

Town of *Dunstable* Selectboard
Meeting Minutes
September 21, 2016
Town Hall, Dunstable, MA 01827

Convened: 6:35 pm

Present: Daniel F. Devlin, chair, Walter F. Alterisio, Leah D. Basbanes, member(s); Tracey Hutton, Town Administrator; James Dow, Interim Chief of Police; Dana Barnes, Building Inspector & Zoning Enforcement; Al Wright, 374 Forest Street (landowner) Joyce Cail, Forest Street (abutter); John Livingston, Lower Dam Way; Richard Nalewski, National Grid Representative; Sue Psaledakis, Community Preservation Committee

Selectboard Reviewed & Signed the Following:

- Vendor & Payroll Warrants
- Standard Contracts
- Pole Hearing Documents
- COA Commendations for Nonagenarian Seniors
- Letter to the Massachusetts Secretary of Transportation

Open Forum

Mr. Devlin briefly explained the purpose of the public forum and went over the Boards agenda which included an use of town property request, a pole hearing, a Personnel Board update, and consideration of a Dog Policy for the Town Hall.

Pole Hearing

National Grid and Verizon requested a pole hearing in order to attain approval to move Pole No. 42 on Forest Street, which is located currently near 374 Forest Street. The pole would be moved approximately 12 feet. The moving of the pole is being done at the request of the property owner where the pole currently stands because the property owner wishes to build a house according to Mr. Nalewski. The property owner Al Wright briefly addressed the Board. He explained that where the pole is located right now is in the middle of the frontage on his property. Moving the pole will allow a road to be constructed. Ms. Cail informed the Board of some concerns that she has with the location of where Mr. Wright would like to locate his driveway. She would like to see the driveway located elsewhere. The Board responded that any building on the lot has not yet been approved by the appropriate authorities and reminded Ms. Cail that the purpose of this hearing is the location of a pole. Mr. Wright noted that only one house will be constructed on the property which is approximately 45 acres. Hearing no further objections, the Board determined to close the hearing and approve the application.

A motion to close the hearing was made by Mr. Devlin and seconded by Ms. Basbanes the motion was approved unanimously.

A motion to approve the application was made by Ms. Basbanes and seconded by Mr. Devlin. The motion passed without objection.

Police Station Memorial Sign

Ms. Psaledakis addressed the Board about concerns with the Police Stations monument which stands in lieu of a sign. If this was classified as a sign, it would violate the towns zoning on signage. Chief Dow responded by explaining how the memorial came to be. The memorial was donated by a local granite company which gained authorization to donate the memorial to the town over a year ago from the Board. The Board recalled receiving a request for permission to donate the sign to the department by Topline Granite. The request asked permission to memorialize the Police Department. The Board approved the donation at the time, but no clear plans were provided. The memorial was then installed after many months had lapsed from the initial acceptance of the

Approved and adopted on 10/5/16

donation. Ms. Hutton noted that at the time of the installation the then Chief of Police was notified of the problems with the memorial. After this notice, Chief Downes went to Mr. Barnes and the memorial was approved as a memorial. Mr. Barnes pointed out that the foundation was already poured and stated that the “horse was out of the barn” by that point. Ms. Psaledakis noted some concerns about the public being consulted with this prior to installation, and wondered what the value of the memorial was. She reminded those in attendance that this kind of gift really likely should have been accepted via a Town Meeting. The Board responded that it was advised by Interim Town Administrator Madonna McKenzie at the time that it had the authority to accept the donation on behalf of the town, but admitted that the matter could have been handled better and promised to ensure that any similar future donations be monitored by the Board from beginning to conclusion more closely.

10 Lake Circle

Mr. Livingston addressed the Board about an issue with the 10 Lake Circle. He noted numerous changes to the property and surrounding land which included the removal of trees, fences in disrepair, and a disparity from what he understood as being agreed upon and permitted. There was also an issue of a retaining wall and the water problems that Mr. Livingston’s claims have been created for his property as a result. He further contended that there are now septic system issues occurring, and alleged other hardships. Mr. Livingston then claimed that the house which was built is also substantially larger than it was supposed to be, including transforming from a two-bedroom house to a four-bedroom home with a garage. Ms. Hutton noted she was only recently informed about this, and had not had time to fully investigate. She will investigate this issue and will be consulting with the Town Clerk and Town Counsel as well as the Zoning Board of Appeals and all other relevant authorities. The Board noted that there are Conservation Commission issues implicated by this situation and stated that the Commission will be taking a look. The Board then assured Mr. Livingston that the various bodies of the town with authority over this matter will investigate and take any necessary actions.

135 Pleasant Street

Ms. Hutton updated the Board on where things currently stand regarding this matter. Mr. Barnes then addressed the Board. As of right now, there is only a front end loader there according to Mr. Barnes. The Board asked if any materials have been removed. Mr. Barnes said he could not take action on such materials and sees nothing in the zoning by-laws which would allow him to. The Board inquired as to how to enforce existing zoning in light of the situation and how to address the problems. Mr. Barnes explained that the by-laws allow up to one commercial vehicle on the property. In the past the owner has had other commercial equipment on the property. He admitted fault for missing a prior court hearing on the problems with this property owner which has forced this issue to the current state of things. Mr. Barnes does not know how to proceed further. The Board noted that the overall use of the property appears to have been as a contractor’s yard. Mr. Barnes responded that in the past there was equipment such as snow plows, multiple trucks, and other related commercial vehicles. These are gone and the property owner appears intent on selling the property. The Board inquired as to the earth and other materials.

Mr. Barnes stated that he does not have the authority to insist on removal of this particular material. The materials appear to have been brought in to hide the previous commercial activity, but the activity appears to have ceased. The moving in and out of commercial equipment is a violation of the zoning by-laws but the materials on its own is not at this time. The Board noted that this limits the town’s options, and discussed what actions could be taken. Current activity does not appear to warrant a new cease and desist. Ms. Hutton reported that she has discussed with the complaining party the situation on the materials and Mr. Barnes’s opinions. The Board asked if the material is more than 15 cubic yards. Mr. Barnes stated that it could be, but the earth is not being moved from the property and in the absence of adding or taking away from the earth on the property, the applicable zoning by-laws don’t indicate a violation. The Board suggested that Mr. Barnes take notes and collect evidence for his findings. Ms. Hutton agreed and stated she would work with Mr. Barnes and consult with Town Counsel to firm up the town’s position and ensure that there is indeed no action that may be taken further on this subject by the town. Mr. Barnes finished by suggesting some other actions he could take such as asking for the front loader to be moved. The Board thanked Mr. Barnes for his time.

Approved and adopted on 10/5/16

Town Building Dog Policy

Ms. Hutton reminded the Board about the incident of a dog bite in the Town Hall and the request by the injured party that the Board consider adopting a policy of only allowing service dogs in the Town Hall. Ms. Hutton has consulted with Town Counsel as requested by the Board at the last meeting. Town Counsel feels that such a policy is more than appropriate and such a policy has been commonly adopted in Massachusetts. In the meantime, Ms. Hutton has sent a letter to the dog's owner asking that the dog not be brought into the Town Hall again. The Board agreed and noted that in this day and age it is wise for the town to indemnify itself. However, it was further noted that the number of dogs that do come into the building are few and far between, but there have been some. Discussion turned to the concept of how the policy would look and what ramifications might occur if a policy wasn't adopted. In light of the situation and the fact that the injured party could have easily been a child rather than an adult, adoption of a policy is likely appropriate. Ms. Hutton agreed to draft a policy for the Board's consideration.

Personnel Board Update

Ms. Hutton updated the Board on the Personnel Board's latest meeting which was held on September 19th, 2016. The Personnel Board has now completed a draft of the new 2016 Personnel Policy which it recommends the Board approve and adopt. The meeting held was very productive. Not only was the Personnel Policy draft recommended for adoption, but several job descriptions were approved. The Personnel Board is also moving forward with researching some of the job grades and considering revisions for improvement of the Wage & Classification Chart. The Board formally thanked the Personnel Board for its hard work and noted that this process has been a long and arduous. The Board then inquired as to whether adoption of the policy ought to be made at this meeting. Ms. Hutton recommended not adopting the policy right away but rather reviewing it and considering it at a near but future meeting.

The Board agreed. Discussion then turned to how to fully consider the policy and go about approving and adopting it. This is the due diligence that the Board has a responsibility to conduct. It was determined that adoption of the policy should be scheduled for the Board's meeting on November 2nd, 2016. In the meantime, the Board instructed Ms. Hutton to inform all Department Heads of the policy and invite them to submit any comments they may have on the policy. This will allow time for consideration of the policy and for all stakeholders to have a voice. Ms. Hutton noted that the draft before the Board is missing a last minute change made to the draft by the Personnel Board at the meeting on the 19th. She will provide the Board with the corrected draft. The Board inquired as to the change. Ms. Hutton elaborated that it is a sentence in the overtime provisions. The Board then concluded discussion on the how the town has reached this point and the give and take that will be necessary in the adoption of the new policy.

Administrators Report

Ms. Hutton started off by informing the Board about the situation with the school budget. The Advisory Board will be holding a meeting on October 3rd, 2016 where they will discuss the difference between the school assessment and what was approved at Town Meeting. The Board has previously requested their opinion on the matter and the Advisory Board intends to take up the matter. There will also be discussion of revenue figures and what funds are expected from the Commonwealth. Ms. Hutton then moved on to an email about a box for box tops. The proposed location for the new box has been objected to by the Fire Chief. The proposed location was under the Tax Collector and Town Clerks drop off boxes at the Town Hall. The Board noted that the boxes in the past have been cardboard. Ms. Hutton responded this box is to be made of wood. She stated she would work with the Fire Chief to find a suitable location. Ms. Hutton then updated the Board on the second part of the Community Compact which has to do with financial forecasting. Ms. Hutton spoke with DLS and with the Town Accountant on the matter. The process for this has begun. She then reported on a letter of support that she asked the Board to sign in regards to a design waiver request for the Main Street/Route 113 Project which will be presented to the Massachusetts Secretary of Transportation.

Secretary Pollack will be making the final decision on approval of this. Ms. Hutton further reported that she has asked for a letter from Representative Harrington, and noted that Safe Pathways and multiple other bodies of the town are considering writing letters as well. The Board noted that Conservation Commission might want

Approved and adopted on 10/5/16

to draft a letter as well. So far the design waiver has gone through the regional authorities, and is now before the Commonwealth. Ms. Hutton then turned to the issue of dog licensing. The Town Clerk has had some concerns about enforcement. Ms. Hutton has spoken with the Clerk and the Animal Control Officer. There appears to be a difference of philosophy with each other and Ms. Hutton believes the Board may need to intervene. The Animal Control Officer would like to enforce penalties and fines, but has had some concerns that the Clerk's office has allowed an amnesty. The Board noted there are always two sides to the story and agreed it may be necessary to address the matter. Any amnesty is likely the result of the time the town went without an ACO and should be discontinued going forward now that there is an ACO ready and able to enforce. Ms. Hutton suggested a letter be drafted by that requests and directs the ACO enforce all necessary penalties and fines for those not in compliance. This letter would also be sent to the Town Clerk's office. The Board noted that the licensing scheme of Massachusetts is about protecting not only the public from rabies, but also protecting the dog and its owner from the ravages of an unnecessary disease. It was then noted that part of the problem with the scheme is the cost of the rabies shot. A point of information was made that the Animal Control Officer would like to put together a day where free shots could be offered. The only issue to do this would be to find a willing veterinarian.

From there Ms. Hutton turned to discussion of the prolonged absence the Town Clerk will be taking for surgery. The Clerk has asked for funds to hire someone to cover her office while she is out. Ms. Hutton has consulted with Town Counsel regarding the prolonged absence and the convention and case law is that the Clerk's replacement would be paid out of the Clerk's salary and the Clerk would be paid the difference. However, it was noted that some of the funds asked for are office support during the election, which would be permissible. The Board inquired as to the issue of the prolonged absence, primarily how long that time period would be. Ms. Hutton responded it would be 4 to 6 weeks. The central issue is that the Town Clerk is elected, which is why this is an issue. The Clerk is not subject to the Personnel Policy in the same manner as non-elected officials. It was clarified that only the portion required to pay a replacement would be deducted from the Clerks pay and she would receive the difference. This is not necessarily required of the town under relevant case law, but paying the Clerk the difference is the convention among many towns. Ms. Hutton requested the Board address this matter with the Clerk. It was agreed that Mr. Devlin would speak with the Clerk.

Update from Interim Chief of Police

Chief Dow addressed the Board and updated on where things stand with his department. This included some personnel developments and the situation with the budget. He reported that he has had numerous meetings with Ms. Hutton and outlined how their collaboration has led to many changes which are saving the town money. This included savings on the cable bill, equipment maintenance, and the Chief's work cell phone. Otherwise there is little to report. The Board inquired as to the department's accreditation. Chief Dow elaborated on the situation and what actions he's taken. The department is currently certified by the necessary bodies, and that the term is a 3 year one. It is suggested the department maintain this and work on further compliance. Eventually Chief Dow would like an officer to be assigned to the compliance and training parts of the certification and eventual accreditation. This will be impacted on what the town decides to do on replacing Chief Dow as Lieutenant or whatever leadership configuration the Board determines appropriate.

The Board then inquired as to the van that was donated to the town by the Town of Groton. Chief Dow briefly updated on the situation with the van. From there he answered questions regarding moral and the overall situation with the department. He noted that change can be stressful and he is focusing on department priorities including reducing such stress and ensuring a smooth transition. Ms. Hutton noted that all department employees she's spoken to are happy. It was noted that Officer Papageorgiou has recently lost a family member and the Board extended its condolences. Chief Dow thanked the Board and stated he would extend the Board's condolences to Officer Papageorgiou. The Board then noted some concerns about logging occurring in town and logging trucks which appear to be moving in excess of speed limits. Chief Dow agreed to look into the matter.

Banner Application

Ms. Hutton reported to the Board that a request for approval to hang a banner across Main Street has been received from the GDRSD affiliated Crusaders Youth Hockey team. The banner is to announce the opening of
Approved and adopted on 10/5/16

registration for the team. The banner would be hung approximately from September 26th, 2016 until October 7th, 2016. Ms. Hutton further reported that she consulted with Jon Crandall who usually helps the town with the hanging of banners. It does not appear that the banner will be hung by the usual volunteers and the town does not have the capacity to do it. The youth hockey team has been advised that they will need to find a party able to do it and the town will continue to coordinate with them on the hanging of the banner assuming the Board approves. The Board saw no reason not to approve the banner so long as the Crusaders are able to find a way to hang and remove the banner in accordance with the application.

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

Use of Town Property Request

The Dunstable Evangelical Congregational Church has submitted a request to use the Town Common for a theatrical presentation on December 10th, 2016. The Board had no objections to approving the request and wished the church success in its program.

A motion to approve the use of the Town Common on December 10th, 2016 by the DECC was made by Mr. Alterisio. The motion was seconded by Ms. Basbanes and passed without objection.

Minutes

The Board considered the Executive Minutes for August 10th, 2016, as well as the minutes for the joint meeting with Advisory Board on September 6th, 2016 and the regular meeting minutes for September 7th, 2016. There was discussion of the September 7th, minutes and some clarifications were made regarding figures reflected in those minutes. Ms. Hutton noted she has spoken with the press about the report and made clarifications and answered questions regarding the de-regionalization study.

A motion was made by Mr. Alterisio to approve and make public the executive minutes of August 10th, 2016 as written and presented. The motion was seconded by Ms. Basbanes and passed without objection.

A motion was made by Mr. Alterisio to approve the minutes of September 6th, 2016 as written and presented. The motion was seconded by Ms. Basbanes and passed without objection.

A motion was made by Ms. Basbanes to approve the minutes of September 7th, 2016 with necessary amendments and modifications and to reflect an abstention. The motion was seconded by Mr. Alterisio and passed without objection.

Warrants & Mail

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

A motion to adjourn was made by Ms. Basbanes at 7:48 pm. The motion was seconded by Mr. Alterisio and passed without objection.

Respectfully submitted by



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

Approved and adopted on 10/5/16