

**BOARD OF SELECTMEN MEETING  
MINUTES MAY 31, 2017  
APPROVED**

**BOS Members Present:** Joshua A. Degen, Chair; Barry A. Pease, Vice Chair; Alison S. Manugian, Clerk; John G. Petropoulos, Member; Rebecca H. Pine, Member

**Also Present:** Mark W. Haddad, Town Manager; Dawn Dunbar, Executive Assistant

Mr. Degen called the meeting to order at 7:00pm and reviewed the agenda.

**ANNOUNCEMENTS**

Mr. Haddad said that a question had been raised about an employee camp discount policy that was put in place over eight years ago by the previous General Manager of the Country Club when the Club was run by the Country Club Authority. Mr. Haddad said that he had cancelled the policy based on the concern that was raised effective immediately. Mr. Degen asked if anyone had signed up to send their children to the summer camp. Mr. Haddad answered "yes." Ms. Manugian asked if they could make it effective next summer because people had signed up already. Mr. Haddad said that the Board could choose to do that. Mr. Pease said that because it was a tax benefit he wanted to make sure they were not breaking the law. Ms. Manugian said she would be okay with holding off on any decisions until that question was answered. Mr. Pease said that he was fine with keeping the benefit if that's what the Board chose to do but thought they should make sure they understood the tax issues if any. Ms. Pine said that no one had said anything yet about considering keeping the benefit in place. Mr. Degen said he suggested a grace period for those that had already signed up. Mr. Robertson said that if the Board was going to keep it in place they should keep it open for this year, and look into the tax impact in case they had more employees that wanted to sign up. Ms. Pine suggested that before they vote on this, they should see what other benefits there were. She suggested making the cut off to sign up July 1. Mr. Pease asked if they had a policy to review employee benefits. Mr. Degen said it was done on an annual basis. Mr. Haddad asked if they were talking about contractual benefits or non-contractual benefits. Ms. Pine said that she was talking about things that were not known adding this was a fairly substantial benefit. Mr. Petropoulos said he was not prepared to vote on something that was not on their agenda. Ms. Manugian said that their vote would be continuing a practice that was being done already. She said that if they took this benefit away now, folks might be forced to scramble to find childcare for their children. Mr. Haddad said that his suggestion would be to eliminate this practice effective July 1, 2017 and anyone that signed up before that date would be awarded the benefit. Mr. Pease recommend that they delay a vote until next week. The Board was in agreement.

Mr. Pease said that he attended the Middle School chorus concert. He said that there was really good music and commented on the amazing group of kids they had. Ms. Manugian said that the band concert would be the next night.

**PUBLIC COMMENT PERIOD**

Mr. Mike Rasmussen called the posted Economic Development Committee meeting to order at 7:13pm.

**TOWN MANAGER'S REPORT**

1. Mr. Haddad said that the Treasurer had requested that the Board consider voting that the max life expectancy on the fire truck to be purchased, that was approved at the recent Town Meeting for \$995K, be for 20 years. He said that this was needed in order to be able to bond the purchase. Mr. Haddad said that they would probably only bond the purchase for 10 years but he requested that they vote that the life expectancy be 20 years.

*Ms. Manugian moved that the Board vote that the max useful life of the fire truck as outlined be for 20 years. Ms. Pine seconded the motion. The motion carried unanimously.*

2. Mr. Haddad said that he scheduled time on the agenda for the Board to review and discuss the proposal submitted by the Friends of Prescott to lease and operate the Prescott School as directed by the Board at their previous meeting. Mr. Haddad said that he provided the Board with Town Counsel's response to their questions.

**Question #1: Can you advise the Board as to the legality and advisability of accepting the RFP proposal when the terms are so dramatically different from the RFP?**

*Town Counsel Response: While I do not have the particulars of the Friends of Prescott proposal, when a contract is awarded based on a proposal that differs substantially from the applicable RFP there is the possibility that someone could challenge that award. The RFP gives the Board of Selectmen the right to waive compliance with, or change, terms or conditions (section VI.4); however, If the ultimate lease places a much lower level of obligation on the part of the lessee that could be the basis for others to object, the argument being that if they had known that RFP conditions could or would be modified to*

*such an extent they also would have submitted a proposal. A change of award criteria or lease standards could raise the question of equal opportunity and fairness for prospective proposers, which is a basic principle of public procurement.*

Mr. Haddad said that the Board could negotiate a change but Town Counsel advised that there could be a fairness issue if they did. Mr. Petropoulos said he recalled that there was language in the RFP that they could make some changes. Ms. Manugian said she thought they were now talking about leasing a smaller space than advertised for adding that that kind of change concerned her.

**Question #2: Can the Board of Selectmen immediately negotiate a lease agreement with the Friends of Prescott for a portion of the Prescott School for a period of 2 to 5 years (is Town Meeting Approval required)?**

*Town Counsel Response: I take this to be a question of making a lease arrangement separate, or different, from the scope of lease contemplated by the RFP. The law does allow for the leasing of buildings without a Town Meeting vote. Section 3 of G.L. c. 40 provides that a town "may by its selectmen let or lease for not more than 30 years, on such terms as the selectmen determine, a public building or part thereof, except schoolhouses in actual use as such." (There is some history with this property, including a Probate Court cy pres petition and order regarding permitted uses, so we will want to review that to ensure whatever action taken is consistent with applicable conditions and restrictions.) If the Board wishes to act outside the scope of the RFP, it would, in my opinion, need to take formal action to cancel the RFP and state its intention to pursue a different avenue. In the alternative, the Board could cancel the RFP and issue a new request for proposals, which addresses some of the concerns that have arisen during the current process.*

Mr. Haddad said that the Board could let or lease the building without going to Town Meeting for a vote. He said that the Board could act outside of the RFP and negotiate a separate lease after cancelling the RFP. Mr. Petropoulos said that they wouldn't in his opinion reject the RFP but instead cancel it.

**Question #3: What is the correct process forward toward the goal of leasing space to the Friends of Prescott, specifically regarding the un-awarded RFP, and specifically regarding any posting or advertising requirements?**

*Town Counsel's Response: If the Board wishes to enter into a lease outside of the RFP process, I would recommend that in addition to cancelling the RFP, as referenced in the item 2 response above, the Board make a public statement regarding the RFP process and take a vote to implement the different approach. It may also want to entertain public comment or discussion on the issue, given the longstanding nature of the present RFP process. The matter of cancellation and a new lease approach should all be put on a meeting agenda for discussion and a vote.*

Mr. Haddad suggested that if this is what the Board choose to do, that it be added to a future agenda for more discussion. He said he would also suggest that they invite Groton Dunstable Regional to the same meeting as a separate tenant. Mr. Petropoulos said he didn't think it made sense to bring both lessees into the same meeting adding they should negotiate separately. Mr. Haddad said that this would not be done in a public meeting apologizing for not being clear. Mr. Petropoulos agreed with getting everyone in the room for a non-public meeting.

**Question #4: Do the Selectmen have to take action on the RFP, specifically, do they have to formally reject the RFP if they don't award the RFP to the Friends of Prescott?**

*Town Counsel's Response: In my view, the Board may decide not to award a lease to the Friends of Prescott without formally terminating or cancelling the RFP. That action, though, will have the practical effect of ending the RFP process. Whatever action the Board wishes to take, it should take a formal vote to record its intention, e.g., a vote not to award any lease in connection with the RFP process. Section VI.4 of the RFP provides that the Board may reject any or all proposals, or withdraw the RFP, or negotiate with one or more proposers.*

Mr. Pease said that the new regional agreement had an onus that there be an extension in the new lease. He said that he also asked whether the regional agreement excluded them from charging back utilities from the district. The answer was no. He said that he asked if while they had a lease with the District, could they sell the building. The answer was that the Town could sell the building at any time. He said that provisions would need be included to handle that in case it happened. Mr. Degen mentioned a memo, dated October 26, 2016, which stated the Town's or anyone's ability to charge the District rent. Mr. Haddad said that when the proposal was submitted by the Friends in response to the RFP, he, Mr. Sheldon and Ms. Nilsson Ripps reviewed the proposal to see if it met the terms outlined in the RFP. He said that at that time, they said it was a highly advantageous proposal but since they learned that they were unable to charge the District rent, he thought that was a substantial enough change to the proposal and would have reviewed it differently knowing that. Mr. Degen asked what amount the Friends was going to charge the District. Ms. Jennings said \$60K. Mr. Petropoulos said that he didn't think that having the District as a tenant was a requirement. He said that having the District as a tenant was below market rate and thought they could dispense with escalation as being viable. Mr. Haddad said that escalation was not important adding that the space was not available for market rare rent if the District wanted to stay there. Mr. Petropoulos said that they were not required to lease to

the District. Mr. Haddad said that the District had a \$30K line item in their original budget to relocate if they chose not to stay in the building but it had been taken out to help with budget constraints. Mr. Haddad thought the Board, at a minimum, had a moral obligation to lease to the District for at least one year. Mr. Petropoulos agreed adding they shouldn't be scared with an escalation factor.

Mr. Pease said that he had spoken to representatives of the Friends at some length adding they had talked through the realities of the situation. He said that he was against this plan, to which they (the Friends) informed him wasn't their plan, but what had been drafted by the Municipal Building Committee for Prescott School. Mr. Pease said that the pathway moving forward should be to form a committee that worked out what the business plan was going to be adding that a business plan was not asked for in the RFP. Mr. Pease presented a proposal for the Board to consider. The proposal was to form a committee, the Prescott School Development Committee whose principal objective was to implement a two-phase building plan. Mr. Pease reviewed a committee charge that he had drafted. He added that he thought the Committee should be a five-member committee made up of a Selectman or their designee, a Finance Committee member or their designee, a member at large, a member of the Friends and a member of the School Committee. Mr. Pease also thought as part of this, they should cancel the RFP and let this new Committee work out the lease agreements. Ms. Pine said she was not convinced that cancelling the RFP was necessary or needed at this time. Mr. Easom said that if Friends was not able to collect rent, the only thing that would change in their proposal was that they would have to fundraise or find other ways to make up those costs. He said that their break-even date would change. Mr. Degen said that the last discussion he recalled was for Friends to lease four classrooms, equaling about 25% of the building. He asked how they could pay the utilities, maintenance, etc. where the District was assuming 100% of the costs right now. Ms. Jennings said it was bigger than a square footage issue adding they could work on a co-lease where they would share costs. She said that they had ideas on how they could work with the District on these things. Mr. Petropoulos said that when they had initial discussions with the School Committee, they indicated they would likely only be there for two years. Mr. Haddad said that one member of the School Committee had said that. Ms. Pine asked if the Friends had an opinion on awarding the RFP vs. cancelling the RFP. Ms. Jennings said that they had not been made privy to the legal opinions. She said that they have had to sit for the last 180 days on the original proposal while other factors were worked out. Ms. Jennings referenced a couple of sections of the RFP adding they had interpreted these things to mean the RFP could be modified with them.

Ms. Pine said it was her opinion that the Board needed to let the Friends know if they were going to go with their proposal or not. She said she didn't see why they couldn't award the RFP to them adding it would take the uncertainty out of this. Mr. Petropoulos said that they had taken the vote at Town Meeting and work done by the appointed building committee and been provided with a recommendation. He said that as an advisory committee, they had come back with their advice and the Board accepted it and put out an RFP because of it. He said that Town Counsel's opinion was important and if they were going to be changing this RFP too much they should cancel this RFP and negotiate two separate leases. Mr. Degen said that he could not vote in favor of the Friends RFP but would vote in favor of extending a lease to them for a nominal fee. He thought they needed time to get their feet wet and work things out. Mr. Degen said he liked the idea of putting together a committee as suggested by Mr. Pease adding they needed to create economic viability. Ms. Pine said that the committee Mr. Pease suggested forming was part of the plan put together by the Municipal Building Committee. Mr. Degen said that the Selectmen would be the ones negotiating the leases with the Friends and the District, not a committee. Mr. Haddad said that his recommendation was to designate two BOS members to work with him to negotiate the leases. Ms. Jennings said that the Friends was anxious to get into the building to begin working on their plans for the fall adding that a lease would need to be wrapped up by the end of June in order for that to work. Mr. Degen saw no issue with the leases being done by the end of June.

*Mr. Petropoulos moved that they appoint two selectmen to work with the Town Manager to negotiate a lease with GDRSD and the Friends of Prescott. Ms. Pine seconded the motion.*

Mr. Haddad said that by taking this action, the Board was effectively cancelling the RFP as per Town Counsel's opinion. Ms. Pine asked if the RFP could be held in abeyance until leases were negotiated. Mr. Haddad said that the Friends would have to submit something in writing to that effect. Mr. Robertson said he thought they should add the Finance Committee representative to the Committee discussed adding that the Finance Committee should also be involved in the lease negotiations. Mr. Robertson also thought that a longer term lease would be more beneficial.

*Mr. Petropoulos amended his motion to include that a member of the Finance Committee be included in the lease negotiations. Mr. Pease seconded the amendment. The amendment carried unanimously.*

Ms. Ann Whortman said that the Board was selling themselves short adding that new things kept coming to light. She thought that they needed a vision and didn't think the Friends could develop long term programs without a longer-term lease. Mr. Greg Sheldon said that he came there that night to argue that the Board had all the flexibility as was suggested by Town Counsel. He said that if the Board accepted the RFP that night, it would send a message to the Friends.

Mr. Mike Rasmussen said that the Economic Development Committee had submitted a letter to the Board outlining their concerns. He said that this was without a doubt the most critical asset in town for retail space. He said that if someone like Evans were interested in a long-term lease or ability to purchase of the building, the EDC believed the Town would be better served by a long-term lease and something the Town didn't have to manage. Mr. Degen said he understood where the EDC was coming from adding that Evans did not respond to the RFP. He said that the Friends had been working on this for a long time and to not take their efforts into consideration in terms of the lease also meant that they were not taking the will of the community into play.

*Mr. Pease moved to withdraw the RFP for the lease/sale of Prescott School. Ms. Manugian seconded the motion.*

Ms. Pine said she was concerned with cancelling the RFP before voting to enter into negotiations with the Friends on a lease. Mr. Petropoulos said he thought Mr. Pease wanted to see the slate wiped clean but understood Ms. Pine's concern about moving forward. Mr. Degen agreed with getting this cleaned up.

*Mr. Degen called for a vote on the motion to withdraw the RFP. The motion carried 4-1 with Ms. Pine opposed.*

Mr. Degen moved the discussion back to Mr. Petropoulos's motion on the negotiations. He said that negotiations would be done by Mr. Haddad, 2 Board of Selectmen members, a Finance Committee member.

*Ms. Manugian amended the motion to add that the lease be for up to 2 years. After a brief discussion on members providing input into the terms, Ms. Manugian withdrew her amendment.*

*The motion made by Mr. Petropoulos, seconded by Ms. Pine and as outlined by Mr. Degen carried unanimously.*

Ms. Pine, Mr. Petropoulos and Mr. Degen all expressed interest in negotiating for the Board. Ms. Manugian was also interested. Mr. Pease supported Ms. Manugian adding that she had professional lease negotiating experience. Mr. Degen said he would cede his position to Ms. Manugian. Ms. Pine said she was not in favor of that adding she could argue her position on this. Mr. Haddad said that Mr. Petropoulos and Mr. Degen had been very much involved in this process from the start. Ms. Manugian asked if they could submit comments to the Town Manager on this prior to finalizing the lease. The Board agreed. Mr. Degen and Mr. Petropoulos would represent the Board. Mr. Robertson was asked to sit as the Finance Committee member in an effort to start the process quickly.

*Mr. Pease moved that they form the Prescott Building Committee and expand the Committee to 7 members.*

There was a brief discussion on the makeup of the Committee. Ms. Eliot suggested that there be someone on the Committee with real estate management background. Mr. Degen agreed with the suggestion.

A Resident asked if Ms. Manugian could be impartial. Ms. Manugian said that she had concerns but wanted to see the Friends succeed. She said that the Town had not done a good job managing buildings and wasn't completely sure why they were creating another layer. Mr. Haddad said he thought the Board should table this discussion for that night adding there was not urgency on this like there was a lease. He said that the members were just seeing this charge for the first time and needed additional time to read it. The Board agreed.

3. Mr. Haddad said that as the Board had requested, he provided them with an updated Zoning Map to determine which zones in Town allowed for medical marijuana facilities. Mr. Petropoulos asked if a simpler map could be made just showing those location where a dispensary could be placed according to the bylaws. Mr. Haddad said he would have one for the next meeting.
4. Mr. Haddad said that it was time to choose liaison assignments for the next year. There was a brief discussion on the difference between a liaison and being an appointed representative to a committee.
  - Police – Mr. Pease and Mr. Petropoulos
  - Fire – Mr. Pease
  - Board of Health – Mr. Pease

- Planning Board - Ms. Manugian and Mr. Pease
- Zoning - Ms. Manugian and Mr. Degen
- Conservation Commission – Ms. Pine and Mr. Degen
- Building – Mr. Degen
- CPC – Ms. Pine
- GDRSD – Mr. Degen and Mr. Petropoulos
- Nashoba Tech – Mr. Petropoulos and Mr. Pease
- Highway – Mr. Degen
- Water – Mr. Petropoulos
- Sewer – Mr. Pease
- Groton Electric Light – Mr. Petropoulos and Ms. Pine
- West Groton Water – Mr. Petropoulos
- Council on Aging – Mr. Degen
- Country Club – Ms. Manugian and Mr. Petropoulos
- Park Department – Ms. Pine
- Library – Mr. Pease
- Tax Collector/Treasurer – Mr. Petropoulos
- Assessors – Mr. Pease
- Accountant - Ms. Manugian
- Finance Committee – Mr. Pease and Mr. Petropoulos
- Human Resources – Mr. Pease
- IT/Cable – Mr. Pease
- MRPC - David Manugian for the Planning Board and Mr. Degen
- MJTC – David Manugian for the Planning Board and Mr. Degen
- MPO – Mr. Petropoulos
- Affordable Housing – Mr. Degen and Mr. Petropoulos
- MBTA - Mr. Pease

5. The Board was okay with the proposed summer meeting schedule as presented in the Town Manager's Report.

#### **OTHER BUSINESS**

Ms. Manugian asked about the reappointment of Town Counsel. Mr. Haddad said that the Board advertised an RFP 18 months ago. He said that they interviewed three firms and based on the interviews and follow-up question/answers, the Board awarded KP Law an 18-month appointment. He said that the Board can re-advertise an RFP or extend another appointment to KP Law. He said he could provide the new members with those meeting minutes.

Ms. Pine said that she noticed on the Town Manager's appointment lists there were a lot of people who were paid employees. Mr. Haddad said that Department Heads were appointed on a yearly basis even though they were in unions. It was something that had been done since he became Town Manager. Ms. Pine said it would help her to know which positions were contractual, paid, stipend, volunteers, etc.

#### **LIAISON REPORTS**

Mr. Degen said that he, Mr. Petropoulos, Mr. Schulman and Mr. Haddad had met with Mr. Bob France and his attorney and were working on a resolution but could not provide any additional details at that time.

#### **MINUTES**

*Mr. Petropoulos moved to accept the meeting minutes of April 24, 2017. Mr. Pease seconded the motion. The motion carried 3-0-2 with Ms. Manugian and Ms. Pine abstaining.*

*Mr. Petropoulos moved to accept the meeting minutes of May 1, 2017. Mr. Pease seconded the motion. The motion carried 3-0-2 with Ms. Manugian and Ms. Pine abstaining.*

*Mr. Petropoulos moved to accept the meeting minutes of May 8, 2017. Mr. Pease seconded the motion. The motion carried 3-0-2 with Mr. Degen and Ms. Pine abstaining.*

*Mr. Petropoulos moved to accept the meeting minutes of May 15, 2017. Ms. Manugian seconded the motion. The motion carried 3-0-2 with Mr. Pease and Ms. Pine abstaining.*

Mr. Degen adjourned the meeting at 9:17pm.

Approved: \_\_\_\_\_  
Alison Manugian, Clerk

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respectfully *submitted*,  
Dawn Dunbar, Executive Assistant

Date Approved: 6/19/17