

SELECT BOARD MEETING MINUTES
MINUTES JULY 30, 2018
APPROVED

BOS Members Present: Barry A. Pease, Chair; John R. Giger, Clerk; Joshua A. Degen, Member; Rebecca H. Pine, Member
Members Absent: Alison S. Manugian, Vice Chair
Also Present: Mark W. Haddad, Town Manager; Dawn Dunbar, Executive Assistant

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

ANNOUNCEMENTS

Mr. Haddad announced a grant that Mr. Delaney had received in the amount of \$137K to break down glass.

TOWN MANAGER'S REPORT

1. Mr. Haddad brought forward a policy on OPEB for the Board to discuss and consider adopting. He said that the Finance Committee should also approve it. He said that this was something they needed to adopt as part of their compliance with GASB-75 and was tied to their discount rate to the funding policy and investment policy. Mr. Degen said he had no problem with how it was written but would like to see any votes made subject to Finance Committee approval. Mr. Pease asked what would happen if the Finance Committee rejected the policy. Mr. Haddad said he would bring it back to the Board. He added that this would become a part of the overall financial policies and would be reviewed annually.

Mr. Degen moved that the Town of Groton adopt the Other Post-Employment Benefits Liability Trust Investment Policy contingent on affirmative approval by the Finance Committee. Ms. Pine seconded the motion. The motion carried unanimously.

2. Mr. Haddad said that as the Board was aware, Robin Eibye submitted her resignation as their Interdepartmental Administrative Assistant. He said that because this was an extremely important position that served the Board of Health and Community Preservation Committee, as well the primary Passport Acceptance Agent and back up to the Town Manager's Executive Assistant, they needed to move quickly to fill the position. He said that they advertised the position on the MMA Website, as well as Monster and the Groton Herald and received 74 applications. Mr. Haddad said that he, Ms. Dunbar, Mr. Tada and Ms. Doig, interviewed 8 of the applicants and decided to offer the position to Samnang (Sammie) Kul of Pepperell, MA. Ms. Kul has a strong background in customer service, finance and multiple responsibilities that makes her a great candidate for this position. Mr. Haddad asked the Board to consider ratifying the position. Ms. Kul said she was very excited to be part of a great organization. Mr. Degen asked her about her customer service skills. Ms. Kul gave an outline of her customer service experience.

Mr. Degen moved that they affirm the Town Manager's appointment of Sammie Kul as the Interdepartmental Administrative Assistant effective July 31, 2018. Ms. Pine seconded the motion. The motion carried unanimously.

3. Mr. Haddad said that the Finance Committee had recommended that the Board appoint Colby Doody of 501A Boston Road to the Committee to fill a vacancy caused by Jon Sjoberg not seeking reappointment. He respectfully requested that the Board consider making the appointment. He added that this was a three-year term effective from July 30, 2018 through June 30, 2021. Mr. Pease said that he had attended the Finance Committee's Meeting and could only reinforce their recommendation.

Mr. Giger moved that they appoint Colby Doody to the Finance Committee effective July 30, 2018. Ms. Pine seconded the motion. The motion carried unanimously.

4. Mr. Haddad said that there were currently two vacancies on the Personnel Board caused by the resignation of Kevin Brogan (who moved out of Town) and the decision by Mary Jennings not to seek reappointment in June. He said that there was a full three-year term available (Jennings seat) and a two-year term available (Brogan's seat). Mary Livingston of Chestnut Hill Road submitted an interest form to serve on the Committee. Both Bud Robertson

(remaining member on the Board) and Human Resources Director Melisa Doig met with Ms. Livingston and had recommended that the Select Board appoint her to fill one of the two vacancies on the Personnel Board (the Board can decide which term to fill). Mr. Haddad respectfully requested that the Board consider making this appointment. Ms. Livingston said that she had lived in Groton for 11 years and thought it was an opportunity for her to give back. Mr. Robertson said that she had a great resume and skillset.

Mr. Giger moved that they appoint Mary Livingston to the Personnel Board effective July 30, 2018 for the 3-year term. Mr. Degen seconded the motion. The motion carried unanimously.

5. Mr. Haddad said that the Council on Aging had recommended that the Select Board appoint Sheila Nash of Rockwood Lane to the Council to fill the Under 60 vacancy on the Council. Mr. Haddad respectfully requested that the Board consider making this appointment adding it was a 3-year term. Ms. Shelp said that Ms. Nash was a great candidate adding she worked at Rivercourt as their Outreach Coordinator and brought to them her work background in social work.

Ms. Pine moved that they appoint Sheila Nash to the Council on Aging for a 3-year term effective June 30, 2018. Mr. Degen seconded the motion. The motion carried unanimously.

REVIEW OF SENIOR CENTER MATRIX AUDIT RECOMMENDATIONS

COA Director Kathy Shelp was present. Ms. Shelp said that a needs assessment, long-term plan, and marketing plan were recommendations that they had been working on or that were already completed. Mr. Giger said that the long-range plan was a living document where an assessment should be ongoing. Ms. Shelp said that an assessment took a long time adding they would be doing another small-scale needs assessment to caretakers in January. She said that they also wanted to back their next assessment down to those 45 and older. Ms. Pine asked about tracking use. Ms. Shelp said that they did track use of the center and its services adding that participation had gone up 5%. She said a lot of their growth had been seen in exercise and wellness programs. Ms. Shelp said that they were also an accredited center of which only 2% of centers nationwide were accredited. Ms. Shelp said that there were 9 sections that you have to complete to be considered for accreditation. She said that they will set up 9 committees to do this adding they must be re-accredited every 5 years; with Groton's expiring in 2019. Mr. Cunningham commented as a member of COA stating that they had gone through accreditation and wanted to do again. He said that it was a real testament to the center and the community.

TOWN MANAGER'S REPORT – Cont.

6. Mr. Haddad said that when the Board ratified the Collective Bargaining Agreement between the Town of Groton and AFSCME, Local 93, the Town Supervisors Union, they removed the Principal Assistant Assessor and Treasurer/Tax Collector positions from the Union, pursuant to M.G.L., c.41, §108N½. The law allows the Town Manager, with the approval of the Select Board (to comply with the Charter) to enter into separate three-year employment agreements with these two positions. Mr. Haddad said that he provided the Board for their approval the proposed employment agreements between the Town and Jonathan Greeno as their Principal Assistant Assessor and Michael Hartnett as their Treasurer/Tax Collector. The terms of these agreements were the same as the Board ratified with the Supervisors Union. Mr. Haddad asked the Board to consider approving the agreements. Mr. Degen asked if they were going to 70/30 on health insurance. Mr. Haddad said that they were adding that the performance incentive was also no longer part of their base.

Mr. Degen moved that they ratify the employment agreement between the Town of Groton and Principal Assistant Assessor Jonathan Greeno for a three-year contract term retroactive to July 1, 2018 to expire June 30, 2021, subject to town meeting approval in the Fall of 2018. Ms. Pine seconded the motion. The motion carried unanimously.

Mr. Degen moved that they ratify the employment agreement between the Town of Groton and Tax Collector/Treasurer Michael Hartnett for a three-year contract term retroactive to July 1, 2018 to expire June 30, 2021, subject to town meeting approval in the Fall of 2018. Ms. Pine seconded the motion. The motion carried unanimously.

7. Mr. Haddad said that they had been notified by the owners of 162 Martins Pond Road of their intention to sell the property. Since the property was currently under a Chapter 61A designation, the Town of Groton has the right of first refusal to purchase the property at the same price that is under Agreement (\$1,430,000). Mr. Haddad said it was their policy to ask for a recommendation from the Conservation Commission and Planning Board as to whether or not to exercise this right, which they had done. He said that the Conservation Commission voted to forgo it and the Planning Board took no position. Mr. Haddad respectfully requested that the Board vote to release its option to purchase. Mr. Pease read a letter from the Conservation Commission and the Planning Board into the record. Mr. Haddad said that the Conservation Commission didn't have the funding necessary to purchase this property adding that if they Board wanted to purchase the property, they would have to call for a town meeting and appropriate the money.

Mr. Degen asked what the current balance in Conservation Fund was. Mr. Easom said that it was between \$720-\$750K. Mr. Degen asked how much was in the CPC bucket that could be used for this. Mr. Easom said that there was \$100K in the unallocated bucket. Mr. Degen said he wanted it on the record that the Town did not have the funds to purchase this land. Attorney Collins was present on behalf of the owners, the Pietras family. He said that the family had been good stewards of the land adding it was a lovely piece of property that cost too much. Mr. Easom agreed with Mr. Collins in that there were other opportunities that provide better open space to the Town of Groton. Mr. Degen asked if there was a 3 year roll back on taxes. Mr. Haddad said that there was a 5 year roll back.

Mr. Degen moved that they decline their rights under Chapter 61A to purchase the parcel located at 162 Martins Pond Road. Ms. Pine seconded the motion. The motion carried unanimously.

8. Mr. Haddad said that the Board had voted to enter into a memorandum of understanding with the Board of Sewer Commissioners for the repayment of the engineering fees for the Four Corner Sewer Project. The Select Board wanted the taxpayers reimbursed for the \$192,000 spent to develop the design of the \$2.1 million Sewer Project that was funded through a MassWorks Grant. Mr. Haddad said that, as directed, he met with the Sewer Commission to discuss this proposed MOU. He said that he had provided the Board with a letter from the Sewer Commission to the Select Board outlining their opposition to the MOU and asking the Board to reconsider its request. He said that based on this, he respectfully requested that the Board reconsider their position on this repayment.

Mr. Degen said he understood the position but they were the commissioners of the district. He said that they just went through a tremendous amount of angst with Indian Hill and thought that removing this would be another fee waiver. Mr. Haddad said he understood but thought it wasn't an apple to apple comparison to compare it to Indian Hill. He said that they went to Town Meeting and made it clear they needed an appropriation to make the grant viable. He said he had been working with the Commissioners on a budget but because the payback to Ayer was already there he thought this would put a burden on the district and would bankrupt them. Mr. Giger said he couldn't support pulling it back adding it was the districts burden to take on the cost. Mr. Haddad said that the enterprise fund was not set up as part of the grant. He said that Town Meeting voted to spend \$300K on engineering adding they only spent \$192K. Mr. Giger said he thought it should be returned to the Town over time. Mr. Pease said that even if it were to come back to the taxpayers over a period of 20-30 years it was still being paid back. He said he understood the Commission's position but had to stand where he stood when he pitched this to the voters. Ms. Pine said that she personally paid a lot for sewer where she lived adding that the argument was made back them that there was a benefit to the Town to have this. Mr. Haddad said that the \$192K spent on engineering was the Town's skin in the game toward getting a \$2M grant. He said they never said the district was going to pay that back to the Town. Mr. Robertson agreed that there had never been a discussion that they rate payers would pay for this. He said that this was a town initiative in that the Town said economic development would not happen there unless they put in this system. He said that taxes would come in with development in that area. He questioned how you charge people after the fact adding they shouldn't go back and switch stuff like that. Mr. Pease said that his recollection on the Finance Committee was different than what Mr. Robertson recollected. Ms. Pine said he recollection was the same as Mr. Robertson's adding she recalled it being a town contribution.

Mr. Gmeiner agreed with Mr. Robertson. He said the Board's request was the first time he had heard of this. He asked the Board to not saddle the enterprise with a debt to pay off on the onset adding they already had an obligation to pay Ayer. He said that by doing this they were going to either jack up user fees or connection fees and would be shooting themselves in the foot. Mr. Degen said that the points made were interesting points. He said he would like to see the minutes of the town meeting vote and video of it. He suggested they all watch the debate at town meeting and defer debate on this until they could review it. Ms. Pine and Mr. Giger agreed.

9. Mr. Haddad apologized to the Board but realized he had not sent Ms. Pine's comments on the Capital Planning Advisory Committee to Mr. Green. He asked the Board to hold off on discussing this potential bylaw until Mr. Green had a chance to review it but asked the Board to authorize an article to be placed on the warrant for this.

Mr. Degen made a motion to add this item to the 2018 Fall Town Meeting Warrant. Motion to add this item to the fall town meeting warrant. Ms. Pine seconded the motion. The motion carried unanimously.

10. Mr. Haddad provided a draft Fee Waiver Policy to the Board for discussion. Mr. Pease provided the Board with Ms. Manugian's feedback. Mr. Degen said he thought it was a good starting point. He said he thought a fee waiver of below \$5K would be up to the Board with a public hearing process but that anything beyond a reduction of \$5K should go to Town Meeting. Mr. Haddad said that the Building Commissioner had 30 days to issue a permit adding there was no way bringing this to Town Meeting could be done within that time frame. Mr. Degen said that they could put a provision in place where the developer paid the fee, go to the next Town Meeting for a reduction and vote to give them a rebate. Mr. Pease said he felt a little funny kicking this back to Town Meeting and not making a decision. Mr. Degen said that they could avoid the inevitable by adopting a policy that included language of what he proposed before. He said that an article could be removed prior to Town Meeting if a policy was put in place prior to that. Mr. Haddad said that Town Meeting had to vote on a bylaw not a policy. Mr. Degen said he thought it was hard to do this on a percentage basis. He suggested adding wording that a fee reduction was not applicable to any Chapter 40B proposal unless approved under a LIP project by Select Board.

Mr. Robertson asked why they were differentiating between profit and non-profit. He said that they may not pay taxes to the Town but they were a business. Mr. Giger said that they couldn't finalize what the permit fee was until the project was done and they come in with the numbers. He said that the fee was based on a projected number. Mr. Pease asked if they went out and reviewed building permits after they were done. Mr. Haddad said that they were did not. Mr. Giger said that he had seen other towns that do that. Ms. Dufresne asked about the logistics of taking in revenue and leaving enough in an expense account. She said that it made budgeting for revenue tricky.

11. Mr. Haddad said that proposals in response to the Prescott School RFP were due on Thursday, July 25th. He said that they received one proposal in response to the RFP from the Friends of Prescott. He said he appointed a Review Committee made up of himself, Annika Nilsson Ripps, Greg Sheldon and Bud Robertson to help him review the proposal and determine its compliance with the requirements of the RFP. He said he hoped to have a formal recommendation to the Board at your August 6th meeting.
12. Mr. Haddad said that he had appointed the following individuals: Ryan McMeniman to the Trails Committee and Richard VanDoren, Gina Ryan and Wendy Jones as Election Workers. He respectfully requested that the Board vote to ratify these appointments.

Ms. Pine made motion to ratify the Town manager's appointments as read. Mr. Giger seconded the motion. The motion carried unanimously.

13. Mr. Haddad said that when they developed the FY 2018 Country Club Budget in December 2016, they estimated that the Club would not need any taxpayer subsidy and generate enough revenue to cover all operational expenses, including those contained in the General Town Budget. He said that he provided the Board with a memorandum he prepared explaining the costs and the final budget. He said that they ended the FY with a surplus of \$597 but unfortunately 3 things came up; a substantial fix to the SDS, a crack in the foundation of the snack shop, and

damage to the kitchen floor due to ice damage, which cost them additional money. He said that they did however make \$22K more than they thought they were going to take in adding that for the first time in 20 years they took in more than they budgeted for. Mr. Pease commented on amortizing these items over years like in the business world. He said that they were in about \$5K of making the budget work adding he thought they were real close. Ms. Pine asked if Mr. Haddad approved these repairs. Mr. Haddad said that everything done was within budgets approved or through transfers at town meeting. Ms. Pine said that she was surprised by this and argued that the Town was not made aware of this at the time of town meeting. Mr. Degen suggested that a full assessment of the Country Club be done to be able to plan for the capital needs that may come up. Mr. Pease suggested waiting until the Capital Planning Committee was up and running. Mr. Degen didn't think they should wait adding it would be helpful to have this information come budget time in the fall.

14. Mr. Haddad reviewed the chart of legal fees for the various firms vs. actual costs paid to KP law over FY 17 and 18. He said that if the Board decided to change firms, they would have to pick the firm before they could try to negotiate the fees. Ms. Pine said she saw real merit in making a change but thought it was difficult to make a change that cost so much more. She said that she would like to see them negotiate a lower rate. Mr. Pease said they were looking at this from their standpoint not within town hall and the employees and should consider their opinions. Mr. Haddad said that he had sat down with department heads and asked their opinion. He said that Mr. Tada had found KP Law to be responsive and to provide good advice in carrying things out. He said that Mr. Tada did say he would like to see Town Counsel be a little quicker in their responses. He said that the Conservation Administrator said that he found the institutional knowledge to be very helpful. He said that the Board of Health was working through a situation with a lawsuit adding they were very comfortable dealing with that attorney at KP Law and the knowledge. Mr. Haddad said he understood why the Board was upset with KP Law but thought they had to look at the whole body of work before making a change. He said that they had had a lot of labor issues through collective bargaining and thought that had been excellent and would hate to lose them. Mr. Haddad said that the advice given on Indian Hill and the Attorney General's response was a matter of interpretation of the law. He said that it was simply another attorney with another opinion of the law.

Mr. Degen said that if they were to change firms, they were not budgeted for that. He said that they had received some good counsel over the years from KP and also got some horrible advice. He thought when they had an opportunity to clear the table and apologize, they didn't. He said that the legal opinions had been so verbose over the years and opinions were sometimes received minutes in advance of a meeting. He said that there was no way he would support KP as Town Counsel. He said he loved the flavor of Brooks & DeRensis and the fact that they serve in their own communities. He said he contacted 2 of the communities they represent and they get what they say they are getting. Ms. Pine said she felt like it would be beneficial to make a change. She said she got the sense that KP was comfortable with them. She said she was very impressed with Brooks & DeRensis and that they serve in their towns. She said she felt like they wanted them and that their answers were practical. Mr. Giger said he had concerns about KP. He said he was uncomfortable with how they interacted with the Board. He said he was concerned about Brooks & DeRensis's estimate and would like to have an opportunity to discuss this with them. He thought that change was good. Mr. Pease agreed that they needed a change adding he was really against Brooks & DeRensis. He felt that their demeanor did not fit the needs of this town and that their expertise would not allow them to make future moves. He said he preferred a set of attorneys that understood the needs of the Town and what could be done. Mr. Pease said he was very impressed with Mead Tallerman and Costa adding they brought a breath of fresh air. He said he did not like how Brooks & DeRensis's attorneys knew how to run their town. Mr. Haddad said that he worked with DeRensis as Town Counsel in a different community for 7 years adding that their advice almost ended his career and the reason he was not in favor of them. He said that since he was in contact with them more, he asked the Board to consider Mead Tallerman and Costs if the Board wanted to change firms. Mr. Degen said he was not averse to separate labor counsel. He said he would entertain Brooks & DeRensis for general counsel but contemplate separate labor counsel.

Mr. Degen moved that they accept Brooks & DeRensis response to the RFP to become new Town Counsel for the Town of Groton conditional on fee negotiations with them and another firm for another labor counsel, Mead Tallerman and Costa.

Ms. Pine said she heard that labor advice had been good with KP Law.

Mr. Degen withdraw his motion.

Mr. Degen moved that they appoint Brooks & DeRensis general counsel for the Town of Groton subject to negotiation of a retainer through June 30, 2019. Mr. Pease seconded the motion. Mr. Degen suggested making it effective upon approval of the fee negotiations. The motion carried 3-1 in favor with Mr. Pease opposed.

Mr. Giger said he thought using KP for labor was an option. He said he wanted Mr. Haddad to be happy with labor counsel. Ms. Pine was comfortable staying with KP for labor. Mr. Degen said he would be okay with that.

Mr. Pease moved that they appoint Brian Maser from KP Law as their labor attorney subject to negotiations for a period until June 30, 2019. Mr. Degen seconded the motion. The motion carried unanimously.

There was a brief discussion about who was going to negotiate the fees. It was suggested that a member of the Board sit in with Mr. Haddad on negotiations. Ms. Pine suggested that Mr. Degen be the one. Mr. Giger suggested strongly that Mr. Haddad be the primary negotiator adding that was his job. Mr. Haddad said he was fine with Mr. Degen working with him on it. Mr. Haddad said he hoped to get general counsel down to \$4K / month retainer with litigation billed at \$190/hour and KP at \$180/hour with no retainer.

ONGOING ISSUES

C: Mr. Haddad said that he had met with Mr. Degen and Mr. Delaney and would bring this back when final improvements were done.

E: Mr. Haddad said that the demo change order was issued that day with demo starting on Thursday.

L: Mr. Haddad said that construction signs were up.

M: Mr. Haddad said that the Planning Board had scheduled their public hearing.

N: Mr. Haddad said that the School Committee voted to make him the voting member and Ms. Manugian as the non-voting member, unless the Board wanted to change that for the Flo Ro Feasibility Study Committee. Mr. Pease said this would be on their next agenda for discussion.

Q: Mr. Haddad said that the Fire Department Task Force was ongoing.

R: Mr. Haddad said that he had reached another tentative agreement with one of the unions.

Mr. Pine said she thought that listing this as “votes may be taken” was unwise. She thought the agenda should read “informational updates and questions and no votes would be taken”. Mr. Haddad said that nothing on this list would be acted on unless it was listed on the agenda separately. He said that votes may be taken was listed to cover the Board adding that the Board had a policy to not vote on anything on that list. Mr. Pease suggested asking Counsel about this.

TOWN MANAGER’S REPORT – Cont.

15. Mr. Haddad said that Ms. Dunbar had represented him at the CPC’s meeting the week prior. He said that he sent an email to the CPC last week asking them to consider re-appropriating money funded by town meeting to fix ADA issues (fire doors and door handles) at Prescott School. He said that the CPC gave him permission to do that and asked the Board for their direction.

Ms. Pine said she was in favor of this adding the changes were required to be done for the change of use. Mr. Pease asked if money set aside for the sprinkler system was going to be used for this. Mr. Haddad said they didn’t know what the final sprinkler cost would be until they went out to bid adding there was an opportunity for a state grant for the sprinklers. He said if they didn’t get that grant, he would have to find the money. Mr. Degen said he didn’t have an issue with the required upgrades for the change of use but had an issue with this board usurping town meeting money for a different purpose. Mr. Giger said he had great concerns about the tax payers having a vote adding the tax payers had already voted for the CPC project. He said that how far they could stray from the intent of the money

was a cloudy thing for him. Mr. Haddad said that 3 of the 4 items were handicap accessible issues and within the 4 corners of the project.

Ms. Pine moved that they authorize the Town Manager to spend CPA money on necessary change of use requirements as authorized by the CPC. Mr. Pease seconded the motion. The motion carried 3-1 with Mr. Degen opposed.

LIAISON REPORTS

Mr. Giger said he had a good meeting with the Fire Chief last week.

Mr. Pease said he had a discussion with the Park Department about the Open Space and Rec Plan Update.

Mr. Pease said he received an email from the Master Plan Implementation Committee and was going to request a face to face discussion with the Committee.

MINUTES

Ms. Pine moved to approve the meeting minutes of June 25, 2018. Mr. Degen seconded the motion. The motion carried 3-0-1 with Mr. Pease abstaining.

Mr. Pease moved to approve the meeting minutes of July 9, 2018 as amended. Mr. Degen seconded the motion. The motion carried unanimously.

Ms. Pine moved to approve the meeting minutes of July 16, 2018. Mr. Degen seconded the motion. The motion carried unanimously.

Mr. Pease adjourned the meeting at 10:29pm.

Approved: _____
John Giger, Clerk

_____ respectfully submitted,
Dawn Dunbar, Executive Assistant

Date Approved: 8/27/18