

Town of *Dunstable* Selectboard
Meeting Minutes
January 14, 2016
Town Hall, Dunstable, MA 01827

Convened: 6:28 pm

Present: Kenneth J. Leva, chair, Walter F. Alterisio, members; Tracey Hutton, Town Administrator; Dr. Kristen Rodriguez, GDRSD Superintendent; Jeff Rider, Town Engineer; Dana Barnes, Zoning Enforcement; Nicki Rockwell on behalf of Betsy Sawyer

Selectboard Reviewed & Signed the Following:

- Warrants & Payroll
- Proclamation for Betsy Sawyer

Open Forum

Mr. Leva briefly explained the purpose of the public forum and went over the Boards agenda which included the Proclamation for Betsy Sawyer, assignment of address numbers for structures on French Court and Forest Street, and old business.

Proclamation for Betsy Sawyer

The Board in honor of Groton-Dunstable Middle School teacher Betsy Sawyer proclaimed September 21, 2016 to be The International Day of Peace / Betsy Sawyer Day.

Nicki Rockwell subsequently addressed the Board on behalf of the friends and family of Betsy Sawyer. She thanked the Board for the proclamation and explained the impact of Betsy Sawyer on the student body and the world in her tireless work for world peace with the Bookmakers & Dreamers Club. Ms. Rockwell noted that Betsy's work has been more than just for world peace; it has also included teaching leadership to her students while inspiring them to actively explore real world problems and challenges. These leadership skills were ultimately intended to teach skills that would aid students to become both lifelong learners and active members of the community. By signing this proclamation and honoring the power of her work, the Board will help ensure that her work lives on.

The Mr. Leva, on behalf of the Board, proceeded to officially read the proclamation into the record and presented the official signed copy to Betsy Sawyer's husband, Charlie Sawyer. Ms. Sawyer was unable to be present, but sent her thanks through her sister.

French Court & Forest Street

Ms. Hutton provided the Board with the recommended numbers for structures on French Court and Forest Street. The Board noted some concern that these might be existing houses. There was some concern about changing any existing numbers to new recommended numbers. This provoked some discussion of whether more numbers would have to be changed in order to bring existing numbering into line with the towns numbering scheme. From there the Board discussed what impact it might have for existing residents. The Board determined that it does not want to see an undue burden put on residents who have had a particular address number for a long time. The proposed numbering comes from the Board of Assessors and the Fire Chief. Ms. Hutton agreed to provide more information to the Board at their next meeting to determine if these are new structures or existing structures. The Board responded by postponing adoption of the renumbering until their next meeting when this matter is clearer.

Zoning Enforcement & Alexander Way

Approved and adopted on 2/24/16

The Board addressed Mr. Rider and Mr. Barnes about the situation with Alexander Estates and how to enforce the earth removal permit. Mr. Barnes explained that in his opinion, there is nothing in the building code that allows him to enforce the permit. Mr. Barnes further noted that for the time being he has only issued three occupancy permits, but otherwise put a moratorium in place. Discussion turned to whether the Building Inspector may shut down the development. The Board determined that the Building Inspector does have this authority, while noting the Town Engineer does not have this authority, and the Planning Board on its own does not either. It is the responsibility of both the Engineer and the Planning Board, the Board noted, to notify the Building Inspector for enforcement purposes. Currently, a substantial part of the problem with Alexander Estates appears to be the emergency access road to the development, which needed to receive design approval from the Planning Board. Once it was known how much earth would need to be removed for this, it was hoped that the Planning Board would require the same kinds of provisions as those found in the earth removal permit, which has seen a number of violations including hours of operation and routes taken by trucks involved.

At the last Planning Board meeting the developer was present and his request was to reduce the bond that was imposed on him. The Board found this objectionable considering the violations with the earth removal permit. So far the developer has proposed no solutions for addressing these violations. As a result the Board would like to see consistent permitting requirements moving forward with robust enforcement. Mr. Rider explained that the access road was designed as required by the Planning Board. He further noted that the Planning Board has revised its rules and regulations to ensure that more information is given to the Board in the future. Mr. Rider then admitted that he was not as involved in this process originally as perhaps he should have been and acknowledged that if he had some of these problems might have been avoided. As far as the access roads design appears, it is being constructed according to the plans filed. The reason the road has been difficult to build is the grade required for fire trucks. He has continued to inspect the site and report issues as they have arisen to the Planning Board. The Planning Board has brought these matters to the developer's attention and many of the initial problems with the construction site have been fixed. As for the bond reduction he has started to review the request, but has not finished his review.

The Board responded by elaborating on the earth removal permit that was issued. The permit was issued to remove a large pile of earth and the permit was an accommodation to allow the removal of the earth in question. The removal was supposed to be a short period. Additionally, the Board hoped to have a more smooth process with the Planning Board in regards to the conditions of any further approved permits or plans. Mr. Rider explained how this situation developed in the manner it did. In the future the Planning Board will need to be more vigilant in including the kinds of permit requirements and conditions like those seen in the earth removal permit. The Board asked Mr. Rider if he saw a need for enforcement. Mr. Rider responded that initially yes, but at this point a lot of the necessary corrective work has been done. There was some question as to why enforcement didn't happen when the violations occurred initially. Mr. Barnes explained that his authority covers buildings and safety enforcement, noting that stopping a development from construction, in his opinion, falls under the Planning Boards authority. This led to deeper discussion relating to the roles of the Town Engineer, Building Inspector and Zoning Enforcement, and the Planning Board. It was resolved that all such interested parties need to come together to develop proper protocol for how to deal with situations like Alexander Estates in the future.

From there, discussion revolved around the ability of the town to shut down the development and require a remedial plan. The Board was concerned as to what happens after the developer is gone because any problems left unresolved could be inherited by the town causing exposure to liability. Ensuring that doesn't happen will require cooperation from the Planning Board, help from the Town Engineer and enforcement. Clearly the Town Engineer is not an enforcement authority, and the Planning Board is not either. The enforcement authority appears to rest with the Building Inspector. Mr. Barnes informed the Board that he has never had to exercise such authority and requests to see the legal basis for the claim that he has the authority to conduct such enforcement. The Board agreed to research the matter of enforcement further. The Board reiterated the fact that in the future there needs to be a better process with greater communication between the Planning Board, the Board, the Town Engineer, and the Building Inspector. Ms. Hutton informed the Board that she would do her best to research and clear up the enforcement situation, as part of that she intends to further consult with Town Counsel.

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Mr. Rider finished by reminding the Board that the Planning Board has not released any further lots in this development. Mr. Barnes reminded the Board that in regards to those permits that are released the builders and property owners will be looking for occupancy permits. This will happen within the next month or so. Mr. Rider noted that it might be too late to be holding up occupancy permits. Holding the homeowner hostage is not fair since they and their builder are not responsible for the developer's malfeasance. Ms. Hutton noted that the Board and the Planning Board are slated to have a joint meeting soon and recommended this be brought up again at that meeting. She did note that Planning Board has a meeting on February 1st which is before the joint meeting already scheduled. The Board determined that it would be prudent to meet with Planning. Ms. Hutton responded she would see to it that the Board would be put on their agenda.

Appointments

Ms. Hutton informed the Board that the Cultural Council has requested that long time Dunstable resident Carlton Chin be appointed to serve on the council. The Board agreed to proceed with the appointment.

Carlton Chin is appointed as the Councilor for the Cultural Council Term Expires: June 30th, 2018
Motion by Mr. Alterisio, seconded by Mr. Leva, passed without objection

School Agreement Amendment Committee

The Board discussed the situation so far. Currently the group is looking at the assessment for the towns in the school district. It appears that the leadership in Groton perceives and persists in framing the discussion as Groton subsidizing Dunstable. The tone is indicative of there being little support for this subsidy. As the towns move into the budget process, this kind of attitude will sadly only lead to divisiveness. There is no mystery in what Dunstable can and cannot do financially in regards to the school district. Some may be disappointed as this process moves forward. If this kind of climate continues, any necessary override may fail. Both towns want to have a good education system, but Dunstable already spends the bulk of its budget on the school district. Dunstable simply asks that this be kept to what the town can handle.

Request Regarding Commercial Space

This request involves the property which was previously host to the Convenient Mann. Ms. Hutton stated that Town Counsel has assured her that this matter is moving forward quickly, but she noted it doesn't appear at this juncture to have been done. All the landowner is asking for is a general direction as to what to do to make this property leasable for commercial use. There was some discussion over whether continuous use in the past has maintained any kind of grandfathered or special permitted use and whether this might have run out in the time that the property has remained vacant. It was determined that as long as there is progress on the items in question, the timeline won't have run out as of yet. The Board noted that the town needs to make it clear what needs to be done with this space since the owner has attempted in good faith make the space better and more conforming to code.

Administrators Report

Ms. Hutton started off by discussing the MMA business meeting. She will not be in attendance. The Board briefly discussed whether they should attend. From there the Board noted some thoughts about the Personnel Committees work and the desire to see Ms. McKenzie continue to consult. This led to discussion of whether Ms. McKenzie should be retained to also help the town improve and develop the earth removal process. As for Personnel matters, Ms. Hutton no longer has any ethical conflict with the Personnel Board's work because she is a contracted employee. Therefore she can aid them further in their work moving forward. The Board noted that this opens the question of whether they should then continue to have Ms. McKenzie work on this project. Ms. Hutton responded that in terms of the wage classification chart it would be useful to have Ms. McKenzie continue.

As for the Personnel Policy and other related matters it makes more sense for her to work with the Personnel Board more closely. The Board noted that their only concern for Ms. Hutton is how much time she will have among the many projects she is working on. Ms. Hutton responded that while the budget is consuming a lot of

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her time, but she remains above water. From there she turned discussion to the Accountants recommendations on employees versus private contractors. In the past the town has employed individuals who have been deemed contractors at the time, but the Accountant feels should be in fact considered employees. The only difference this makes is the tax status of the individuals hired. There was some question as to this. Ms. Hutton elaborated on the IRS's position, which rests on whether the individual is under the supervision and direction of the employer. If they have complete independence they are not employees, but if they may be directed and controlled they are employees.

There was some discussion of the Assistant Assessor, but Ms. Hutton explained that this person is under a contract which is between Townsend and Dunstable. She then elaborated on how some other employees of the town may be affected, noting that election workers pose a problem because of discrepancy between the IRS and MGL. Then she discussed the budget. What has been provided so far is purely department heads requests. The related materials have also been provided to the Advisory Board. She spoke about several particular departments and noted the number for the school district, which was provided for discussion purposes. The Board inquired as to whether there's been any change regarding the water project. Ms. Hutton responded that no activity has occurred there as of yet. From there discussion turned to the Master Plan. Ms. Hutton responded by noting that a joint meeting has been scheduled for this with the Planning Board and NMCOG will give a presentation at this meeting. Ms. Hutton also informed the Board that she has procured \$20,000 from the Community Compact and \$25,000 from NMCOG for the Master Plan and she has asked CPA for \$5,000.

Building Use Application

Ms. Hutton informed the Board that the Morgan Babcock Scholarship Trustees have applied to use the Town Hall on January 21st at 7pm. The Board had no objection to the application.

A motion was made to accept and approve the application was made by Mr. Alterisio and was seconded by Mr. Leva. The motion passed unanimously.

Future Meetings

There will be a meeting on the 27th. The joint meeting with the Planning Board will be on February 25th.

Minutes

The Board determined to table the minutes in Mr. Devlin's absence until their next meeting. Ms. Hutton elaborated on additional minutes the Board has that were from joint meetings.

Warrants & Mail

The Board reviewed and signed the payroll and vender warrants and looked through its mail.

A motion to adjourn was made by Mr. Alterisio at 8:00 pm. The motion was seconded by Mr. Leva and passed unanimously.

Respectfully submitted by



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

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