

MEMORANDUM

TO: Cape Elizabeth Town Council

FROM: Matthew E. Sturgis, Town Manager

RE: Behavioral Health Resources Inc. Lease of Building #326, Fort Williams Park

DATE: December 31, 2019

Background: Behavioral Health Resources, Inc. and the Town of Cape Elizabeth entered into a Commercial Lease Agreement dated June 10, 2017, for Building #326, Fort Williams Park (the "Lease"). Behavioral Health Resources, Inc., with the Town's consent, sublet a portion of the building to Rachel Walls (Ms. Walls). Behavioral Health Resources, Inc. and Ms. Walls are in litigation as to the sublease and, upon information and belief, Ms. Walls has been making lease payments into an escrow account with the court. The Town is not a party to this litigation.

Behavioral Health Resources, Inc. has been unable to make its lease payments. By Notice dated November 1, 2019, the Town gave Behavioral Health Resources Inc. a 15-day Notice and Opportunity to Cure, as required by the Lease, for failure to pay rent. Rent was not timely cured and by Notice dated November 19, 2019, the Town issued a Notice of Termination of the Lease.

Current status: During negotiations between the Town Manager and Behavioral Health Resources, Inc., there was an agreement reached to reinstate the Lease and give Behavioral Health Resources, Inc. additional time to resolve its differences with Ms. Walls as subtenant. Upon resolution of that matter, Behavioral Health Resources, Inc. will bring the Lease current with the sublease payments that Ms. Walls has been making to the court. We have agreed to extend the time to resolve the matter to the end of the Initial Term of the Lease, May 31, 2020. In exchange, Behavioral Health Resources, Inc. has agreed to waive its right to renew its Lease for an additional two-year term. This will give Behavioral Health Resources, Inc. time to resolve its case against Ms. Walls and provide a mechanism for the Town to come out whole under its Lease with Behavioral Health Resources, Inc. In addition, this agreement will provide the Town the ability to utilize the building to house our Fort Williams Park employees on-site rather than in the cramped and inconvenient current location.

Requested action: It is requested that the Town Council ratify the Town Manager's actions in reinstating the Lease and negotiating a mechanism for the Town to be paid the back rent and a waiver of the two-year renewal option held by Behavioral Health Resources, Inc.