

Selectmen's Meeting Minutes
March 30, 2015
Harpswell Town Office
Approved on April 16, 2015

The meeting was called to order at 4:00 p.m.

Selectmen Present: Richard A. Daniel, Elinor Multer and Kevin E. Johnson

Staff Present: Kristi Eiane, Town Administrator; Terri Sawyer, Deputy Town Administrator; and Marguerite Kelly, Treasurer. Also present was Amy Tchao, Town Attorney.

The meeting was recorded for re-play on Harpswell Community Television.

1. Consider Next Steps Re: Sale to Harpswell Coastal Academy (HCA): Possible Amendment to Repurchase Agreement: Chairman Daniel stated that at Town Meeting there was a suggestion, during the discussion on the warrant article [authorizing the sale of the former West Harpswell School to HCA], to add language in the re-purchase agreement regarding the possible use of an arbitrator. Amy Tchao, Town Attorney, stated that Town Meeting passed the warrant article as presented, which referenced the purchase and sales agreement between the Town and HCA signed on February 19, 2015. The Agreement included attachments and both the Agreement and Right to Re-Purchase contain language that any modifications to the documents must be in writing and agreed by the parties. Additionally, Town Meeting would have to approve any modification. Ms. Tchao reviewed the existing language in the Right to Re-Purchase which states HCA will provide advance notice to the Town offering the right to repurchase and triggering the negotiation period to allow the parties to negotiate an agreed-upon price in a good faith effort. The approved document states the parties will negotiate in good faith and if that does not result in an agreement, the negotiation will terminate and HCA can sell to a third party.

John D'Anieri, HCA Head of School, stated he heard the concern expressed at Town Meeting and told that person afterwards that he understood the concern. Mr. D'Anieri believes his statement was misunderstood. It is not his intention to reopen negotiations and cause delays in the time table as the deal needs to be finalized. Ms. Tchao stated the Purchase and Sales Agreement anticipates a closing on April 15, 2015 unless a change is agreed to by both the Seller and Buyer in writing. If one party disagrees, the sale must proceed or that party risks being in breach of contract.

Ms. Tchao stated the closing could proceed and the parties could agree to amend the Right to Repurchase afterwards, which would not be effective until voters approved it. HCA would own the property and if an amendment is not approved by Town Meeting, nothing is affected. Selectman Multer stated since there is nothing to lose, she would like to proceed with closing and consider an amendment post closing. Selectman Johnson stated he wants to proceed with the closing and not pursue an amendment. Chairman Daniel stated he does not feel the Town is in jeopardy without an amendment but if HCA is willing to discuss an amendment post closing then he would be as well. Mr. D'Anieri clarified that he is present without legal counsel and that HCA's Board of Directors would have to consider any amendment; he is not representing a position or commitment.

Scott Scheffer stated there is time to delay the closing as HCA will continue to be on the property and a delay does not change the purchase price. Mr. Scheffer expressed concern that the negotiations were held in executive sessions and that the public did not have enough time to address any concerns prior to Town Meeting. Mr. Scheffer encouraged the Board to delay the closing and consider the concerns expressed regarding the Right to Repurchase stating he believes HCA will outgrow that location in the near future. Chairman Daniel stated both sides of this issue were discussed at Town Meeting and the article passed. Additionally, executive session is permitted to protect both parties' interests during negotiations. Ms. Tchao stated executive session is allowed under state statute for discussions relating to acquisition and/or disposition of real property. The documents were made public after signing on February 19.

Selectman Multer moved, seconded by Selectman Johnson to carry through article 32 and to authorize the Chairman to sign the documents on April 15; motion passed 3-0. Selectman Multer noted open session negotiations could have opened the market to attract HCA elsewhere, which would not have been in the best interests of the Town.

2. Adjournment: At 4:28 p.m. the Chair adjourned the meeting without objection.

Respectfully Submitted,

Terri-Lynn Sawyer
Deputy Town Administrator