

Town of *Dunstable* Selectboard
Meeting Minutes
March 23, 2016
Town Hall, Dunstable, MA 01827

Convened: 6:30 pm

Present: Kenneth J. Leva, chair, Daniel F. Devlin, Walter F. Alterisio, member(s); Tracey Hutton, Town Administrator; Richard Larkin, Town Counsel; Brian Rich, Fire Chief; James Dow, Police Lieutenant; Dana Barnes, Building Inspector & Zoning Enforcement Officer; Carol Bacon, Affordable Housing; Joan Simmons, Planning Board; Attorney George Theodorou and his client Jay Parikh

Selectboard Reviewed & Signed the Following:

- Warrants & Payroll
- Chapter 70 Resolution

Open Forum

Mr. Leva briefly explained the purpose of the public forum and went over the Boards agenda which included use of town building requests, review and approval of the draft Annual Town Meeting Warrant, and an Executive Session.

17 Pleasant Street

Attorney Theodorou addressed the Board. Mr. Theodorou came before the Board on behalf of R&R Holdings, and its owner Mr. Parikh. Mr. Parikh through R&R Holdings owns the location, 17 Pleasant Street, previously known as the Convenient Mann. The property was purchased in October 2011. The initial issue that was brought before the Board in May 2012 was the discussion regarding whether the rights to operate a restaurant were still in existence and grandfathered in at that location. Discussions with Town Counsel resulted in the understanding that there was indeed a variance that was grandfathered in at the time. Unfortunately, the building was determined to be in considerable disrepair and required a number of improvements. This process started in May 2012 with a new septic design and installation. The design of that septic system and its installation, along with other renovations provoked many delays. Mr. Parikh persevered through many difficulties in keeping contractors, but nonetheless, he has managed to update the HVAC system and make numerous other repairs to the interior and exterior of the building including new pavement. The space is now capable of seating up to 17 customers and is ready to be used as a restaurant facility. Mr. Parikh has been looking for a suitable tenant since 2015, and as of this October, Mr. Parikh had the interest in signing a lease by the well-known owners of the Comet Dinner in Tyngsborough.

Unfortunately, when the tenants contacted the town, the town precipitated the issue of premise use. The town's position appears that the use has lapsed which would bring to end the variance. Attorney Theodorou argues that although it has taken a long period of time, the delays were reasonable and continuous and therefore should have maintained the use. Mr. Parikh then addressed the Board to explain the history behind his work on this project and his discussions with the town. He stated that he was hesitant to invest money in this building without assurance that it could continue to be used as a restaurant. He further stated that throughout this process he has cooperated with various town officials. This has included heading the advisement that he should not plan for a restaurant that would sit less than 16 people. Mr. Barnes, he stated, advised him that as long as the same footprint for the building was kept the renovations, including some demolition, would be okay and he also consulted with Chief Rich to ensure compliance with various codes. Mr. Parikh then elaborated on his hunt for tenants noting that his lease will stipulated that any tenants must achieve all the required permits from the town in order to operate. Mr. Parikh finished by stating that he has a locally respected tenant that is ready to go and he urged the Board to help him reach an equitable solution. The Board started off by applauding Mr. Parikh for his work towards improving the location and his attempts to bring business to Dunstable. The Board inquired with Town Counsel about the process and continuance of the variance. Mr. Larkin noted that in one month it would be 4 years since this process started. He stated that the first line of authority for making this *Approved and adopted on 4/6/16*

sort of call is the Zoning Enforcement Officer, which would be Mr. Barnes. Mr. Larkin then highlighted several sections of the zoning by-law that are pertinent. One such section pertains to the issuance of a building permit before a certain time. Such a permit is to be issued at a certain time with work that is commenced in a certain time frame. All of these moving parts affect this process. The issuance of such a permit and commencement of work within the proper period may be applied to this situation in the sense that if some use that is grandfathered in is not happening due to renovations to make that use continue to be possible, that in and of itself is not an abandonment but rather it is a temporary cessation that makes the use possible to continue. The continued use is good provided it is done reasonably and expeditiously.

Obstacles and setbacks may be considered to be part of “what is reasonable.” It falls on the Building Inspector who is also the Zoning Enforcement Officer to make that call. When premises that are grandfathered are shut down temporarily for renovations that maintain the use that is grandfathered, that is the same use. As a legal matter, the renovations are part of the process and the use. The only question is how long this can be carried, and Mr. Larkin expressed the opinion that that should be left to the Building Inspector. Any appeal of this decision would be to the ZBA with any further appeal beyond that to the courts. The Board thanked Mr. Larkin and turned to Mr. Barnes. Mr. Barnes responded that he will weigh the matter carefully and consult with Town Counsel. Mr. Larkin noted he is not instructing Mr. Barnes on what to do, but that if he gives the landowner the benefit of the doubt and view the delays as reasonable, Mr. Larkin can certainly provide him the legal support for that decision. Mr. Barnes stated that he intends to be reasonable on this matter. The Board was pleased to hear this. Mr. Parikh then thanked the Board for meeting with him and his attorney.

Chapter 70 Resolution

Ms. Hutton started discussion of the matter with the Board by elaborating on the resolution provided. The Board read the proposed resolution. The resolution seeks to have the General Court provide full funding for the foundation budget for education and other related community expenses. The Board determined it would agree to the resolution and signed it. The Board noted that this is a small step in addressing the problem in Massachusetts. A dialogue must be started both with local members of the General Court and with the Governor of the Commonwealth. The Board has raised this issue among others with Senator Donohue and Representative Harrington in months past, but little has been done. It may be necessary for both to be asked to return and discuss this matter again. This problem is not new, and many communities in Massachusetts are struggling with education related expenses.

Bicycles Battling Cancer

Ms. Hutton started off by explaining the request received from the American Cancer Society. She has discussed the planned bike route through Dunstable. So far the Police Chief’s requests have been addressed and she is still working on getting the Fire Chief’s requests also addressed. She feels that the matter is ready for the Board to approve the event. Chief Rich noted that the route will mostly follow the rail trail.

A motion was made by Mr. Devlin to approve the event and grant permission for the requested route through Dunstable. The motion was seconded by Mr. Alterisio and passed unanimously.

Annual Town Meeting Warrant Draft

Ms. Hutton provided the Board with a copy of the draft warrant. She has already reviewed the draft with the Advisory Board and other parties. The Advisory Board has requested that the town consider adding an article regarding consideration of making the Town Clerk appointed rather than elected. Ms. Hutton explained that this falls under their concern that all town employees be treated equally and come under the structure of the Town Administrator. Under the new draft personnel policy, both elected and appointed employees would be considered town employees. Currently the Town Clerk is the only elected employee in the town with the Treasurer/Collector becoming wholly appointed in 2017. From there Ms. Hutton asked the Board if they had any questions regarding the warrant. The Board noted that the record of how much may be done in one meeting may very well be blown out of the water by this. There was some light discussion about the marijuana dispensary by-law, which Ms. Simmons noted should not concern the Board much. The Board noted that they don’t want to see matters forced, but expressed some concern budget wise. What Groton may do in regards to

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the school may impact Dunstable. Ms. Hutton assured the Board that she is in contact with her counterpart in Groton and will continue to stay in contact with him on this issue going forward.

School & Town Budget

The Board discussed the draft budget and where the town stands. With respect to the school budget, there is little trouble embracing the number and the process by which it was arrived at. The process was thoughtful and insightful. What the Superintendent has done in her work is what she was hired to do, and the Board is grateful for her work. But there is some concern that a lot of the “this is why you want to do it” doesn’t necessarily hold water with what many people feel is correct or true. Many articles and information have been published regarding this. Where the Board comes into this process is taking into account the many interests of the community as a whole. The Board cannot focus on education alone. There are many influences that are magnifying the problems the town faces and there is a concern that some of the requests being made are huge for one year and one budget. The school has requested as much as 40 hires, which among other similar issues are significant and ambitious. The school district has, in the past, fallen into some fiscal problems, which had roots in governance and monitoring issues. The School Committee has stepped up in recent times to address these issues and fix them. It cannot be forgotten that there are three polities here: Groton, Dunstable, and the School District. In the past the school has lacked adequate oversight. A good job has been done in identifying what needs to be done, but there are some remaining questions regarding the “how.”

The Board discussed the concept of taking things in chunks rather than all at once. It was suggested that doing so would not truly impact the schools ability to accomplish its goals. There was some discussion of the new management for the school, what was done to rectify the budget problems of the past, and how phenomenal the current management has been including some clear examples of the school district working to save money while looking towards what needs to be done in the future. There are clearly achievable gains that can and are being made. What may be left unaddressed is communication to the general public. There were some questions regarding the proposed salaries for the new hires. Ultimately, these questions the Board noted should be answered at the Annual Town Meeting. Ms. Bacon then made some comments regarding the budget. She stated that she has always supported education fully, but feels that it must be recalled that 40 percent of the town are retirees and social security benefits and pensions are either fixed or decreasing over time. The Board responded by noting that the town has experienced significant growth (about 35 percent). But town costs have not been limited to just school district costs; they have also included other essential services as well as the conservation of town land. Ms. Bacon elaborated on some thoughts regarding the service cost differences between conservation land and developed land for housing. She then noted that the town hasn’t really changed, but the school population has gone down due to the greying of residents.

This brought discussion back to the problems of unfunded mandates and education funding. The Board reminded that towns are restricted in their sources of revenue. Few things play by 2 ½ rules, but the town must play by them. Ms. Hutton addressed some of Ms. Bacon’s points. She noted that there are many shifting factors, and residential development may not be as expensive as previously thought. She assured the Board that she would bring them more information on the topic moving forward. The Board then discussed the increasing probability of an override vote if funding as requested by the school district is to be had. From there discussion revolved around questions as to the sustainability and strength of the school system. It was noted that a strong school system could actually increase home values and desirability. The Board reminded those in attendance that the problem ultimately is how funding occurs in Massachusetts. This very problem is what the Board is concerned because as it continues to develop it creates the possibility of community versus community and community versus the school district. There was then was some discussion of the Master Plan, the further purchase and maintenance of conservation and open space in town, and what the Master Plan must ultimately address. Master Plans, unfortunately, cannot take into consideration all possible exigencies and future unfunded mandates. Discussion returned to the school district with the Board noting that the school district has excellent rankings. The district rates high in graduation rates and top in the Commonwealth for a school district in general. This led to discussion of whether this data is outdated and the impact of cuts and setbacks over the past few years.

From there the Board turned to discussion relating to increased compensation for employees and retiree health. Lt. Dow started off by stating that to defer this matter more is more of the same and discounts much of the

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work of the Personnel Board this past year. The Board responded by discussing the various options; including making the increases occur all at once or over a period of time. Ms. Hutton noted that Advisory is meeting on Monday to consider the override, and as of their last meeting, it doesn't appear the override would include wage costs, only the school. She thinks the town may be able to include the first third of increases this year. While Personnel Board may not be entirely ready for prime time, she has recommended to Advisory Board that the money be allocated, but not spent until the town is ready. The Board felt that this was not an unreasonable thought. The town needs to weigh the options in regards to this matter carefully. A plan is falling in place to address the matter more fully. Lt. Dow agreed that a plan needs to be in place. But employees, he noted, are the backbone of the town's government. His fear is that deferment will continue, and the cost will never shrink. There is never a right time to spend money, never a convenient time. Lt. Dow then finished by noting that there will be increasing Union costs both for teachers and the police that will have an impact and he would argue that the town needs to fairly pay all employees.

The Board reiterated that they need to look at the materials being presented by the Personnel Board, which are new, and consider this matter carefully. The town needs to do the right thing, but it won't happen overnight. Lt. Dow noted that this cost, while not small, is not unmanageable and not as big as other costs being faced by the town. The Board highlighted the changes that have occurred in the town and the progress that has been made. This includes the hiring of a full time Town Administrator, the implementation of a Personnel Board, and the work that has been done so far. The Board ended on the position that the progress made will be built on, and the Board will continue to consider this matter going forward.

Complete Streets Policy

Ms. Hutton started off by explaining that the town needs to have a policy in place to compete for some grant funding. She recommends the Board and the Roads Commission adopt such a policy. This sort of policy does not say the town must build sidewalks, nor dictate where and what. It simply includes some vision for travel in the town, not only for pedestrians, but for other modes of travel as well. The policy is a guideline as to the vision of the community for development for transportation. Once approved, this policy will enable the town to apply for various grants and funding opportunities. She noted that the town's status as a community compact community will also aid in seeking these grant funds. The Board discussed some of the history behind the town's character and what the vision should be in the future. Including, but not limited to the issue of pedestrian traffic. Ms. Hutton noted that this policy is not a sidewalk policy. It is a comprehensive policy regarding travel in the town, including bicycles, horses, trails, pathways, etc.

This policy is to help set a vision and a guide. The Board was concerned about the possibility of some resistance moving forward. Ms. Simmons inquired as to whether this would require a by-law change. Ms. Hutton responded that it would not. The Board highlighted that this is not just good for the town, but encouraging to the Commonwealth. Currently the Commonwealth favors this kind of policy. Ms. Hutton noted that this really only requires that when projects are done in town the issue of what can feasibly be done has to be considered. Ms. Simmons asked for a copy of the proposed policy, which Ms. Hutton agreed to provide. There was then some light discussion of Safe Pathways and their work towards development of alternate modes of travel in town. Ms. Hutton noted that this policy in particular would help the town-seeking grant funding for the Safe Pathways in particular. The Board resolved to consider the policy further before adoption.

Administrators Report

Ms. Hutton started off by reporting on the ambulance situation. There is now a plan to stay status quo with Trinity Ambulance. The Board noted that Tyngsborough has not yet allocated the funding to buy their municipal ambulance and it may require some time to purchase. From there Ms. Hutton pivoted to the Affordable Housing Trust Fund Board of Trustees which was created at a prior town meeting, but never populated. Ms. Hutton requests the Board consider addressing this. Ms. Bacon reported that the town has been advised to put money into the trust on a regular basis and for that to happen the town needs trustees. From there Ms. Hutton turned discussion to the deferred matter of whether the town should move forward with a feasibility study about building a public safety complex. The matter was deferred at the last meeting due to Mr. Leva's absence. There was discussion of whether the complex should be expanded to include DPW as well as

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Police and Fire. The way the request for the proposal for the study is written precludes the addition of DPW into the complex.

Ms. Hutton advised the Board not to commit the funds to the study unless it is what the Board wants to do. She further noted that by including public works the size of the complex grows considerably. She is not sure that the town has locations that would be large enough to accommodate such a building. The Board discussed the concern of further delays for this structure. Lt. Dow noted that Fire and Police need to be centrally located and that to some extent limits where it can be located in town. Further the cost of such a building, with DPW included would be significant. Further, a DPW complex could be located almost anywhere in town in contrast to Police and Fire. There was then some discussion as to the cost of such a project and why they are so high. Ms. Bacon noted that she has been part of building two municipal buildings, and many of the costs are due to mandates from the Commonwealth. There was some question as to the cost of financing a public safety complex. Ultimately the costs won't go down.

A motion was made by Mr. Devlin to support the recommendation of awarding the RFQ to Dore & Whittier. The motion was seconded by Mr. Leva and passed without objection.

Use of Town Property

The first application regards a Walk-a-thon on the Stone Arch Bridge. Ms. Hutton reported that Conservation has no problem with this since it involves a public area. She requests that the Board consider and review the application. The Board agreed. The second application involved an event by the Council on Aging to use the Town Hall. The Board considered and acted on both requests.

A motion was made by Mr. Devlin to accept the application of use for the Stone Arch Bridge. The motion was seconded by Mr. Alterisio and passed unanimously.

A motion was made by Mr. Devlin to accept the application by COA for use of the Town Hall for an event. The motion was seconded by Mr. Alterisio and passed unanimously.

Minutes

The Board considered the minutes for February 25th and March 9th. The Board had no edits for the minutes and approved them.

A motion was made by Mr. Alterisio to accept the minutes of February 25th and March 9th as written. The motion was seconded by Mr. Devlin and the motion passed without objection.

Warrants & Mail

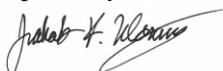
The Board reviewed the vender and payroll warrants and went through their mail.

Walter F. Alterisio made a motion to enter Executive Session for Contract Negotiations in accordance with MGL Chapter 30A Section 21(a)2, and with the intention not to return to ordinary session afterwards. The motion was seconded by Kenneth J. Leva. Adopted by unanimous vote by Kenneth J. Leva, Daniel F. Devlin and Walter F. Alterisio.

The Board entered into Executive Session 8:23pm.

A motion to adjourn was made by Mr. Devlin at 8:40 pm. The motion was seconded by Mr. Alterisio and passed unanimously.

Respectfully submitted by



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

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