

**Town of *Dunstable* Selectboard**  
**Meeting Minutes**  
**April 15, 2015**  
**Town Hall, Dunstable, MA 01827**

**Convened:** 6:05 pm

**Present:** Walter F. Alterisio, Chair, Kenneth J. Leva, Daniel F. Devlin, members; Madonna McKenzie, Town Administrator; Richard Larkin, Town Counsel; Jared Stanton, GDRSD Business & Finance Director

**Selectboard Reviewed & Signed the Following:**

- Payroll & Vendor Warrants

**Open Forum**

Mr. Alterisio explained and detailed the open forum and asked whether anyone present had any matters to bring before the Board during this process. He then proceeded to outline the agenda for the evening.

**Mr. Stanton's Update on GDRSD Stabilization**

Mr. Stanton started out by explaining that he was present to answer any questions that the Board might have and to provide clarification for what the school is requesting for this financial year. The school district hopes to create a stabilization fund for FY17. This would be the first time this would be in full effect. Right now the school district wants to establish the account now. A line item in the schools budget could establish this. The district would love to have a substantial amount in this account. Ms. McKenzie noted that the way it was explained that the funds would only come from the school and the towns would not be asked to vote any more money into it and that there wouldn't be a line item for it. Mr. Stanton noted that this is not accurate and he apologized for any misunderstanding.

Mr. Stanton explained that any movement of funds would be a 2/3rds vote of the school committee. To pass at the Annual Town Meeting, it would also require a 2/3rds vote of the townspeople assembled. The funds, he elaborated, can only be used for certain things and once in there it cannot be taken out to use for any purpose other than what the account is, the only exception would be a serious deficit and only with permission of DOR. Once established the School Committee can place a line item as part of the annual budget to put funds into this. The amount must be appropriated based on the regional agreement and once approved in the budget the funds may be used for capital expenses. It would require initial approval at the Annual Town Meeting.

Mr. Stanton noted that this could help with projects like boiler replacement, roof repairs, and so forth. It would give the school a contingency. The reasoning behind this is to provide help for the future and for capital projects. There is nothing really currently in place for this and is beyond what the school has in place now. The Board reminded Mr. Stanton that stabilization funds are usually rainy day in nature elaborating that the school appears to want this for capital planning. Mr. Stanton responded that emergencies would not affect this account and it would be capped from going over 5 percent like other school funds. Mr. Stanton indicated confidence that the school district will be able to articulate to the public why they want to do this and why the district feels this is necessary.

**Greater Lowell Decree**

Mr. Larkin started off by noting that a setup has to be created to deal with the elections and sent to the court for effect. By default, the town is currently in agreement with what is on the table. The latest edition proposed by Tyngsborough which all other towns agreed to, is that any seats filled by the towns in the Spring Elections would run until the next biannual state election which is 2016. There is a minor problem  
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of the ballots already printing saying a three year term. But regardless, the plan is what it is. Ms. McKenzie noted that a person in town, a local attorney, is interested in being a write in candidate. Mr. Larkin said that if someone is written in and is willing to accept the position, the Board could (even after agreement to the settlement) deal with it as a practical matter in that the Board could approach the individual who is written in.

This person could submit a resignation to be effective at the biennial election and then step in and be elected at that election. Mr. Larkin suggests accepting the decree as formatted and work out these sorts of adjustments down the line. The Board expressed some concern as to whether a person elected to a full term will be willing to agree to adjust. There could be a discrepancy and an opportunity for litigation. Mr. Larkin noted that at the last minute a provision was inserted into the decree in the effect that towns that have 3 year candidates this year and such candidates could serve till 2018. So all the town would have to do, is fill a technical vacancy from the annual town election in 2018 till the fall election. The Board discussed several other options with the town counsel about the matter.

### **Dog By-Law**

Mr. Larkin began the discussion by noting that there is a big piece that will be inserted as to the matter of kennels. He stated that in his opinion it is well done and competent, but he notes that the average person would read it and think that you would have a kennel in Dunstable if you do it this way. He noted this by-law is a general one and the by-law doesn't address whether you can or cannot do this in particular. It is a little bit analogous to the issue of forcing a developer to add affordable housing to the development. By-Laws cannot modify or supersede MGL. There are some provisions in this by-law that permit things like personal kennels in order to breed and sell dogs (with provisions that sales are barred to pet shops and so forth). This is a potential issue since it may go beyond what the general by-law can do. Ms. McKenzie noted that the new law requires the town to inspect anything over 4 dogs regardless of whether it is a kennel or not. The by-law appears according to Mr. Larkin, to reference the Zoning Board of Appeals. Therefore, he indicated that in his opinion there needs to be a general understanding of how these two things interconnect.

Anything that involves commercial makes sense for the Zoning Board of Appeals in the mind of the Board. There is a distinction between personal kennels and commercial kennels. If a person has a number of dogs they are automatically by operation of law a kennel. If for personal reasons this is a personal kennel. A commercial kennel is one that makes funds off boarding other people's dogs. Mr. Larkin noted that this by-law needs to be coordinated and calibrated to work properly. If this is implemented then something should be done with the one that exists currently. The Board asked if the by-law proposed now can be lived with as it is now, considering time is too short for more change between now and the Annual Town Meeting. Mr. Larkin said yes.

### **Skytop Lane**

Mr. Larkin stated that in a nutshell, the town attempted to accept Skytop Lane several years ago. Anytime a way is accepted the town must have a way of accepting "ownership" of the public way. When it comes to a private subdivision, depending on how the subdivider formulated the deed, the road in front of the lot either goes to the private buyer or is retained by the private developer. Sometimes it happens automatically and they don't really know what they are doing. In Skytop the developer got it, but certain rights were retained. When it came up, the developer had gone bankrupt. So a trustee in bankruptcy prevented any deed from being issued to the town, and the trustee insisted on being paid for it and that was an obstacle.

Mr. Larkin reminded the Board that he spent some time tracking down the property rights for them in the past. He concluded the town will need to take by eminent domain. Ownership of the road isn't necessary, just an easement. He noted that most of the county roads in Massachusetts are on easements. If the town

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were to take an easement there wouldn't be any damages to the developer. Since the road has already been dedicated to use as a way, it would be no loss to gain the easement. Once the vote takes place the town has 120 days to get the process done. This action would not require a town meeting agreement, but Mr. Larkin would expect the motion at this Annual Town Meeting to cover anything that might come up.

### **McLoon Farm Case**

Mr. Larkin then updated the Board on this topic. It involves Chapter 61A. He noted that the town has a right of first refusal in this case. Ms. McKenzie noted that the Conservation Commission has said it couldn't buy it but would have liked to get a CR on it. Mr. Larkin said that wouldn't be feasible in this situation. Mr. Larkin then informed the Board that he's read the notice and said that they need a letter from the Selectmen saying "thanks, but no thanks." The Board thought some of the property might be in Tyngsborough, but Mr. Larkin said that to his knowledge the entirety of the property in question is in Dunstable. Discussion was finished out by concluding that the party that has not yet commented on this is that needs to comment is the Assessors. The Board has heard from Conservation and Planning already, but not the Assessors.

### **FY16 Warrant**

The Board started off by determining that it would deal with the warrant "by exception" this meeting rather than go through it in detail for each article. The Board noted that it has already gone through the warrant in detail several times in recent meetings. The Board then determined it would focus on specific articles. From that point the Board then turned to the earth removal by-law. There was discussion of the meeting with the Planning Board, and the difficulties the Planning Board had with changing the by-law. Ms. McKenzie noted that the Planning Board is willing to consider the idea of looking at a piece of land and figuring out how much would be taken out and that they would adopt a formula to help with this. The Board determined that this article should be no action, and that the problem should be dealt with on an evolving basis. Ms. McKenzie reiterated that having a formula will help the Planning Board moving forward.

From that the Board moved to a brief discussion of the Dog By-Law. After concluding the Dog By-Law they then moved to the Personnel By-Law and Ms. McKenzie noted the recommendations of Marc Terry's law firm. She stated that they were expected to arrive tomorrow. Ms. McKenzie then requested the Board approve the by-law knowing that it will be changed by counsel. The main change will be to remove the wording of a "personnel administrator" to a "town administrator" to make it better and more streamlined. Ms. McKenzie also noted the budget has changed, since the town became aware over this weekend from the Treasurer/Collector that there was an error in one of the line items. Currently the Advisory Board is trying to figure out the consequences. So far Dana Metzler has proposed taking a few thousand out of different departments line items including Police, Fire, and Transfer Station (Board of Health). The Advisory Board remains active on this issue. Some of the Advisory Board members want to lower the pay of the Town Administrator from \$85,000 to about \$55,000. So far Mr. Metzler's plan is only about \$2,300 away from closing the gap.

Mr. Alterisio then reminded the Board that he will be on vacation for the next few weeks, but he noted that he wants people not to hesitate to contact him if something comes up. Ms. McKenzie informed the Board that a meeting should not be scheduled for next week due to the lack of quorum. She noted that at the next meeting Mr. Devlin will need to sign the warrant with the Town Clerk, who will sign in the place of another Selectman as permitted by MGL.

A motion was made by Mr. Alterisio to accept the warrant with the understanding that a few language modifications will be made by counsel, but will not change the intent and purpose of the warrant articles. The motion was seconded by Mr. Leva and passed unanimously without objection.

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## **Appointments**

Ms. McKenzie reported to the Board that she had a Paul Dalida request to be appointed to Safe Pathways. The Board agreed to make the appointment.

Paul Dalida appointed to Safe Pathways

Term Expires: June 30<sup>th</sup>, 2015

*Motion by Mr. Devlin, seconded by Mr. Leva, passed unanimously*

## **Consultant's / Administrator's Report**

Ms. McKenzie handed out some information to the Board from a meeting with the school. She reported that she was unable to attend the recent meeting, but Dr. Rodriguez was gracious enough to send the meeting packet to her. She went over Conservation and Planning's responses to the McLoon situation and then asked the Board to consider and inform her of when they would like to have this matter return to its agenda. From there she moved to the topic of meeting for finalization of all warrant processes. The date that emerged was May 6<sup>th</sup>. Ms. McKenzie then moved discussion on to the letter from the Commonwealth concerning Chapter 90.

## **Mail Action Items**

The mail included several action items including a Special Permit Notification form for Blodgett Street as well as information submitted to the Board concerning a proposed solar project that will be considered before a public hearing of the Planning Board. Ms. McKenzie also noted that in the warrant, the town will be granted the ability to sign an agreement.

## **Minutes**

No problems determined so far. We have four sets, two from past meeting and two new ones. These minutes concerned March 11<sup>th</sup>, March 23<sup>rd</sup>, and March 25<sup>th</sup>.

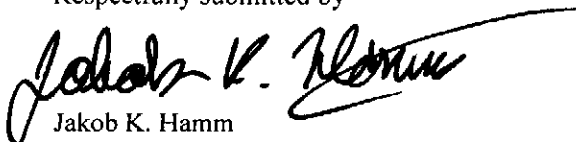
A motion was made to adopt the minutes from March 11<sup>th</sup> and March 25<sup>th</sup> by Mr. Leva. The motion was seconded by Mr. Devlin, and passed unanimously.

A motion was made to accept the minutes from March 23<sup>rd</sup>, by Mr. Leva, and seconded by Mr. Devlin. The motion passed without exception.

Motion to accept Christine Muir's minutes from the joint meeting on March 30<sup>th</sup>, by Mr. Leva, seconded by Mr. Devlin, and passed unanimously.

A motion was made to adjourn at 7:11pm by Mr. Leva, and seconded by Mr. Devlin. The motion carried.

Respectfully submitted by



Jakob K. Hamm  
Admin. Assistant to the Selectboard & Town Administrator

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