

**BOARD OF SELECTMEN MEETING  
MINUTES JULY 25, 2016  
APPROVED**

**BOS Members Present:** John G. Petropoulos, Chair; Joshua A. Degen, Vice Chair; Barry Pease, Clerk; Peter S. Cunningham, Member; Anna Eliot, Member

**Also Present:** Mark W. Haddad, Town Manager

Mr. Petropoulos called the meeting to order at 6:00pm and reviewed the agenda.

**ANNOUNCEMENTS**

Mr. Orcutt said that DEP through its Water Resource Commission has issued a severe drought advisory and watering has thus been limited to Saturday and Sundays only. This restriction may be limited to within the next couple of weeks even further. We are watching our wells very closely and will keep the Board and the public informed. Gardens can be hand watered as well as shrubs. Unlike grass that goes dormant when not watered, those things will die and need to be replaced.

Mr. Degen said he wanted to commend the Highway Department, Light Department, and Police and Fire Departments for the action they took during the high wind event we had. It was very well coordinated and they did a great job.

Mr. Petropoulos said that West Groton Water had the same water restriction.

**PUBLIC COMMENT PERIOD**

Mr. Harris said that there had been a couple of instances where meetings of the Board and School Committee had been posted and when he showed up to attend, no one was there. Mr. Petropoulos asked that when the Board was posted to attend meetings of other Boards that there be a notation that they are posted in case a quorum attends. Dr. Rodriguez said that the School Committee did send out notification that their meeting was cancelled. Mr. Pease pointed out that the school website was the official posting site not the Town's website.

**TOWN MANAGER'S REPORT**

Dr. Rodriguez said that she and Mr. Kubick were present to ask the Board delegate a member to serve on the Districts Sustainability Committee. The Board of Selectmen and Finance Committee would each choose a representative based on an updated vote of the Committee. The Committee will meet in the morning at least one a month for three hours. Members will also be required to serve on sub committees of the Sustainability Committee. She said that they were looking for someone who was going to be able to commit the time necessary to this Committee. She said that the Committee was looking for ways in which there were cost efficiencies and opportunities for revenue to support the district. She said that they would like to begin meeting in mid-August and would be a total of 11 members. Mr. Cunningham asked if there was a formal charge of the Committee. Mr. Kubick referenced the motion that was made by the School Committee. Mr. Kubick briefly discussed intentions for issuing an RFP for programmatic review. Mr. Degen said that he would be interested in serving but the time they were planning on meeting was not conducive to his schedule. Dr. Rodriguez said that just like the Town's Committee, there was more productivity in the morning as well as availability to have offices open for research. Mr. Petropoulos said that the Town's Committee was in little different in that having an external resource available to their meetings was not as important to them but understood the difference in complexities. He said that he agreed with Mr. Degen adding that the pool of candidates will be limited by the parameters of the meeting you set up. Dr. Rodriguez said that they could always adjust. Mr. Kevin Forsmo said that they had choose their Committee before they set up the time and day of the meeting. Ms. Eliot asked how this was advertised. Mr. Kubick said that it went out before the end of the school year and had five (5) individuals respond. Dr. Rodriguez said that she also posted it on her blog which was picked up by the media outlets. Mr. Degen said that one of them and/or the Town Manager should be on the Committee and not a

designee. Mr. Haddad said he would be happy to serve. Mr. Petropoulos said that he wasn't sure of his availability but would like to do it adding he was also serving on the Town's Committee. If they were to make a decision tonight, he would like to volunteer. Mr. Cunningham agreed that there should be synergy between the Sustainable Budget Committees adding that Mr. Petropoulos had the involvement on the Town's Committee. Ms. Eliot said she would suggest Mr. Haddad or Mr. Petropoulos adding that both were involved on the Town's Committee.

*Mr. Cunningham moved that the Board appoint Mr. Petropoulos to serve on the Groton Dunstable Regional School Budget Sustainability Committee. He added that in the event that Mr. Petropoulos is not available for a meeting, that Mr. Haddad attend in his place as their designee. Mr. Pease seconded the motion.*

Ms. Eliot asked to amend the motion to include that Mr. Haddad serve as the designee should Mr. Petropoulos not be able to attend a meeting. Dr. Rodriguez said that they always welcome Mr. Haddad adding that he was a great resource to have. Mr. Kubick said that it would be good to have continuity adding that Mr. Haddad was always welcome. Mr. Petropoulos said that Mr. Haddad would be kept in the loop.

*The motion carried unanimously.*

Mr. Haddad said that he sent out a spending freeze, as authorized by the Board, the week before to all departments adding that the departments had been doing a great job with it. He said that the next step in the budget process was the School Committee's meeting on Wednesday night which would dictate their next actions. Mr. Kubick said that the Budget and Finance Committee, a subcommittee of the School Committee, would be recommending to the School Committee that they proceed with the budget that had been approved at the Town Meetings.

### **GROTON SCHOOL SIDEWALK PROPOSAL – PUBLIC HEARING**

Mr. Haddad read the public hearing notice.

*Mr. Degen moved to open the public hearing. Mr. Cunningham seconded the motion. The motion carried unanimously.*

Mr. Haddad said that Mr. Collins was present on behalf of the Groton School. Mr. Collins said that the proposed sidewalks would be done in two phases adding that he was before them with Phase 1. He said that the plan would add an additional 2,200 sqft of sidewalk beginning near existing sidewalks on Farmers Row just before Peabody Street down to pole 27 near the daycare. He said that the Peabody Street intersection would be rationalized and the pole eliminated in the center of the street. He said that there would also be a slight change to one of the driveways leading into building and grounds. Mr. Collins said that Phase 2 would be brought to the Board in about a month. That phase would bring sidewalks all the way down Peabody Street onto old Ayer Road. He said that the nice things would be that there would be a complete loop of sidewalks if you were to begin at Town Hall. He said that they had proposed using brick pavers and granite for the crosswalks but because of frost heaving and possible damage to the plows, Mr. Delaney suggested using a synthetic brick. He said that each crosswalk would have a pedestrian activated crosswalk sign. He said that reason he was doing this in two phases was because the sidewalks he was proposing that night abutted all property fronted by Groton School. The second phase also has much more complicated engineering due to wetlands and lack of shoulders. Mr. Collins said that the Conservation Commission issued a negative determination on the first phase and he received a positive response from HDC adding that they may not like the change to the synthetic brick. Mr. Collins said that he would provide any necessary easements for sidewalks within the right of ways.

Mr. Cunningham said that this required the realignment of Peabody Street. Mr. Collins said that it did at its intersection. He said that the pole would also need to be relocated. Mr. Cunningham asked why the sidewalk was on the opposite side of Farmers Row. He said it was encouraging people to cross Farmers Row. Mr. Collins said that it made sense to have it on the proposed side as there was less going on with buildings and driveways. Mr. Cunningham said that it seemed most of the pedestrian traffic would be on the non-crosswalk side of the road. Mr. Collins said that he didn't think this would benefit the students as much as it would benefit the residents of Groton. Mr. Cunningham said that he supported this. It added to safe streets and to what the residents of Groton would like to see. He thanked Groton School for this proposal. Mr. Collins added that it was a \$2.5M project that Groton School would be paying for from start to finish. Mr. Pease asked for confirmation that that none of the property was owned by anyone but Groton School in phase one. Mr. Collins said that was correct. Mr. Degen asked if the synthetic brick was stamped asphalt. Mr. Collins said that he thought so. Mr. Degen asked who was responsible for long term maintenance of the crosswalks. Mr. Collins said he tended to believe, like Lawrence Academy, that Groton School would be responsible for it. Mr. Degen asked if it would be okay to make approval contingent on Groton School being responsible for maintenance as required by DPW Director. Mr. Collins said that would not be a problem. Mr. Degen said he thought there were too many crosswalks and asked if they were all going to be lighted. Mr. Collins said that they would all be lighted. Mr. Degen said that if that was in fact the case, he understood why there would be one along Peabody Street but asked instead of linking each gate they could eliminate two out of the four crosswalks. Mr. Collins said that a sidewalk would be needed on the opposite side of the road to link to a crosswalk if you didn't have a crosswalk at each gate. He said that the safety consultant said that one crosswalk was needed for each gate. Mr. Degen said he understood. Mr. Degen asked if they were to approve Phase 1, what would happen if the project were to become too costly or they were not able to get Conservation approval for the second phase. Mr. Collins said that the intent was still to build both adding that Groton committed to both Phases. Mr. Degen asked if the wall that was proposed to be built on Higley Street, if that was within the right of way. Mr. Collins said that all plans he had seen showed it in the right of way and not on Gilson property. Mr. Degen asked why they would continue the sidewalk down Peabody Street knowing that Phase 2 was not approved yet. Mr. Collins said that there were a couple of faculty residents down there. He said if something were to go wrong with Phase 2, he would be back before the Board to extend it a little bit. He had faith he could get it approved. Ms. Eliot asked if there were plans to have the Town Engineer look at the plans. Mr. Collins said that occurred only with subdivision plans. Mr. Haddad said that there were no plans to have an engineer look at it at this time. Mr. Collins said they could if they wished adding that these plans were stamped by an engineer. She said she was concerned that it was designed to Town standards. Ms. Eliot said that she was used to working with engineers and was just raising a question. Mr. Haddad asked who would be paying for this adding he did not have a budget line item to pay for this. Mr. Collins said that he could raise the question to Groton School but did not have authority to okay it on the behalf. Mr. Cunningham asked if it would be sufficient to have Mr. Delaney sit down with the engineers that developed the plans. Ms. Eliot said it didn't appear that the plan called for curbing. Mr. Collins said that was correct adding that there would be grass planting to separate it from the road. Mr. Petropoulos asked if it was possible to install pervious material. Mr. Collins said that he thought it was possible but wasn't sure he had seen it for a sidewalk. Mr. Petropoulos said he was asking just as an aesthetics viewpoint. Mr. Petropoulos asked us if this would help us with our complete street initiative. Mr. Petropoulos asked if he had received any feedback from the community. Mr. Collins said that he intended to get copies of the plans out to abutters on Peabody Street for Phase 2 but had not received any feedback as of yet. He said he thought it would be positive feedback. Mr. Petropoulos asked when he needed their vote. Mr. Collins said that he was hoping to have it that night so that they could go to 100% design phase but if they needed time he could work out what he needed to until then. Mr. Petropoulos asked who the owner of the sidewalks would be when it came to maintenance. Mr. Haddad said it would be the Town. Mr. Petropoulos asked if there was an opportunity to possibly have the speed limit signs removed at the same time as the install of the sidewalks. Mr. Collins said it would be ill advised adding that the speed signs had really worked well. Since they had been installed there had been less incidents on the road and people have slowed down. Ms. Eliot said that the solar and other boxes could be done without. Mr. Petropoulos asked that

Mr. Collins come back with ways in which some of the sidewalk “clutter” could be reduced such as the number of signs adding that safety was important. Mr. Petropoulos said he was tremendously appreciative of what Groton School was contributing. Mr. Pease asked if all the sidewalks prompted a change in the speed limit. Mr. Haddad said he could find out the answer to that. Mr. Pease asked who controlled the speed limit on that road. Mr. Haddad said that the Board did adding there was a set of standards put forth by Mass Highway but wasn’t sure if crosswalks fell into that. Mr. Cunningham said that despite all this he wanted to make sure the message of how appreciative they were of this as received and that they didn’t try to micromanage this too much. Mr. Collins asked about coming back on the 22<sup>nd</sup> and in the meantime schedule a meeting with Nitsch Engineering. Mr. Haddad said that they might have a quorum issue on the 22<sup>nd</sup>. They discussed trying for August 8<sup>th</sup> instead. Mr. Collins was in agreement. Mr. Degen asked Mr. Collins to let him know when the meeting with Nitsch would be scheduled for so that he could attend. Mr. Petropoulos asked Mr. Collins to bring with him the next time some reports showing the speed signs working. There was a brief discussion of whether the width of Phase 2 would meet ADA requirements. Mr. Collins said that they had looked at that already but couldn’t remember what it was. An abutter on Peabody Street said that he was looking to see if he could get a copy of the plans to see what would be installed adding he was all for this project. Mr. Collins said that he would be supplying all abutters with a copy of the plans and a letter from him about the project.

*Mr. Degen moved to continue the public hearing to August 8, 2016 at 6:15pm. Mr. Cunningham seconded the motion. The motion carried unanimously.*

### **TOWN MANAGER’S REPORT**

1. Mr. Kevin Forsmo was present as Chair of the Budget Sustainability Committee. He said that they had continued to refine their five (5) year budget model; were in the process of scheduling a time to meet with the department heads to discuss their assumptions on sustainability thus far and their process and make it available to all town employees; made preliminary examination of revenue and expense categories and started to collect recommendations to go into the report. He said that he volunteered to write the report and had started that. They could be putting the meat of the report together in the next month. He said that their next steps was to put together their final report to the Board, update their district assumptions to the five year projections, and present initial findings to all town employees. Ms. Eliot asked if the Town’s report could be provided to the District so that they can see what the Town had done and see if they want to follow along the same lines for continuity. Mr. Forsmo said that he had reached out to the District and requested a meeting with them so that they could get updated numbers and transfer as much info as they want. Ms. Eliot said that all the work this Committee had done might be helpful to them.

Mr. Petropoulos reviewed some basic assumptions they had found in terms of the municipal budget. He said that salaries and wages had historically gone up 3.5% per year; that benefits grow 6.5% per year; and that expenses only grow 1.0% per year and might be kind of low. He said that revenues were growing at 3.4% per year. He said that salaries and wages made up 51.8% of their FY17 budget and benefits made up 24.1% of the budget. He said that if you were to add that all up, salaries, wages, pension and health benefits made up 75.9% of the Town’s budget. Mr. Petropoulos said that they had put together a chart that showed what would happen if benefits and salaries and wages continued to grow at the current percentages over the next 20 years with revenues continuing to grow at 3.4%. He said that at the end of 20 years, they would have no money left to buy things like salt, plow blades, etc. He said that they would be only funding salaries and benefits. Mr. Petropoulos said that this didn’t mean that salaries and benefits were out of control, it just meant that with what they had currently, they could not continue on this path. He added that they had only started to skim the surface of this. Mr. Degen asked if they had done an analysis where they make employee health insurance contribution 50% over the course of the next X amount of years and what impact it will have on the numbers. Mr. Haddad said that he would be making a presentation about that that at their meeting that

coming Thursday. Mr. Petropoulos said that for the moment they had been concentrating on defining the problem(s), not solutions just yet. Mr. Petropoulos said that even though that may be a solution, it was a short term solution because growth continued at the same rate. Mr. Pease said that he thought it was great they were trying to define what was going on. He said he thought it was a great start and was looking forward to seeing their final report.

Mr. Forsmo said that he wanted to thank Mr. Haddad, Ms. Dufresne and the Finance Team. He said that the Committee gives them homework each week and come back with more than they ask for each week.

2. Mr. Haddad said that the Board reviewed two policies and requested that he obtain an opinion from Town Counsel on the proposed wording and legality. He said that the first policy had to do with access to Town Counsel and whether or not the entire Board of Selectmen was entitled to receive every opinion from Counsel. Mr. Haddad said that he provided the Board with that opinion but in essence Town Counsel works for the Board and you are entitled to all information unless you are the subject of that communication. Mr. Haddad said that the policy the Board had before them was just that adding they would continue along the process in which they had been operating.

Mr. Haddad said that the second policy was how to address a quorum of the Board attending a meeting in which the Selectmen are not posted. He said that the Chairman of the Board had drafted a proposed policy to address this and, as requested, he sent it to Town Counsel for review. Mr. Haddad said that Town Counsel recommended against the policy for a number of reasons. He said that in addition to Counsel's opinion, the Town Clerk contacted the Attorney General's Office, who is responsible for enforcing the Open Meeting Law. He said that the Attorney General offered the following opinion:

*"A quorum of one public body, not posted for a meeting, attending the meeting of a second public body which is posted, is allowed using the following Open Meeting Law rules. Non-posted members may (a) may participate in the posted meeting as a member of the public and must sit in the audience as a member of the public; (b) must not be treated specially in terms of recognition to speak or preferred seating (e.g. seating at the posted meeting's table); (c) may not deliberate, meaning may not discuss amongst each other; (d) may not present on behalf of their board; and, (e) may speak to an issue even if it is under the purview of their board, as long as they are expressing their opinion to the posted meeting and the public at large."*

Mr. Haddad said that it was not good practice to have more than two (2) Selectmen in the same room at any given time, but it was not illegal to do it provided you follow the rules outlined. Mr. Degen said that he felt the same as he did before. He said that for all intent and purposes, if you had one Selectmen expressing an opinion when there is a quorum present, it was deliberating. He said he thought they were going down a rat hole and needed to be careful and mindful of that further citing a case that had occurred. Mr. Petropoulos said that that exact case was brought forward to the AG's office and they said that case was not a violation. Ms. Eliot said that she concurred with the AG. She asked at what point to they vote on a designee to attend a meeting adding there was no vote reflected in the minutes. Mr. Petropoulos asked if they could discuss the policy before they talk about specific instances. Mr. Cunningham said that if they knew a quorum was interested in attending a specific meeting, they could post a meeting. He said that there would be the occasion where that would not be the case. Mr. Petropoulos said that he was surprised by the opinion but was glad they were not violating the law. Mr. Haddad said that they would make an effort to post meetings when they were aware. Mr. Petropoulos said they were working hard to comply which was a good thing. Mr. Pease said that he was always very leery about OML violations and to therefore make sure they were following the law. He said that he had been in situations where Selectmen would talk amongst each other in the back of the room at an unposted meeting which could be seen as a deliberation. He

challenged whether or not the Board could meet the AG's guidelines. He said that there would be so many restrictions they would have to pose on themselves something he was willing to do. He said that they are often asked to provide their opinion as Selectmen. He said that means they are not present as a member of the public. Mr. Petropoulos said that the opinion didn't say they couldn't be called on as a Selectmen. He said he encouraged Mr. Pease to contact the AG's office for further clarification if he needed it. Mr. Pease said that he read the opinion several times and just wanted to caution them. He said that he agreed with the policy and didn't think they needed to do anything but thought that they should proceed with caution to that they don't get to lax and break the law. Mr. Haddad said that they would do their best to post when they are aware. Mr. Cunningham said that he agreed adding that the public also had expectations that the Board be informed in all town affairs. He said that they would want us to attend meetings they may not be able to so that we are informed. Ms. Eliot said that there was also an opportunity to take what they are hearing at these meetings and bring it back to one of their future agendas to deliberate further.

Mr. Degen said that Ms. Eliot brought up an issue that he wanted to discuss and asked the Chair if he wanted to let it go. Mr. Petropoulos said that he would like to let it go. He said it was debating history. Mr. Degen argued it was selective memory.

3. Mr. Haddad said that they we have reached out to their insurance carrier with regard to the issues we were having at Fitch's Bridge. He said that the insurance company was planning on making a site visit later this summer to review the location and related issues. He said that in the meantime, they had posted signs at Fitch's Bridge that stated the hours and that jumping off the bridge and alcoholic beverages were prohibited. He said that the signs were up. Mr. Degen said that there were kids jumping off the bridge that day. Ms. Eliot said that they do at their own risk. Mr. Cunningham asked what had been done in other communities. Mr. Haddad said that they posted signs which covered the Town.
4. Mr. Haddad said that it was that time of year (and apologized for being two (2) weeks behind schedule on this) for the Board to call for and open the Warrant for the 2016 Fall Town Meeting. He said that schedule called for the Warrant to be opened that night and closed on August 31, 2016. He said that the warrant would be reviewed on September 6<sup>th</sup> and the public hearing with the Board and the Finance Committee would be held on the 12<sup>th</sup>. He said Town Meeting would be on Monday, October 17<sup>th</sup>.

*Mr. Cunningham moved to open the Warrant for the 2016 Fall Town Meeting that night, Monday, July 25<sup>th</sup>. Mr. Degen seconded the motion. The motion carried unanimously.*

*Mr. Cunningham moved to close the Warrant on Wednesday, August 31, 2016 at close of business. Mr. Degen seconded the motion. The motion carried unanimously.*

Mr. Haddad said that as directed by the Board at their last meeting, Selectmen Petropoulos, Degen and he had met with Kevin Kelly and Kevin Lindemer to discuss the Light Department's surplus property on Station Avenue. During that meeting, it was determined that the best course of action would be to issue the Request for Proposals to determine any interest in the property. He said that they discussed a wide range of issues related to the RFP. He said that the Light Departments goal was to recoup the \$300K they spent on the Downes Property. He said that they were looking at other things like potential land swaps. He said that the intent was to issue the RFP and see what type of responses they get. He said that there was no deadline for disposing of this this property adding they could take their time. He added that Town Meeting would ultimately have the final say. Mr. Petropoulos went on to explain some of the visions they discussed in their meeting that would coincide with what the Selectmen envisioned and what would help GELD recuperate their investment. Mr. Cunningham asked if they had talked about potential land swaps. Mr. Petropoulos said that they had. Ms. Eliot said

that they had not discussed the Court Street neighborhood and she thought they should be involved in the discussion. She wanted to make sure notice was sent to them so that they could be present and provide any input. Mr. Degen said that step one would be to see what they could do with the parcel and who bids on it. He said that the Selectmen could accept or reject any bids at which point they can start discussing their vision further. Mr. Russ Harris said that the Selectmen had an opportunity with the property to look at the traffic problems that 119 has by redirecting traffic down to Broadmeadow Road via Station Ave and a chance to look at potential economic development. Mr. Haddad pointed out that there were wetland issues there that they needed to keep in mind. Mr. Degen said that he had some good ideas but there were a couple of issues a Mr. Haddad had pointed out. He said that Broadmeadow was made a one-way in one area due to an increase in traffic concerns. He said to throw more traffic onto it had to be considered. Mr. Degen said that Broadmeadow was also a floating road with timbers holding it up and flooded out during certain times of the year which also needed to be taken into consideration. Mr. Cunningham said that they would know more once the RFP was issued and responses were received.

### **MINUTES**

Mr. Haddad said that the Board had asked for the Executive Session minutes to be brought back pending some revisions. He said that he would like to see the Board release all Executive Session minutes relative to the Police Chief's contract negotiations and didn't want to forget to have them do that.

*Mr. Pease moved to approve the Executive Session meeting minutes of June 13, 2016, June 22, 2016 as amended, June 28, 2016 and May 2, 2016 and release them except for the joint Executive Session meeting minutes with the Finance Committee; release pending their approval and release. Mr. Cunningham seconded the motion. The motion carried unanimously.*

*Mr. Cunningham moved to approve the Regular Session meeting minutes of June 28, 2016. Mr. Pease seconded the motion. The motion carried unanimously.*

Mr. Pease said that people would find that there were a lot of opportunities to have the final vote be less than a 3-2 vote. He said it kind of breaks his heart to see that they couldn't come to some sort of a 4-1 or unanimous agreement on this contract. He said he wanted to thank Mr. Degen for being as flexible as he was able to be. Up until the last minute with an amendment to a motion there was an opportunity to have four on board. He said he was sorry that that happened adding he was happy to discuss it further with anyone. He encouraged people to read the minutes. He said that there were reasons why that couldn't happen and why there are things that are broken on this Board. He said that he hoped moving forward they could get past those things and become more collaborative and less combative. Mr. Cunningham said that at the end of the day they made the right decision and heard that from the community also. He believed that everyone would see in reading the minutes that everyone had confidence in the job the Police Chief had been doing but struggled with the fiscal constraints facing them. He said he thought the Chief understood he had the full support of the Board and thought that was clear in the minutes. Mr. Petropoulos said that he thought that the minutes were clear that there was a distinction between the job the Chief had done and the support for him and the fiscal constraints the Board needed to consider.

### **Liaison Reports**

Mr. Pease said that he would be at the Charter Review Committee meeting on Wednesday night.

Mr. Cunningham said that the COA Feasibility Study Committee was meeting on Friday morning.

*Mr. Petropoulos adjourned the meeting at 8:06pm.*

Approved: \_\_\_\_\_  
Barry Pease, Clerk

\_\_\_\_\_ respectfully submitted,  
Dawn Dunbar, Executive Assistant

Date Approved: 9/6/16