



## TOWN OF GROTON

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## Board of Selectmen

John G. Petropoulos, *Chairman*  
Joshua A. Degen, *Vice-Chairman*  
Barry A. Pease, *Clerk*  
Peter S. Cunningham, *Member*  
Anna Eliot, *Member*

**Town Manager**  
Mark W. Haddad

**To:** *Board of Selectmen*

**From:** *Mark W. Haddad – Town Manager*

**Subject:** *Weekly Report*

**Date:** *July 11, 2016*

1. Scheduled on Monday's Agenda is just one item. Kevin Forsmo, Chairman of the Sustainable Budget Study Committee, will be in to update the Board on the Committee's work and progress.
2. As you are aware, the Board tentatively approved the terms of a new three year Employment Agreement with Police Chief Donald Palma. The terms are as follows:
  - a. Three Year Agreement from July 1, 2016 through June 30, 2019
  - b. Salary is as follows:

July 1, 2016	\$137,000
July 1, 2017	\$137,000
July 1, 2018	\$137,000, plus a \$3,000 bonus paid in one lump sum on May 1, 2019, provided however, that the additional compensation in FY 2019 shall not be considered a permanent increase to the base of the Police Chief. It shall be considered a one-time bonus payment. Should the Town and the Police Chief enter into negotiations on a new Agreement to take effect on July 1, 2019, the Police Chief's starting salary shall be \$137,000, subject to any negotiated increase. Any increase is subject to Town Meeting appropriation and shall become effective July 1 annually through the term of this Agreement.
  - c. Employee Health Insurance Contribution will be at 30% for the life of the Agreement.
  - d. Employee Notice to the Town of Groton on a voluntary termination was reduced from 120 days to 90 days.
  - e. The Town will replace the current Chief's vehicle in the Fall, 2016.

Enclosed with this Agenda is the red-lined version of the Contract. As required by the Board's policy, Town Counsel has reviewed and approved this contract. The changes that I made are in red (approved by Town Counsel) and the changes that Town Counsel made are in purple. Chief Palma has approved this contract. I would respectfully request that the Board vote to ratify this contract at Monday's meeting.



3. Enclosed with this report is a memorandum from Chief Palma to me requesting that the Board adopt rules and regulations for Fitch's Bridge. The Chief describes the Bridge as an attractive nuisance. Specifically, he is requesting that the Board vote to post rules that prohibit jumping from the Bridge, consumption of alcoholic beverages and hours of use, which I would recommend be sunrise to sunset. I would ask the Board to consider adopting these rules at Monday's meeting.
4. As you will recall, the Light Commission General Manager appeared before the Board a couple of months ago seeking the Board's input on a vision for the future of the surplus property on Station Avenue. They are preparing a RFP to dispose of the property and would like input from the Selectmen before advertising for the disposition of the surplus property. I would look to the Board for input so we can inform the Light Commission. Kevin Kelly will be in attendance at Monday's meeting.
5. As discussed at your last meeting, enclosed is the proposed Complete Streets Policy for your review and approval. I would ask the Board to adopt the Policy at Monday's meeting. As for the implementation of the Policy, I would request that the Board vote to create a five (5) member Committee made up of the Town Manager, Town Planner, DPW Director, a member of the Planning Board and a member of the Board of Selectmen to implement the policy and develop a specific charge for the Committee. We can discuss this further at Monday's meeting.
6. With the defeat of the override of Proposition 2½ at the June 30<sup>th</sup> Special Election, we are awaiting word from the Groton Dunstable Regional School Committee on what action they plan on taking. I would like to spend some time at Monday's meeting reviewing any action taken by the School Committee and what the Town needs to do to address the School Committee's decision. In addition, I would like to take some time to discuss what action we have taken to address the impact on the Town Budget due to the reduction of the Budget with the defeat of the override. I will have more information for the Board at Monday's meeting.
7. As you may or may not be aware, the Charter Review Committee has voted to receive additional proposed Charter Amendments by August 1, 2016. I would like to propose two amendments and would request that the Board vote to authorize me to submit them to the Charter Committee (while I do not specifically need your permission to submit them, I would not submit them without the Board's approval). First, I would like to propose that the position of Town Clerk become an appointed position. Specifically, I would propose that Section 3-1, 3-2(d), and 4-2(d) be amended to read as follows:

*Section 3-1: General (a) Elective Town Offices - The town offices to be filled by the voters shall be a town moderator, the board of selectmen, ~~a town clerk~~, the Groton component of the regional school committee, the Groton housing authority, the planning board, the board of library trustees, the commissioners of the trust fund, the Groton electric light commission, the Groton water commission, the Groton sewer commission, the parks commission, the Groton board of health, Groton board of assessors and other officers or representatives to regional authorities or districts as may be established by law or by inter-local agreement which shall also be filled by ballot at town elections. [Amended by Ch. 50, Acts of 2010]*



7. **Continued:**

*Section 3-2(d) Appointing Authority - The board of selectmen shall appoint the town manager, finance committee, town counsel, a zoning board of appeals, and a board of registrars. The board of selectmen shall also appoint, consistent with paragraph (d) of section 4-2, **a town clerk**, police chief and a fire chief. The police chief shall serve under section 97A of chapter 41 of the General Laws. The fire chief shall serve under section 42 of chapter 48 of the General Laws. The board of selectmen shall also appoint a conservation commission, council on aging, housing partnership, local cultural council, and other committees as required by the General Laws. [Amended by Ch. 50, Acts of 2010]*

*Section 4-2(d) Whenever a vacancy occurs in the office of police chief, fire chief **or town clerk**, to select and present at least 2 qualified candidates to the board of selectmen for appointment by the board to the office, as provided for in section 3.2(d).*

I bring this recommendation based on my participation as a member of the Town of Grafton Charter Review Committee. We are taking up the very same issue in our review of Grafton's Charter and I believe it warrants a review in the Town of Groton as well. Enclosed with this report is a spread sheet developed by the Town Clerk, Dawn Dunbar and me outlining the differences between an elected and appointed Town Clerk. While I have discussed this proposal with our Town Clerk, he has not offered an opinion or recommendation at this time. Please note that our current Town Clerk was actually appointed to the position before he was elected.

The second amendment that I would like to propose would be to authorize the Town Manager to sign and approve all expense and payroll warrants instead of the Board of Selectmen. This is a day to day function that should rest with the Town Manager. I have reviewed several Charters and they all have the Town Manager or Town Administrator approve the warrants. There is no strong reason that the Selectmen have to sign them. They are a public record and I can make sure they are provided to the Selectmen in their weekly correspondence for their information. Specifically, I would propose that Section 4-2 be amended by adding a new paragraph (n) to read as follows:

*Section 4-2(n) Warrants for the payment of the town funds prepared by the town accountant in accordance with the provisions of the general laws shall be submitted to the town manager. The approval of such warrant by the town manager shall be sufficient authority to authorize payment by the town treasurer, but the board of selectmen shall approve all warrants in the event of the absence of the town manager or a vacancy in the office of town manager.*

I look forward to discussing this in more detail with the Board at Monday's meeting.



8. At your last meeting, the Board reviewed two policies and requested that I obtain an opinion from Town Counsel on the proposed wording and legality. The first policy had to do with access to Town Counsel and whether or not the entire Board of Selectmen is entitled to receive every opinion from Town Counsel. Town Counsel offers the following:

*"This will confirm that the Board of Selectmen, as the Town's chief executive and the applicable appointing authority (under section 3-2(d) of the Charter), is entitled to receive all communications to the Town from Town Counsel. The Board, as a whole, is a client body. Item 3 of the January 7, 2010 Access to Town Counsel memo directs boards and committees to provide copies of any correspondence with Town Counsel to the Town Manager. If the Board wishes to add text regarding Town Manager transmission of such correspondence with, or opinions from, Town Counsel to the Board of Selectmen it may do so. Any such policy, however, would be subject to the situation you describe – where a member of the Board is the subject of a complaint, or other proceeding such that providing the communication to that member would be contrary to law, a prior vote of the other members of the Board related to the situation in question, or rules of professional conduct applicable to Town Counsel. If language regarding transmission to the Board is added to the policy, it is my opinion that the foregoing limitations would implicitly apply. However, if the Board would like to add a caveat it could do so with text along the following lines: "If a member of the Board of Selectmen is the subject of a complaint or a legal or administrative proceeding such that sharing the communication with that member would be contrary to law or applicable ethical or confidentiality requirements, that member shall not be entitled to receive the communication."*

The second policy that we sought an opinion of Counsel was how to address a quorum of the Board attending a meeting in which the Selectmen are not posted. The Chairman of the Board had drafted a proposed policy to address this and, as requested, I sent it to Town Counsel for his review and comment. The following is Town Counsel's opinion:

*"I would recommend against the additions to the Board of Selectmen's procedures proposed in the document you forwarded. As drafted, they relate to a particular type of situation that may not exist in all cases where, for whatever reason, a meeting has not been posted. More important, though, is that if a meeting has not been posted but members of the public body who are unaware of such omission until the time they gather for what was anticipated to be a meeting, the members should not proceed to discuss matters of substance. Rather, the appropriate action would be to reschedule the meeting to a date which permits posting in accordance with the Open Meeting Law. On that point, I would note that although not intended a written policy to "take action so that a quorum no longer exists" could be perceived as a policy to evade the Open Meeting Law when there has been in a lack of proper notice. In a circumstance of omitted posting, some limited discussion of logistics may be necessary to accomplish the rescheduling of a meeting or a related communication to the general public or another public body. That can be undertaken as the situation requires; and in my view the better course is to treat it on a case-by-case basis and not attempt to craft an all-encompassing procedure."*

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**8. Continued:**

In addition to Town Counsel's opinion on this matter, the Town Clerk contacted the Attorney General's Office, who is responsible for enforcing the Open Meeting Law. The Attorney General's Office offers the following:

*"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.*

I look forward to discussing these issues further with the Board at Monday's meeting.

9. I am very pleased to provide the Board of Selectmen with an update on the Fiscal Year 2016 Budget of the Groton Country Club. As you will recall, FY 2016 was the first year of our three year plan to stabilize the operation and eliminate, as much as possible, the taxpayer subsidy to run the Club, with the hope of making the Club, at a minimum, taxpayer neutral. One of the main things we did in FY 2016, was lease out the function hall and transfer the liquor licenses to the lessee. In addition, we consolidated the management of the Club into a single General Manager/Head Professional. These two changes have proven to be very successful and put us in a very good position to meet our three year plan. When we put the proposed operating budget together for FY 2016, we estimated revenues at \$416,192. I am pleased to report that the FY 2016 revenues came in at \$448,039. In addition, the total operating budget for FY 16 (Original Appropriation, plus Town Meeting Transfers) was \$398,711. At this time (pending last minute invoices included on the final FY 16 Expense Warrant), we have expended \$394,779. The Capital Budget for the Country Club in FY 16 was \$36,355, for a total direct expense budget of \$431,134. Based on actual revenues, for the first time since we took over the operation of the Club as a Town Department in FY 2012, Club revenues have covered both the operating and capital expenses of the Groton Country Club with a surplus of \$16,955. Looking at fully loaded costs, the Town Operating Budget covered and additional \$112,332 in overhead costs (including benefits, payroll taxes, unemployment, insurance and building maintenance costs). The actual taxpayer subsidy in FY 2016 was \$95,377. Please note that in FY 2015, the Operating Budget provided a taxpayer subsidy of \$273,683, and we estimated a taxpayer subsidy in FY 2017 of \$135,913. We are moving in the right direction. We can discuss this in more detail at Monday's meeting.

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10. As you are aware, the Board of Selectmen and Finance Committee have the ability to transfer money between line items at the end of a fiscal year in order to balance the budget. The Selectmen and FinCom can move either 3% or \$5,000 (whichever is greater) into a particular line item. I would respectfully request that the Board of Selectmen vote the following transfers at Monday's meeting:

<u>Transfer From:</u>	<u>Transfer To:</u>	<u>Amount</u>
Fire Wages	Fire Salaries	\$3,043
Country Club Expenses	Country Club Wages	\$2,878
Insurance Deductible Reserve	Insurance and Bonding	<u>\$ 76</u>
Total		\$5,997

The Finance Committee will be taking this up at their meeting scheduled for July 12, 2016.  
Thank you for your consideration of this request.

MWH/rjb

enclosures