



Wellfleet Shellfish Department



300 Main Street, Wellfleet, Massachusetts 02667

MEMORANDUM

DATE: March 21, 2018

TO: Town of Wellfleet Selectboard

RE: How Do You Like Them Apples (HDYLTA) Trust

Dear Selectboard Members:

The Wellfleet Shellfish Department supports the proposal submitted for your consideration for the town to purchase the intertidal and subtidal property along Indian Neck and around to Field Point and Blackfish Creek owned by the HDYLTA Trust.

There are approximately 24 shellfish farms on this property currently, and the rest of the property is a thriving area for wild commercial shellfish harvesting, both by hand and by boat. In addition, from October 1 to May 31, recreational shellfishermen also gather shellfish along these flats. We sell more than 150 commercial permits and more than 700 annual recreational permits each year.

Wellfleet's cultural and historical identity is defined by its wild shellfishing and shellfish farming. The character of the town is tied to the small, mom and pop farms and the entrepreneurial opportunity afforded to its commercial harvesters with its rich shellfish resources.

The laws of the Commonwealth of Massachusetts are clear in their preservation of the right to fish on intertidal and subtidal bottom below the mean high water mark and place the resources on this bottom and decisions regarding the disposition of aquaculture squarely in the realm of the public domain. Mass. General Law (MGL) Chapter 130 grants oversight of that public domain to each of the coastal towns in the state to do what it determines is in the best interests of its public. In doing so, the Commonwealth created home rule and helped protect these shellfish resources. In addition, MGL Chapter 130, Sections 57-68 provides a way for fishermen to make a living through aquaculture on the intertidal and subtidal bottom under each town's purview. Wellfleet's oversight of both wild harvest and aquaculture leases has served the town and its community members well for decades.

Mass. General Law does not intend the privatization of public intertidal bottom, but rather provides that it be held in trust for the public. We support continued public access whether for wild shellfishing or shellfish farming. Municipal approval is the first

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step in securing an aquaculture lease site, but the situation is complicated when an entity owns the bottom itself. The town has the authority (granted by Mass. General Law) to be the ultimate decision-maker on what happens on this land in perpetuity, but private ownership could change our cultural dynamics in the future.

MGL did not intend for grants to be “sold,” but instead provided that they be given back to the town to re-license. However, in the case of the HDYLTA Trust, they actually do own the bottom and have a right to sell it. And they could sell it to whatever entity they choose – from a local shellfisherman who currently farms on it to a Chinese aquaculture CEO that takes up a domicile in Wellfleet. The only recourse the town would have is that the corporation must meet the Eligibility Requirements of our Wellfleet Shellfishing Policy and Regulations in order to be granted a right to farm there.

In addition, and although we understand that this is not currently on the table, we would support the purchase of the entire parcel, including buying back the parcels that have already been sold and the parcels that the current owners own. This land should all be part of the public domain under the supervision of the town as set forth by MGL.

We do not believe that private ownership of intertidal bottom should ever be allowed in Wellfleet, in respect of the Mass. General Law, Chapter 130, Sections 57-68, and the public access that is guaranteed by its intent. If this is not an option, then we feel the town should enter into a memorandum of understanding about transfer of the privately-owned bottom in the future and at a minimum we should revise our regulations to protect our tradition of grant eligibility and leasing for the future.

We are not real estate or financial professionals, and we will certainly follow the will of the Selectboard, and continue to monitor and enforce town, state and federal regulations independent of any changes in ownership. However, the town has an opportunity to ensure that small family farms will be the future of Wellfleet and that large, out-of-town enterprises will not be able to monopolize Wellfleet’s productive shellfishing bottom. In the process, it can set a precedent for other municipalities.

This process is moving quickly and more research will need to be done before Town Meeting, however by purchasing this property, the town will guarantee this way of life for future generations, protect its resources and determine its own shellfishing destiny.

The department will continue to provide you with updates as we learn more. This is not our last contribution to this process. I am happy to answer any questions you may have.

Sincerely,



Nancy Civetta, Shellfish Constable