River has assessed real property tax on the property for grand list years 2016, 2017. And 2018. We expect property taxes for the 2019 grand list year to be assessed in the near future if this matter is not resolved.

The town of Deep River issued a property tax bill related to the property in early 2018 to Regional School District No. 4. On or about April 3, 2018, at Regional School District's request, Shipman and Goodwin called the town of Deep River's assessor to explain that the

assessment was improper because land owned by the Regional School District No. 4 is generally exempt from property tax. The assessor said that she believed Regional School District No. 4 had to file a quadrennial report in order to claim a property tax exemption and that Regional School District No. 4 had failed to file such a report. Shortly thereafter Shipman and Goodwin drafted and sent a letter to the town of Deep River's first selectman and the town of Deep River's assessor explaining that the property is exempt from tax and that no quadrennial report is required to claim the exemption. Nonetheless, the town of Deep River has failed to exempt the property from tax. Further, on April 12, 2018 then School Superintendent, Ruth Levy wrote a letter to the town of Deep River's assessor requesting a refund of property taxes paid. That refund was not granted.

The grand list year 2016 tax has been paid. Total tax outstanding for 2017 and 2018 is \$26,628.16. Total interest outstanding for 2017 and 2018 is \$3,295.22 thru November 21, 2019.