

MINUTES OF THE
EMERY ESTATE ADVISORY COMMITTEE
AUGUST 20, 2015

- PRESENT: Dan Condon (Chairman), Pat O'Leary, Mary Jordan-Roy, Bill McCarthy, Laura LeBarron, and Ron Boretti
- ABSENT: Mary Heinrichs, Janelle Quinn, Cathy Torrey
- OTHERS: Nicholas Bulens, Grant Writer and Researcher
Matt Brennan, Environmental Health Officer

Chairman Dan Condon called the Emery Estate Advisory Committee meeting to order at 7:30 pm in the Town Hall Council Chambers, 75 Middle Street, Weymouth.

REVIEW OF DRAFT RFP FOR MANAGEMENT AND REUSE OF THE EMERY ESTATE

Dan Condon recognized the large amount of time and effort committed by many towards identifying potential uses of the Emery Estate over the past years. The RFP is a good logical step forward in terms of getting on board an experienced partner with resources behind them who can manage the Committee's vision which was laid out in the Emery Estate Final Report.

Dan Condon stated that member Mary Heinrichs has moved out of Weymouth and will be leaving the Committee. She was thanked for her commitment.

Dan Condon asked Nicholas Bulens to talk about the RFP and how it was developed. Matt Brennan was asked to introduce himself.

Nicholas Bulens stated that a contact from the Endicott Estate in Dedham pointed him towards an RFP released by the City of New Bedford and modeled after the Massachusetts Department of Conservation and Recreation's (DCR) Historic Curatorship Program. Nicholas contacted DCR and was provided with two RFP examples. The program is a national model to facilitate the long term preservation of historically significant but underutilized properties by partnering with private entities to provide rehabilitation, management or maintenance services. Typically DCR offers private entities a long term lease in exchange for services. The Town will offer a contract for management services rather than a lease. The Emery RFP was modeled on the examples provided by DCR. Much of the language is taken directly from the state's examples.

Nicholas Bulens stated that the RFP has six parts and that he would review the highlights and answer questions at the end.

Nicholas Bulens said Part I provides an overview. The Town is offering a three year contract of management services with an option to extend the contract for an additional five years subject to majority vote of the Weymouth Town Council. The Town's legal counsel had advised that the

Town Council's approval would likely be necessary if the contract was to be longer than three years.

Nicholas Bulens said Part II reviews the property in greater detail. Most information is taken directly from the Cecil Group's Final Report on the Emery Estate. The information was sent to the Building Department and the Planning Director for review.

Nicholas Bulens said Part III pertains to management requirements. The RFP states what will be expected of the Proposer/Operator. Any plan submitted has to meet certain criteria:

- Public enjoyment of the property as open space and for public events;
- A balance of paid uses with public access;
- A public benefit from the property; and
- Preservation of the view sheds, isolated landscape and historic character of the property.

The RFP lists the Operator's responsibilities. These were based on comments received from the Committee members at previous meetings, provisions in the state's RFP examples, and suggestions made by the Trustees of the Reservation in a letter of interest sent to the Town. The letter was taken as an example of what a potential Operator might be willing to do. Responsibilities include:

- A financially-strong program of activities;
- Defraying costs associated with the operation, management and ordinary maintenance of the Estate. Nicholas Bulens stated that in his opinion, this provision makes clear that operational cost of the property will be the responsibility of the Operator, not the Town;
- Landscaping and maintaining the property's view sheds;
- Conducting activities for fundraising, marketing and public outreach. Nicholas Bulens stated that this requirement was taken from the City of Newton's farm operator agreement;
- Charging fees consistent with fair market rates. Nicholas Bulens stated that the RFP provides a suggestion to the Operator to charge reduced fees for residents as part of the public benefits requirement;
- Paying all utilities except water which is Town supplied; and
- Preparing an annual Business Plan for review by the Town. Nicholas Bulens stated that this process was taken from the City of Newton's farm operator agreement.

The last section of Part III stresses a public benefit obligation. The state's RFP examples required that the leased property be available at least twice a year for public access. This was a minimum, but the state encouraged Proposers to provide additional benefits to the public which would be taken into consideration during the selection process. The Town's RFP provides a list of example public benefits.

Nicholas Bulens stated that Part IV expresses what the Town will do as a partner. The RFP recognizes that capital investments must to be made to prepare the Emery Estate for reuse. Commitments are made in four general areas:

1. Roof replacement for the Main House
2. Lead abatement and painting for the Main House's exterior
3. Handicapped accessibility for the Main House, inside and out
4. Parking and vehicle access to the property

The RFP commits the Town to making these investments based on terms to be negotiated with the chosen Proposer/Operator.

Pat O'Leary asked if other communities like New Bedford had done something similar to this in terms of commitments.

Nicholas Bulens stated that neither the New Bedford RFP nor the state's RFP examples offered any commitments in capital investment. However, he noted that these RFPs were offering long term leases.

Nicholas Bulens stated that the firmest commitment made by the Town is delivery of the Main House vacant and suitable for occupancy by July 1, 2018, and delivery of the Carriage House, Children's Playhouse, and Garage in structurally sound condition by the same date.

Mary Jordan-Roy asked how the Town is defining occupancy.

Matthew Brennan stated that occupancy is meant to refer to a certificate of occupancy. At present a person could not live in the Main House because the Health Department would require the Town to complete asbestos removal and lead abatement of the structure. There is nothing in a certificate of occupancy that says the Town cannot issue the certificate without lead abatement, however.

Mary Jordan-Roy stated the RFP should specify a certificate of occupancy.

Pat O'Leary asked if the Operator could take on management sooner if outdoor events could be held even without using the buildings.

Nicholas Bulens stated that the Operator is charged with management of the grounds in Part III so outdoor events could still be run prior to the July 1, 2018 date.

Dan Condon suggested that for the sake of process, Nicholas Bulens should finish his presentation and then each Committee member could respond and ask questions.

Nicholas Bulens continued with his discussion of Part IV. He stated that the RFP commits the Town to providing some services to the property, most of which are already being provided:

- Snow removal and residential trash collection for Emery Lane;
- Paying all bills associated with water, since it is Town supplied; and

- Paying all local and state taxes and fees associated with ownership of the property.

Nicholas Bulens stated that Section C of Part IV was modeled after the City of Newton's process for approving an annual business plan with its farm operator. Advisory Committee members and the Final Reuse Report had previously indicated that the Town should maintain an active oversight role in the Emery Estate's operations. Newton's business plan process seemed like a suitable model to accomplish this. The RFP states that the Operator will provide an annual business plan with specific elements, including a projected budget, property use, a program of activities, community outreach, fundraising targets and methods, and evaluations of the previous year's plan. The annual business plan is the Operator's report on how well the property performed the previous year and what they plan to do for the next year. The Advisory Committee would first review the business plan with the Operator and make recommendations to the Mayor, who is responsible for approving the final business plan. A more concrete timetable and deadlines for the process would be determined during negotiations.

Nicholas Bulens stated that the next section (Part V) is boilerplate application guidance and instructions. It specifies what the Proposer/Operator needs to provide for consideration. He stated that the most interesting piece of the application is the Contract Terms (Section 4) which was modeled from the state's RFP examples. It is possible that a non-profit could read the RFP and like the Emery Estate but desire different commitments from the Town than those provided. Section 4 invites the Proposer/Operator to suggest alternative commitments that they think the Town should make and why. The RFP reserves the right of the Town to negotiate or refuse any suggestions.

Nicholas Bulens stated that the final section (Part VI) specifies the selection process. There will be a team of evaluators who make recommendations to the Mayor.

Dan Condon thanked Nicholas Bulens for reviewing the RFP and for the time committed to its development. He stated that he would like the Committee members to have the opportunity to respond and ask questions. The Advisory Committee's role is one of representing the public interest, and this includes uses that allow the property to be financially viable and attract the public for particular purposes. If Committee members would like to request a change to the RFP, they should make a formal motion on which the Committee can vote. This will give solid direction to Town staff.

Dan Condon asked Mary Jordan-Roy to start.

Mary Jordan-Roy asked if for-profit could bid on the RFP.

Nicholas Bulens stated no, only non-profits are eligible to respond. He stated that this criterion was made more specific and highlighted in bold after similar comments were received from the Town's legal counsel.

Nicholas Bulens stated that if the Town was to later turn complete management of the property over to another entity, state law requires that it be a non-profit because the Emery Estate was purchased with Community Preservation Act (CPA) funds. In this case the Town will still remain

a partner in management, but management by a non-profit seemed sensible given the requirements of the CPA and the spirit of the purchase.

Dan Condon stated that it was essentially a legal requirement. Nicholas Bulens agreed.

Mary Jordan-Roy asked that given the Town has already invested funds in the property and commits to doing improvements in the RFP, could the Town at the end of the contract term negotiate a profit sharing arrangement for a return on its investment?

Nicholas Bulens stated the RFP's provisions provided terms for just the first eight years at a maximum. After that, he believed that the Town could negotiate terms, though it may be necessary to advertise again with a new RFP.

Pat O'Leary stated that she thinks the Town could extend a contract non-competitively as long as the initial contract was awarded through a competitive process.

Mary Jordan-Roy stated Emery Lane is described as a private lane a number of times in the RFP. She stated that it is an easement to the Emery Estate, so the Committee should be cautious about labeling it a private way. She cannot get on board with putting money into making Commercial Street the primary access point to the property until a viable reuse is identified. Until the Town gets something up and running, Emery Lane should be listed as an easement or a private way owed as part of the Emery Estate.

Dan Condon stated that the private way language is a bit misleading and probably should be revised.

Laura LeBarron stated that she agreed with both Dan Condon and Mary Jordan-Roy. She also stated that in the future Emery Lane should be the "in" access to the property and Commercial Street should be the "out." That way the connection to Commercial Street could be half the size.

Dan Condon said that the access required more discussion before the end of the meeting and asked if Mary Jordan-Roy had further comments.

Mary Jordan-Roy asked if the Town was promising to put a heating source in the Children's Playhouse.

Nicholas Bulens stated no, the RFP states that the current condition of the structure includes no heating source, and the Town limits its commitment to delivering the building only as structurally sound.

Mary Jordan-Roy made a request: when the Town plans to undertake the improvements promised in the RFP, there should be a lot of transparency on the cost and alternatives so everyone is fully aware of the cost differences in construction.

Pat O'Leary commended Nicholas Bulens for responding to her earlier comments on the draft RFP. She had submitted two pages of responses and about 90 percent had been addressed. One

thing that she believe is worth adding to the RFP is the capacity of the generator inside the Carriage House. It is good information and a possible selling point. She asked for clarification on whether or not the gas station at the corner of Commercial Street and East Street is an abutter.

Nicholas Bulens stated that the gas station was not listed as a direct abutter in the RFP because it did not touch the Emery Estate's property line according the Town's online property viewer.

Matthew Brennan stated that there is an access road adjacent to the gas station which is an easement owned by the Town.

Pat O'Leary stated that she had some housekeeping items for the Town. One was the need to recognize and look at the staffing challenge of the Mayor's office to manage this process. Another was whether or not the Advisory Committee has the authority to be engaged in the management of the property as envisioned by the RFP.

Dan Condon believed that the language of the RFP was consistent with the Committee's role as advisory in nature. Any decision made by the Committee in the management process can be accepted or rejected by the Mayor.

Nicholas Bulens stated that the RFP leaves open the possibility that the Advisory Committee could become a more permanent body. But in the RFP, the Advisory Committee is conceived as an intermediary between the Mayor and the Operator. The Committee provides recommendations but the Mayor reserves the right to make the final decision in every instance. Nicholas Bulens stated that the previous Town Solicitor George Lane and the Town's current legal counsel had reviewed the RFP and did not express concerns about the role given to the Advisory Committee.

Pat O'Leary stated that she had also inquired about a role for the Town Council in the process but understood that the Town has a strong mayoral form of government in which the Mayor is responsible for the management of public property.

Dan Condon asked how the Town arrived at the three year contract term with an option to extend five years.

Nicholas Bulens stated that the RFP examples had relied on long term leases. But his research on the limits of public contracts brought him to the three year timeline. The five year extension was included based on what the City of Newton had done with its farm operator. The Town's current legal counsel advised that any contract longer than three years may require Town Council approval, so language was added to the RFP to indicate this.

Dan Condon suggested that the term might be too short. He did not wish to propose any change to the term but thought that the Town might get push back from Proposers/Operators.

Dan Condon asked that the number of houses on Emery Lane be reviewed, as five seemed too many. Nicholas Bulens stated that he would review this before releasing the RFP.

Dan Condon read a statement from the RFP regarding the accessibility of the ground floor of the Main House under Part II Section K. He stated that the language seemed too vague and a bit misleading. He suggested that the language be changed to indicate that the ground floor was not accessible.

Nicholas Bulens stated that the language was taken directly from the Cecil Group's Final Report but agreed that it should be changed to say that the ground floor does not meet current ADA regulations.

In regards to the requirement that the Operator provide at least two public events per year, Dan Condon stated that this amount seemed too minimal. Four events per year was preferable, but he wished to hear from other Committee members before suggesting any changes to this provision.

Dan Condon stated that he would like to make the annual business plan process consistent with the Town's fiscal year.

Nicholas Bulens questioned whether or not the timeline was best left to negotiations with the chosen Operator. Nonprofits often run on a calendar year schedule for business operations.

Pat O'Leary suggested that an alternative would be to ask the Operator for an update near the end of the Town's fiscal year. Dan Condon thought it was fine to specify this point in later negotiations.

Dan Condon questioned whether or not the language on emergency services in Part IV Section C was too minimal.

Nicholas Bulens stated that Part IV Section C was intended to reserve the power of management for the Town in the event of emergencies. Access by emergency responders like firefighters was assumed to fall under the police powers of local government.

Dan Condon referenced language in the RFP stating the driveway from Emery Lane will service only emergency vehicles and the Operator's staff. He stated that he does not agree with this promise because it is too limiting on the potential uses of the property.

Dan Condon made a motion to remove any language specifying how Emery Lane will be used in the future. Laura LeBarron seconded the motion.

Bill McCarthy stated that the language was originally put into the Cecil Group's Final Report in order to head off concerns from the property's neighbors. He asked whether or not the Town was being a good neighbor by asking them to possibly live with higher traffic on Emery Lane.

Laura LeBarron stated that a similar argument could be made for the people living on Commercial Street.

Bill McCarthy stated that Commercial Street is already busy and living with traffic whereas Emery Lane is not. It would be a substantial change in the quality of life for those on Emery Lane.

Mary Jordan-Roy stated that any access from Commercial Street would have a blind turn and that there is already more traffic on Commercial Street due to Legion Field's redevelopment. Drivers are more likely to slow down if entering from Emery Lane. A right-turn only sign may also be necessary if Commercial Street is used as an exit-only access way. At this time, the Town does not have the funding to create access from Commercial Street, so the RFP should not limit the use of Emery Lane.

Pat O'Leary stated that the comments from Emery Lane's neighbors came before any feasibility analysis was done on constructing access from Commercial Street. The analysis suggests that the cost would be very expensive due to the angles, and the Town could not afford the expenses at this time.

Nicholas Bulens stated that from the perspective of the RFP, removing the language would simply allow the Town to keep its options open. The removal makes sense so the Town does not limit itself out of the gate.

Dan Condon called for a vote to the motion. VOTED UNANIMOUSLY.

Laura LeBarron stated that the RFP represents excellent work. Her biggest concern was about Emery Lane which the Committee just addressed. She also agreed with Dan Condon that the requirement of two public events per year is too minimal. The events do not have to be free but the RFP should require at least four events per year.

Laura LeBarron made a motion to require at least four public events per year. Dan Condon seconded the motion. VOTED UNANIMOUSLY.

Bill McCarthy stated that the Operator's requirement to carry Liability Insurance is clear, but would the Town continue to carry Liability Insurance?

Ron Boretti stated that this was his question, as well. The required Liability Insurance for the Operator's activities is reasonably clear. But Part IV Section B under the Town's requirements refers to only Property Insurance. If a person is walking on the property when there is no event, there is still a liability to be considered. Who provides for this coverage? Does it fall under the Town's overall Liability Coverage? This language may need more clarification.

Nicholas Bulens stated that these were good questions which he could not answer at this time. He would have the language reviewed by additional Town staff and provide clarification in the final RFP.

Bill McCarthy brought up the financial transparency requirements of the Operator. The business plan requires a budget, but is the Town requiring the Operator's books to be entirely open?

Nicholas Bulens read the requirements of the annual business plan. He understands them to mean that the Operator will disclose how they run their operations.

Dan Condon noted that the RFP specifies a projected budget in the business plan but does not explicitly say revenues or expenses. He thought that Bill McCarthy had a fair point.

Nicholas Bulens stated that these terms could be added to the RFP as part of the reporting on the outcomes of the previous year's business plan.

Bill McCarthy stated he was comfortable with Nicholas Bulens' explanation but requested that the terms be made clear during the drafting of a contract.

Ron Boretti wished to confirm that there was a provision in the RFP that reserved the Town's right not to award a contract. Nicholas Bulens confirmed that there was such a provision.

Pat O'Leary asked whether or not the Committee should motion to add the capacity of the generator in the Carriage House to the RFP.

Laura LeBarron stated that the generator is an added benefit.

Pat O'Leary made a motion to list the capacity of the generator in the RFP. Laura LeBarron seconded. VOTED UNANIMOUSLY.

Dan Condon made a motion to approve the RFP with the recommended changes. Mary Jordan-Roy seconded. VOTED UNANIMOUSLY.

APPROVAL OF MINUTES

Dan Condon made a motion to approve the minutes of February 2, 2015. Pat O'Leary seconded. VOTED UNANIMOUSLY.

OTHER BUSINESS

Dan Condon stated that the Advisory Committee will meet again in September of 2015. He would like to include on the agenda the reorganization of the Committee: (1) to add a replacement for Mary Heinrichs and (2) to vote again on the Chair, Vice Chair and Clerk positions.

Dan Condon stated that he enjoys this Committee but will step down as Chair in September 2015. It is for no other reason than work obligations which keep him from being the flag bearer that this project needs. He stated that he will remain a member of the Committee.

Bill McCarthy questioned whether or not the Committee should consider planning a few events at the Emery Estate. Can the Committee host such events?

Laura LeBarron and Mary Jordan-Roy agreed that the Committee could host such events and that they were a good idea.

Dan Condon stated that this Committee and the Community Events Committee should partner to generate events at the Emery Estate.

Mary Jordan-Ryan suggested inviting the members of the Community Events Committee to the Advisory Committee's next meeting.

Bill McCarthy stated that it would be great to have events on the property that would shine a positive light. SouthField has had success with generating good feelings through a number of recent events like food truck rodeos and a farmer's market.

Bill McCarthy made a motion to invite the Community Events Committee to the next meeting. Laura LeBarron seconded. VOTED UNANIMOUSLY.

ADJOURNMENT

Dan Condon made a motion to adjourn at 8:45 pm. It was seconded by Pat O'Leary. VOTED UNANIMOUSLY.

Respectfully submitted by:

Nicholas Bulens
Recording Secretary



Dan Condon, Chairman



Date