

AGENDA

Wednesday

October 18, 2017

**TOWN OF EASTHAM
BOARD OF SELECTMEN AGENDA
Wednesday, October 18, 2017
2:30 PM**

Location: Small Meeting Room

WORK SESSION:

1. Special Town Meeting
 - a. Continue Review and Preparation
2. Review DRAFT RFP for Legal Services
3. Review DRAFT Budget Policy for FY19

MINUTES

October 2, 2017 - Regular Session
October 4, 2017 – Work Session
October 4, 2017 – Executive Session

OTHER BUSINESS

Discussion of topics not reasonably anticipated by the Chair 48 hours before the meeting

EXECUTIVE SESSION

1. To discuss strategy with respect to the current proposal submitted by SCG Development Partners with Housing Appeals Committee when an open meeting may have a detrimental effect on the negotiating position of the public body and the Chair so declares.

Upcoming Meetings

Monday, October 23, 2017	6:30 PM	Nauset Regional High School	Pre STM Meeting
Monday, October 23, 2017	7:00 PM	NRHS Auditorium	Special Town Meeting
Monday, November 6, 2017	5:00 PM	Earle Mountain Room	Regular Session
Wednesday, November 8, 2017	2:30 PM	Small Meeting Room	Work Session
Monday, November 13, 2017	5:00 PM	Earle Mountain Room	Joint Meeting w FinCom

The listing of matters includes those reasonably anticipated by the Chair which may be discussed at the meeting. Not all items listed may in fact be discussed and other items not listed may also be brought up for discussion to the extent permitted by law.

This meeting is video recorded and broadcast over Local Access Channel 18 and on the Town website at www.eastham-ma.gov.

If you are deaf or hard of hearing or are a person with a disability who requires an accommodation, contact Laurie Gillespie-Lee, 5900 x3207

TOWN OF EASTHAM REQUEST FOR QUALIFICATIONS LEGAL SERVICES

The Town of Eastham Board of Selectmen seeks expressions of interest from qualified firms and/or individuals to provide legal services to the Town. Responses must include references of previous engagements as town counsel and demonstrate at least five years of municipal experience. All submissions for consideration must be received at the Town of Eastham, 2500 State Highway, MA 02642, no later than Wednesday November 1, 2017 at 4:00 p.m. If the Town Offices at the above address are closed on the aforementioned date due to weather or natural disaster, the deadline for submittals will be extended exactly 24 hours to Thursday, November 2 at 4:00 p.m. Fax or other electronic submissions will not be considered.

Objective:

The Board of Selectmen of the town of Eastham seek to appoint a highly qualified attorney/law firm as General Counsel. The successful appointee should meet or exceed the qualifications requested and, in general, should be readily accessible to authorized public officials, exceptionally experienced in municipal law, scrupulous in adhering to required standards of professional conduct and ethics, and committed to rendering sound legal advice with suitable objectivity and professional detachment.

Background:

The Town of Eastham is a municipal government employing approximately 125 permanent non-school employees. The Town operates under an Open Town Meeting form of government with executive functions vested in a five-member Board of Selectmen and the daily management and administration of Town duties assigned to an appointed Town Administrator. In addition to non-union employees, the Town also has five (5) collective bargaining units including Police, Communications, Fire, Employee Association (Professional, Administrative & Clerical, and DPW/Natural Resources. All 5 collective bargaining contracts do not expire until June 30, 2020. The Town also has 4 regulatory Boards: Board of Health, Conservation Commission, Planning Board, and Zoning Board. Other active projects include developing affordable housing, re-vamping our Zoning Bylaws, and constructing a water system that requires property easements and review of contract documents. Currently the Town is spending between \$50,000 and \$80,000 per year on legal services.

Minimum Qualifications:

Bar Admissions

The appointee and/or back-up to the appointee must be a member in good standing of the Massachusetts Bar and the Federal Bar for the District of Massachusetts.

Experience

The appointee must represent or have represented a Massachusetts municipality for no less than two years, or possess equivalent experience. References for the past ten years must be

furnished. The appointee must have significant experience in municipal law and/or a number of pertinent disciplines relevant to the Town including: labor and employment law, land use/real estate, regulatory compliance and enforcement, contracts and procurement, litigation, waterways, and/or affordable housing.

Accessibility

The appointee must commit to returning all calls from authorized officials either himself/herself or within 24 hours of the call. The appointee must also commit as a general rule, to respond to requests for written opinions or contract review within one week unless the circumstances of the opinion warrant a longer time frame for a response.

Back-up

The appointee must have within the firm, or through an established “of counsel” relationship at least one other qualified attorney available to render advice and otherwise represent the interests of the Town when the appointee is not available. In this context, “qualified attorney” shall mean another lawyer who substantially meets the minimum qualifications set forth herein for the appointee, and is identified in the proposal.

Fees & Expenses

The Town is willing to consider alternatives to the traditional hourly fee arrangement with counsel. The responding attorney/firm must completely fill out the attached fees and expense response sheet.

Billing

Billing must provide statements for services on a monthly basis and must disclose at a minimum: the date, attorney assigned, case/topic, a description of service performed, time and rate/hourly rate. Expense items must be itemized.

Qualification, Evaluation & Decision

The Board of Selectmen will make a selections based on the candidate or firm they deem to be in the best interests of the Town and reserve the right to accept or reject any and all proposals. The proposal process is being used to communicate desired qualifications and to gather information in order to compare responses in a fair manner.

The Board of Selectmen will consider at a minimum the following:

- Experience/technical competence with specializations needed by the Town;
- Ability of the attorney/firm to provide innovative solutions;
- The capacity of the attorney/firm to meet the Town’s needs;
- Proximity and availability to the Town;
- Past record and performance;
- Fees or fee structure as may be appropriate for the service to be provided.

Application

Qualified Attorneys/firms interested in responding to this Request for Qualifications should fill out the attached forms completely (A, B & C) along with any other relevant information, credentials and vitae of attorneys and firm, and references and send to:

Town of Eastham, 2500 State Highway, MA 02642, no later than Wednesday November 1, 2017 at 4:00 p.m. If the Town Offices at the above address are closed on the aforementioned date due to weather or natural disaster, the deadline for submittals will be extended exactly 24 hours to Thursday, November 2 at 4:00 p.m. Requests for information or questions should be submitted in writing via email to jbeebe@eastham-ma.gov no later than October 24 by 4 p.m. All questions and responses will be posted on the Town's website: www.eastham-ma.gov.

Certificate of Non-Collusion and Tax Compliance Certification

In order to preclude conflict of interest that may arise from providing services to the Town of Eastham, the respondent, its sub-consultants and sub-contractors are required to submit a signed and Completed Certificate of Non-Collusion and Tax Compliance Certification (**Attachment A**)

Affirmative Action/Equal Employment Opportunity Laws and Regulations

The Town of Eastham is an equal opportunity employer. Therefore, the respondent must agree to take affirmative action to ensure that applicants for employment are fairly employed, and that employees are treated during employment without regard to their race, color, religion, sex, handicap, or national origin. Further, the respondent shall state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap or national origin. Failure of the Contractor to comply with such law, by-law, rule or regulation shall constitute grounds for the Town to terminate the Agreement. An equal opportunity assurance and state form is included (**Attachment B**).

Response to RFQ- specific questions (Attachment C)

ATTACHMENT A

CERTIFICATE OF NON-COLLUSION

The undersigned certifies under the penalties of perjury that this bid or proposal has been made and submitted in good faith and without collusion or fraud with any other person. As used in this certification, the word "person" shall mean any natural person, business, partnership, corporation, union, committee, club, or other organization, entity, or group of individuals.

Signature of individual submitting bid or proposal

Name of business

Date

TAX COMPLIANCE CERTIFICATION

Pursuant to M.G.L. c.62C, §49A, I certify under the penalties of perjury that to the best of my knowledge and belief, I am in compliance with all laws of the Commonwealth relating to taxes, reporting of employees and contractors, and withholding and remitting child support.

Signature of Individual or Corporate Name

Social Security Number or
Federal Identification Number

By _____
Corporate Officer (if applicable)

Date

ATTACHMENT B

ASSURANCE AND STATEMENT OF EQUAL OPPORTUNITY

I hereby certify under the penalties of perjury that I comply with all federal and Massachusetts equal opportunity laws, to the best of my knowledge. I will take affirmative action to ensure that applicants for employment are fairly employed, and that employees are treated during employment without regard to their race, color, religion, sex, handicap, or national origin. Further, I ensure that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, age, handicap or national origin, and that minority and women business enterprises (W/MBE) will have the maximum opportunity to participate in providing the services called for in this RFP, either as principal contractor or subcontractor.

Signature

Printed Name

Firm _____

Owner

Title _____

Date: _____

ATTACHMENT C

RESPONSE TO REQUEST FOR QUALIFICATIONS FOR TOWN COUNSEL

1. Please identify by name the proposed counsel and each proposed back-up counsel, and provide for each attorney:
 - a. resumes or curriculum vitae;
 - b. A list of the Massachusetts municipality(s) represented by the attorney, the years of representation, and the name and phone contact for municipal contact;
 - c. Describe each attorney's experience in the areas of general municipal law, labor and employment law, land use/real estate, regulatory compliance and enforcement, contracts and procurement, litigation, waterways, and/or affordable housing.
2. Please identify any areas of the law where you restrict your practice or are not certified.
3. Please describe how you will satisfy the accessibility requirements of the RFQ.
4. Please describe how you will handle the back-up attorney requirement.
5. Please state and give evidence of the malpractice or other insurance that covers your firm.
6. Billing & Charges
 - a. Please list the names and hourly rates of each attorney, including research, travel time, court appearances, and meetings).
 - b. Please list hourly rates for clerical staff, paralegals or other non-attorney personnel.
 - c. Please list charges for expenses: copy, phone, mail, mileage.
 - d. In what hourly increments do you intend to bill?
 - e. Do you bill portal to portal or on some other basis?
 - f. Do you intend to propose an alternative fee arrangement? If yes, please attach fully describing your proposal.

**TOWN OF EASTHAM
BOARD OF SELECTMEN
BUDGET POLICY FISCAL YEAR 2019**

1.0 THE MANDATE:

In accordance with the Town of Eastham Home Rule Charter, hereby issues this policy statement to inform and direct the preparation of the FY19 Municipal and School Operating and Capital budgets. The Charter requirement in Section 6-1-4 states that:

“Annually prior to the first day of November, the Board of Selectmen after consulting with the Town Administrator shall issue a policy statement that shall establish general guidelines for the next town budget.”

2.0 THE MAJOR EXPENDITURES/UPCOMING YEAR OVERVIEW:

The Annual Town Meeting in May 2015 approved the “Phase II” portion of the municipal water system. When completed it is expected that all the parcels in Eastham will have access to municipal water. This “Phase II” portion is budgeted at \$85 million to the taxpayers and will be combined with the 45.8 million approved for “Phase I”. Together, the entire project is scheduled to be completed in FY 24, approximately three years ahead of the original schedule. As we borrow, we will continue to add debt service, peaking roughly in 2022.

Rock Harbor Improvements are needed to make the area more efficient for boaters’/slip holders, as well as improve all resident access by creating pathways that connect and integrate the Harbor with the Town’s purchased lot at the end of Dyer Prince Road. Currently, the town is engaged in planning and permitting to complete the dredge of the mouth of the Harbor and re-permit the Harbor structures. There has been no maintenance or upgrades to the Harbor in many years. The docks need to be expanded and replaced, and water and electric services upgraded. This project is included in the five-year capital plan and will need significant funding.

We are in the process of completing an evaluation and assessment of the condition and capital needs of all the town buildings. Our goal is to establish a comprehensive maintenance schedule as well as a blueprint for addressing future renovation or replacement of buildings so we can better plan for these expenses. We have had police station repair and upgrades in the five-year capital that have been delayed for at least two fiscal years. This expense should be brought forward in the FY19 Capital plan.

The budget policy continues to recognize the limitations that such debt places on the financial resources of the town and uses those limitations as a framework of the policy. The debt goal is to limit debt payments in a single year to 10% or less of the gross budget. We will exceed this during the peak of the water system development, and will need to be thoughtful in planning any additional capital projects.

2.1 Specific Fiscal Constraints

This portion of the policy details several specific factors that must be considered as fiscal constraints that inform the policy and limit opportunities for fiscal growth. All of the

following items are important factors that are considered in establishing the community's bond rating.

2.1.1 Other Post Employment Benefits (OPEB)

Under accounting standards, municipalities are required to report the liability of other post-employment benefit costs on their balance sheets. Currently the Town is carrying a liability number of \$10,666,906. Towns have been encouraged to create a plan and set aside money to fund retired employee benefits. In May 2014, town meeting voted to establish a trust fund so that the Town could begin to set aside funds for this purpose, and we subsequently joined a collective of trusts, the Plymouth County OPEB Trust (PCOT). Monies set aside in this fund count as cash reserve for the Town. We need to include a discussion and strategy in this year's budget process to address what level of contribution to make annually to this fund. The estimated (actuarial) liability for Eastham is \$24,352,625 and the current balance in this account is **\$137,000**.

2.1.2 Cash Reserves & Stabilization Fund

Cash reserves for the Town consists of appropriated but unspent funds from the prior year or "free cash, trust funds and some special revenue accounts, and the stabilization fund. The rating agencies and our financial advisors have recommended that the town set a goal of 10% of the operating budget be set aside for cash reserves. In our current budget this would be between 2.8 and 3 million dollars. A stabilization fund is a cash fund that may be used for any items for which the town may borrow. It is a fund that counts towards the Town's cash reserves and can be used to offset borrowing or for emergency expenditures. Unlike other more liquid funds, a two-thirds vote of town meeting is required to spend money from a stabilization fund. We would like to The current balance in the fund is **\$152,879**. We plan to recommend a transfer of **\$250,000** from free cash at the Special Town Meeting in October into this fund and budget **\$100,000** to be added to the fund in FY19. The goal would be a balance of **\$502, 879** by June 30, 2018 and to continue contributing annually until the stabilization fund reaches one million dollars.

2.2.0 Potential Debt -Major Road and Infrastructure Needs

As a part of the water system construction, the Town completed an Asset Management Plan that evaluates each public and private road and establishes a "grade" for each road surface. This translates into a road management plan that anticipates repair/replacement needs for each road. The cost to implement the current plan is estimated at 9 million dollars. The Town has not had a comprehensive road maintenance program and has relied only on State Chapter 90 funds for our annual road maintenance. As we have now patched many roads due to water installation, it will be important to move forward with a road program in FY19. If there is any reserve after the water system has been completed, this money may, with the consent of voters, be applied to road repair and maintenance. In the interim, we need to dedicate capital funds annually to the road program.

2.2.1 Summary Other Potential Debt

- Rock Harbor Improvements (estimate not available)
- Police Station Improvements (\$300,000)
- Road Repair/Replacement Program (\$500,000 annually)

- Wastewater (estimate not available)

2. 3.0 School Expenses

The budget process for Eastham Elementary, Nauset Regional School District, and Cape Cod Tech are on a similar timeline to the Towns'. It is important that these departments, as they develop their budgets, understand that the town has very limited capacity to accommodate significant budget growth. The town will make every effort to limit its' overall budget growth to 2.5% exclusive of health insurance/retirement increases and requests that the schools follow a similar path. However, we recognize that enrollment shifts, particularly at the Nauset Regional School District, may add cost that may stress the Town's ability to accommodate budget growth. The Board is requesting early discussions with both Nauset Regional and Eastham School Committee members to better understand the budget on both sides and be ready to anticipate any issues early in the budget process.

3.0 NEW REVENUE SOURCES

- 3.1 With the significant costs associated with creating the water system, it will be increasingly important to make every effort to seek out any new revenue that may be available to the Town to lessen the burden of property taxes, and allow us to have dedicated funds for capital improvements and the maintenance of Town services. To this end, we will review any and all ideas for additional sources of revenue, including but not limited to: increases in fees for services, additional grants, contracts for the use of Town property and other taxes such as the optional meals or rental taxes.

- 4.0 In consideration of the foregoing, the Board of Selectmen's policy for Fiscal Year 2019 is as follows:

4.1 OPERATING BUDGETS;

All Town Departments shall prepare a budget that maintains current staffing and departmental programs. Those budgets will form the basis of the overall budget to be prepared by the Town Administrator that may increase by 2.5%. If the recommended spending exceeds 2.5% then an explanation of the additional needs shall be prepared in a narrative with data.

Each department shall evaluate current fees and make suggestions for increases aimed at creating additional revenue to support current service. levels in addition, new revenue sources should be explored and proposed as part of the town budget process.

Funding for the operating budget is from two primary sources, the tax levy, and local receipts. The levy is anticipated to be \$25,264,970 excluding other non-tax revenue, estimated at \$3,600,000 for a total of \$28,864,970. This budget amount includes the three school (Cape Cod Technical High School District, Nauset Regional School District, and Eastham Elementary) budgets as well.

The School departments, despite their needs should make an effort to stay within these budget guidelines. The 2.5% overall increase option applies to the budget bottom line. Assessments are based on a particular town's share of total student population. That can result in increases of more than 2.5% as enrollment shares change. Again, this year the Town will consider the Nauset Regional School District "capital budget" as part of the overall operating budget.

4.2 CAPITAL BUDGETS

The municipal capital acquisition budget (Article 13) for FY19 should be funded with no more than \$500,000 in free cash, using in addition special revenue funds such as ambulance receipts, boat excise, and community preservation funds if appropriate. The capital budget includes Eastham Elementary School needs as well as municipal needs.

This budget policy's primary focus is to provide guidance to the Town Administrator, town department heads and school administration, to develop a budget that recognizes the fiscal pressures on revenues and the obligations beyond the operating budgets. This policy supports the development of a balanced budget without additional revenues beyond the tax levy and local receipts, however, the primary goal is to maintain existing programs and service and staffing levels.

This budget policy is adopted by the Board at a public meeting on September 18, 2017