



TOWN OF GROTON

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Board of Selectmen

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Anna Eliot, *Member*

Town Manager
Mark W. Haddad

To: *Board of Selectmen*

From: *Mark W. Haddad – Town Manager*

Subject: *Weekly Report*

Date: *September 6, 2016*

1. Please note that Tuesday's meeting will begin with an Executive Session at 5:15 p.m. in the Town Manager's Office. The regularly scheduled meeting will commence at 6:00 p.m. in the Selectmen's Meeting Room. There is nothing specifically scheduled on the Agenda.
2. The Trails Committee has requested that I appoint Wanfang Murrary to the Trails Committee. I have, in fact, made this appointment. Pursuant to Section 4-2(c) of the Groton Charter, I would respectfully request that the Selectmen ratify this appointment at Tuesday's meeting.
3. We have advertised the vacancies on the newly formed Complete Streets Committee. As you are aware, this Committee is made up of seven individuals as follows: one member of the Board of Selectmen; one member of the Planning Board; one member from the Trails Committee; the DPW Director; the Town Planner; and two citizens at large. We have not received any interest from residents at this time, however, we would like to get the Committee up and running. Therefore, I would respectfully request that the Board of Selectmen designate one of your members to the Committee and appoint the following four individuals to the Committee; George Barringer (representing the Planning Board), Stephen Legge (representing the Trails Committee), Land Use Director Laurie Bonavita and DPW Director Tom Delaney. We will continue to advertise and bring back the two resident positions at a later meeting.
4. Enclosed with this report is the first draft of the 2016 Fall Town Meeting Warrant for your review. I would like to take some time at Tuesday's meeting reviewing the articles. Please note that the Public Hearing on the Warrant is scheduled for next Monday, September 12, 2016 at 6:30 p.m. We can discuss this further at Monday's meeting.
5. As part of the work of the Sustainable Budget Committee, they are recommending that the Board solicit proposals from qualified firms to conduct an audit of Town operations. The 2016 Fall Town Meeting contains an article seeking funding for this audit. The Board needs to authorize the issuance of the RFP. I have enclosed a copy of the draft RFP to this report for your review and approval. I would like to get it out as soon as possible so that we will have the exact cost for Town Meeting. I have sought estimates and I believe the cost will be in the \$40,000 to \$50,000 range. We can discuss this further at Monday's meeting.

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6. As requested by the Board at last week's meeting, the Conservation Commission has scheduled a meeting for 5:30 p.m. on Tuesday to meet with the Attorney for the buyer of the Gilson property on Dale Lane. The Commission will come down to the Selectmen's meeting (or if we finish before them, attend their meeting) to discuss any potential change to their request to have the Selectmen exercise the Town's right of first refusal to purchase the property. In addition, as further requested by the Board, I sought the opinion of Town Counsel on several related matters. The following are my questions to Town Counsel, along with Counsel's response:

- a. Since we received the notification on May 23, 2016, we are assuming that our option to purchase expires on September 20, 2016. Can you please confirm that is the correct date?

The statute provides that the Town has an option "period of 120 days after the day following the latest date of deposit in the United States mail of any notice which complies with this section...." Technically, the 120 day period started on May 24, 2016 and will end on September 21, 2016. However, for the sake of caution, we recommend that the option be exercised by September 20.

- b. Since this would be an outright purchase, we assume we must abide by all the terms of the Purchase and Sales Agreement between Ms. Gilson and the prospective buyer. Is that correct?

That's mostly correct. Some P&Ss have unique provisions that do not apply to the Town. For example, if the buyer said in the P&S that it will conduct soil borings, the Town, when it steps into the shoes of the buyer, does not have to conduct those tests. It depends on what is contained in each P&S.

- c. Does the 120 Day period mean that we have to buy the property within that time, or just inform them of our intent to purchase? The buyer and seller have a closing date scheduled for September 21st. Do we need to close on that day? Is there even enough time to close by then?

The Town does not have to buy the property within the 120-day period; it only needs to exercise its option to purchase the property. To exercise this option, the Selectmen must: (a) hold a public hearing and vote to exercise the option at or after the hearing (a hearing is not necessary if the Selectmen do not want to exercise the option), (b) sign and record a Notice of Exercise of Option, and (c) inform the seller of the same in writing, send seller a P&S signed by the Selectmen, and pay a deposit of \$5,000 (I recommend checking to see if the Town has \$5,000 available to pay the deposit). If the Town does not have \$5,000 available, we could exercise the option and state that the deposit will be paid later, but I urge the Town to find money to pay the deposit within the 120-day period). The statute states that the closing will occur 90 days after the date on which the seller signs and returns the P&S back to the Town (perhaps as soon as December 19). Town Meeting will have to appropriate the funds within this 90-day period.

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6. Continued:

- d. There may be a chance that the buyer would be willing to place a conservation restriction on a portion of the property that would negate the need to purchase the entire parcel. The Selectmen asked the Conservation Commission to meet next Tuesday, September 6th with the buyers' attorney to determine if this is feasible. Should that happen, what steps would we need to take to get that restriction in place by the 120 period? Is there enough time?

In order for the Town to obtain a perpetual conservation restriction (CR) on the property, the CR must be approved by the Executive Office of Energy and Environmental Affairs (EEA). Otherwise, the CR may be limited to a period of 30 years only. However, there is not sufficient time to get EEA's approval by September 20. But, since the Town's leverage ends once the 120-day period passes, it would good to get something on record at the closing. I can speak with Bob Collins as to whether the buyers would record a Declaration of Restrictions or some other agreement at closing that gives the Town some protection, with the understanding that the CR, once approved by EEA, will replace that document. Alternatively, the Town could enter into a P&S with the buyers, as discussed below.

- e. Should the Town purchase the land with money from the Conservation Fund, would that prohibit the Town from then turning around and working out a deal with the buyer to sell back to him a portion of the property? If it is possible, what steps would needed to be taken to make that happen, besides a Town Meeting vote to dispose of the property.

Conservation Fund monies may be used only to purchase property for conservation-related purposes. Since Article 97 will apply to land acquired for conservation purposes, the Town will not be able to convey a portion of the property to the buyers unless the Town obtains a 2/3rds roll call vote of each house of the state legislature, a 2/3^{rds} vote of Town Meeting, and the Town has complied with GL c.30B (issue a request for proposals for land valued at over \$35,000). Therefore, should the Town wish to sell a portion of the property, I recommend that the Town use other funds, or a combination of other funds and Conservation Fund monies and separate out the parcels. Note that the Town may avoid these complications by entering into a P&S directly with the buyers, which I discuss below.

Please note the following about the P&S:

1. View Easement: Section 20 of the P&S states that the agreement is contingent on the seller and buyer entering into a view easement and restriction, allowing each party to construct on the property only those structures that are permitted as of right and prohibiting each party from constructing certain structure over 40' in height. The Town will have to accept and grant this view easement and restriction.

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6. Continued:

2. Inspection: Unlike most P&Ss, this P&S does not grant the Town the right to inspect the property and terminate the P&S if the Town is not satisfied with the condition of the property. Thus, the Town will not be able to inspect the property after the P&S is signed. However, Chapter 61A, Section 14 grants the Town the right to inspect the property during the 120-day period. If the Town would like to inspect the property, I recommend the Town undertake these inspections as soon as possible, with the results obtained before the Selectmen vote to exercise the option and in any event by September 20.

3. Purchase of CR: In lieu of some of the steps discussed above, the Town could accomplish its goal by entering into a P&S directly with the buyers on or before September 20, 2016, wherein the buyers would agree to sell, and the Town would agree to purchase, a CR on x acres of the property. The consideration could be a reduced sum. If the buyers are amenable, the Town will be able to close on whatever date is amenable to the parties (which should be sufficient for the Town to obtain EEA's approval), obviate the need for the Town to spend \$330,000 for the property, and avoid the difficulty of carving out a portion of the property acquired with Conservation Fund monies. If possible, we should get the buyers to record the P&S or some other document at the Registry of Deeds, so that others are aware of this obligation. I can discuss this with Bob Collins, if you wish.

I look forward to discussing this in more detail at Tuesday's meeting.

MWH/rjb

enclosures