

## History of the Purchase and Sale Agreement with St. Mark's School, 2015-2017

The Public Safety Facility Committee completed its needs assessment in November 2015, and came forward with various iterations of layouts for potential facilities. In order to build a new facility on the existing site, the Town needed to increase the size of the lot at 19-21 Main Street. Other sites in Town were examined and ultimately rejected either because of substantial increased costs or lack of adequate design. As a result, the Town reached out to St. Mark's School, as they were abutters on two sides of the property. The first meeting with St. Mark's School was held on November 30, 2015. At this meeting, the Town presented to St. Mark's the options prepared by the Public Safety Facility Committee. St. Mark's indicated that they would forward the information to the Board of Trustees, and follow up with the Town.

The first phone call with Headmaster John Warren following the initial meeting was made to Town Administrator Mark Purple on December 4, 2015, and, for the first time, St. Mark's proposed the possibility of the Town acquiring the entirety of their Cordaville Road parcel (golf course) in exchange for the Main St. and School St. parcels and a sum of money. St. Mark's informed the Town that the School's long term plans were to increase their contiguous footprint, and the Cordaville parcel did not fit into those plans. An alternative discussion of the two Town parcels in exchange for a similarly-sized portion of the Cordaville parcel, with no money exchanging hands, was also discussed. St. Mark's was not receptive to carving off pieces of their Cordaville Road parcel, so this idea remained strictly secondary, in the event that something could not be done with the whole Cordaville parcel.

The Selectmen met in Executive Session on December 9, and Mr. Purple advised the Board of the telephone conversation from December 4. The Board unanimously agreed that it was in the best interest of the Town to pursue the discussion. John Rooney and Brian Shea were unanimously voted to represent the Town in the discussions. The final Space Needs Assessment Study, although essentially complete, was put on hold pending the outcome of the negotiations. Mr. Rooney, Mr. Purple, and Mr. Shea met again with St. Mark's and at this meeting St. Mark's representatives stated in no uncertain terms that the Golf Course was at best a break even proposition for them, that the Golf Course parcel was not in the school's long term plans, and that it would be St. Mark's intent to monetize the property.

Over the next several months, there were multiple phone calls and meetings with St. Mark's to further the discussions. The Town requested that appraisals of all parcels needed to be done in order to ascertain values, which was done in February 2016. The results of those appraisals, and the parties' relative positions, assuming highest and best use of each parcel, was as follows:

	<u>St. Mark's School</u>	<u>Town of Southborough</u>
36 Cordaville Road	N/A <sup>1</sup>	\$3,165,000
19 Main Street	\$925,000	\$1,780,000
	\$240,000 (vacant)	\$ 275,000 (vacant)
0 School Street	\$185,000	\$ 150,000

Thereafter, there were three main proposals in the negotiations; two from St. Mark's, and one from the Town. Here they are in the order made:

1. St. Mark's initial proposal:

- The Town receives the entire property at 36 Cordaville Road;
- St. Mark's receives the properties at 0 School Street, and 19-21 Main Street;
- St. Mark's receives \$4.5 million in cash.
  
- *In a secondary proposal, St. Mark's would receive the same two parcels, but the Town would only receive approximately +/- 4 acres of the property at 36 Cordaville Road, with no additional funds changing hands. This proposal was set aside for the time being to concentrate on the larger transaction.*

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<sup>1</sup> St. Mark's did not do an appraisal of Cordaville Road. Instead, they adopted the number that the Assessor's Office was carrying on the property card for market value (\$4,721,400 – Land; \$414,500 – Building; Total of **\$5,135,900**) as the value that they would assign to the property. They assigned this value despite the parcel being zoned Residential B, while currently assigned a commercial valuation because of its present use.

2. Town's counter proposal:

- The Town receives the entire property at 36 Cordaville Road;
- St. Mark's receives the properties at 0 School Street, and 19-21 Main Street;
- St. Mark's receives the value of \$2,740,000 (difference between Town appraisals for the parcels);
- St. Mark's agrees to an annual PILOT donation of \$50,000 for 20 years as their donation towards a new Public Safety facility;
- St. Mark's will allow Police and Fire to remain in their existing facilities until the new facility is completed;
- The offsets result in a cash payment to St. Mark's of \$1,740,000.

3. St. Mark's counter proposal:

- The Town receives the entire property at 36 Cordaville Road;
- St. Mark's receives the properties at 0 School Street, and 19-21 Main Street;
- St. Mark's receives \$4.5 million in cash;
- The Town agrees to suspend current payments being made to the Town (est. \$40,000) for a period of 10 years;
- The Town will lease back the existing Police and Fire Stations at a cost of \$20,000/month, growing at the rate of 5% per annum. At the end of the lease term, the Town will demolish and remove all existing buildings;
- St. Mark's placed use restrictions on the property at 36 Cordaville Road;
- The Town will pay a brokerage fee of \$500,000 to McCall & Almy (St. Mark's appraiser) for services rendered in the transaction;

After receiving what was termed St. Mark's "final offer" the Town told St. Mark's that the negotiations were going in the wrong direction, McCall & Almy were an impediment to any future negotiations, and the Town could not accept their final offer. The Town told St. Mark's their suggestion on a land swap was not going to work, and therefore we needed to refocus our discussions on increasing the footprint at 19-21 Main Street.

Within days, St. Mark's called the Town and asked us not to walk away from the land swap idea. We told St. Mark's that the Selectmen could not in good faith bring their "final offer" to Town Meeting, and unless St. Mark's was willing to continue to negotiate, we needed to focus on increasing the size of the existing lot. The Town also told St. Mark's that McCall & Almy did not bring a helpful partner to the discussions, and that was the last time we saw McCall & Almy.

The Town and St. Mark's finally agreed in principle, subject to approval at Town Meeting, on a deal that included the following main points:

- The Town receives the entire property at 36 Cordaville Road;
- St. Mark's receives the properties at 0 School Street, and 19-21 Main Street;
- St. Mark's receives \$4.5 million in cash;
- St. Mark's would be fully responsible for the existing site conditions, including buildings, at 0 School Street and 19-21 Main Street;
- The Town would be fully responsible for the existing club house located at 36 Cordaville Road;
- The Town agrees to maintain at least 50% of the property at 36 Cordaville Road as open space in perpetuity;
- St. Mark's will allow the Town to remain in the existing Police and Fire Stations rent-free for a period of up to 36 months. After 36 months, the Town will pay \$10,000 per month to St. Mark's in rent;
- St. Mark's placed use restrictions on the property at 36 Cordaville Road, that the Town can only use it for "municipal purposes";
- The Town agrees to allow St. Mark's to apply any rollback taxes (est. \$310,000) toward demolition and remediation costs for the buildings at 19-21 Main Street.

On August 23, 2016, the Board of Selectmen scheduled an Executive Session and invited the Chairs of Planning Board, the Open Space Preservation Commission, the Historical Society, and Advisory to inform them of the preliminary negotiations. The feedback from those Chairs was positive and the Selectmen went forward with their negotiations. It was important to the Selectmen that it involve other Boards in Committees in the process, but the Board needed to keep the negotiations with St. Mark's in confidence while the negotiations were ongoing.

In September 2016, in response to "rumors" about the sale and subsequent exploding residential development of the golf course, Selectmen Rooney and Shea met with Latisquama Road residents to apprise them of the ongoing negotiations with St. Mark's School, and to disabuse them of the rumors.

The Purchase & Sale Agreement between the Town and St. Mark's School was signed on February 14, 2017. The Town held a number of public meetings and partnered with those interested in maintaining the golf course, those who objected to any change in the golf course, and those who did not believe a new Public Safety Facility was needed. The Town formed a Committee to study alternative uses for the golf course property in order to address residents' concerns about future development.

On March 8, 2017, a Special Town Meeting overwhelmingly approved \$27,129,500 for the land swap with St. Mark's School, and the engineering, design and construction of a new Public Safety Facility at 36 Cordaville Road. The article also placed a conservation restriction on the remainder of the 60-acre parcel not used for the new facility. At the annual town election in May, the voters approved the debt exclusion for the same amount. The passage of the Articles at Town Meeting and the approval of the debt exclusion at the ballot was the result of hundreds and hundreds of hours by the Town's Board of Selectmen.

As part of the P&S, there was a provision that allowed both St. Mark's and the Town to perform their "due diligence" on the parcels, of which said due diligence could allow either party to terminate the P&S. The original due diligence period expired on March 3, 2017, but was extended twice by mutual agreement. During this time, both parties performed Phase I 21E studies on the respective parcels. Based on the Phase I findings, which were not shared with the Town, the St. Mark's Trustees voted not to include 0 School Street in the transaction. Town Counsel was assured that the Phase I findings posed no liability for the Town. Thus, the purchase price was increased by \$150,000, which was the Town's appraised amount for the parcel (St. Mark's appraised value for the same was \$185,000). In addition, the quotes received by St. Mark's for the demolition and remediation of the existing Police and Fire buildings were significantly more than the value of the rollback taxes. This was due in part to the removal costs for the debris from the old High School that was buried beneath the ramp behind the Fire Station when the current Fire Station was constructed. Thus, the purchase price was increased by an additional \$299,000. An amendment to the P&S was executed on July 28, 2017 that adjusted the purchase price (\$4,949,000), and also included a provision that would allow St. Mark's to assign to the Town any current contracts pertaining to 36 Cordaville Road that were in effect at the time of the land transfer (i.e., any management agreements for the Golf Course).

In order to address this change in the P&S, the Finance Director has noted that an approved loan authorization exists that originated in 1998 for the purchase of real property. The authorization was initially for \$5M and was used for some minor school costs, amended in 2001 thru Town Meeting to have a conservation component, and used again during the acquisition of the Chestnut Hill property in 2006. A balance of \$2.6M remains for the authorization.

The Town has had Bond Counsel review this matter and they have concurred that the Town may use a portion of this balance towards the acquisition. The portion utilized cannot include the Public Safety Facility portion of the acquisition – or approximately

10% of the acquisition cost would not be able to be used due to the conservation language in the article.

On November 8, 2017, Governor Baker signed into law the special act requested by the Town for the P&S with St. Mark's.

On November 14, 2017, the Legislature overrode the Governor's veto on a \$100,000 earmark in the State's FY18 budget designated for the Southborough Public Safety Facility project. This was due to the diligent efforts of our Legislators and their staff. The Town will receive the funding when the Governor releases it.

Through Town Counsel, a survey of the entire 36 Cordaville Road parcel is being completed, as required for the closing. The closing is tentatively scheduled for the week of December 3, 2017.