

Town of *Dunstable* Selectboard
Meeting Minutes
December 28, 2016
Town Hall, Dunstable, MA 01827

Convened: 6:30 pm

Present: Daniel F. Devlin, chair, Walter F. Alterisio, Leah D. Basbanes, member(s); Tracey Hutton, Town Administrator; Mike Martin, chair, Peter Gove, Roads Commission; James Regan, fmr. Roads Commissioner; Terry Atwood, Highway & Assessors Secretary; James Dow, Chief of Police

Selectboard Reviewed & Signed the Following:

- Vendor & Payroll Warrants
- Westford Street CR Grant Paperwork
- Common Victuallers License for Dunstable Gas & Convenience

Open Forum

Mr. Devlin briefly explained the purpose of the public forum and went over the Boards agenda which included use of town property requests, a common victualler's license, discussion regarding the Water Superintendents salary, the Highway Superintendents longevity, the possible modification at Town Meeting of the Solicitation of Goods By-Law, and three Executive Session matters.

Common Victuallers License

Ms. Hutton provided the Board with the Common Victuallers License for the Dunstable General Store. She noted that they were the first applicant to return the necessary paperwork. There are two other applicants whose licenses will be ready for the Board's signature at the Board's next regularly scheduled meeting on January 11th, 2017. The Board saw no reason not to approve the issuance of this annual license.

A motion to approve and issue the Common Victuallers License for Dunstable General Store was made by Ms. Basbanes. The motion was seconded by Mr. Alterisio and passed without objection.

Westford Street CR

Ms. Hutton informed the Board that the town has received a LAND Grant in the amount of \$398,100 for the purchase of the Westford Street CR which was previously approved at the Annual Town Meeting last May. She then provided the paperwork for Mr. Devlin to sign in his capacity as Chair. There was some discussion of other CR's the town has done in the past and whether the towns former Counsel has provided the town with the entire relevant work product. Ms. Hutton has made inquiries but not yet heard back from his office. She will be sending him a letter approved by current Town Counsel regarding the matter. There was a question of the exposure this puts the town through. Ms. Hutton elaborated noting that it might be possible that some of the CR's might have to be re-done. The Board responded that completion of the CR's is not optional; they must be done as the funds are already expended.

Water Superintendent – Salary

Ms. Hutton started off the discussion by explaining that prior to the adoption of the Wage & Classification Chart, the Highway Superintendent and Water Superintendent positions had different rates. Currently the water rate is lower than the Highway rate. The newly approved chart calls for the positions to be the same since they are both held by one person. Further, the charts intention is to see both positions achieve competitive wages. The Water Commission would like to make the rates equal now and bring them up to the competitive level in the same increments. Since the Water Department is an Enterprise Fund the Commission has the funding available to do so. However, any deviation from the chart requires approval from the Board. The Board saw no reason not to approve the Water Commissions request and did so.

Approved and adopted on 1/11/17

Highway Superintendent – Longevity

Discussion on this matter revolved around a May 2005 memo from the Board of Road Commissioners to the Treasurer/Collector regarding longevity. The memo referenced credit for time worked between 1993 and 1997 in regards to vacation benefits. Currently the interpretation of the “start date” of an employee is that of current employment in the current position as maintained by the Treasurer/Collector. The Road Commissioners feel this grant of approximately 3 ½ years of employment credit applies to all benefits. It is the opinion of the Labor Counsel that this memo applies only to vacation time. At that time, there was no correlation between wages and years of service. Ms. Hutton noted that the Wage & Classification Chart did not exist at the time of this memo. The decision is the Board’s; Labor Counsel simply advises that the Board remain consistent. The Board noted that at the time the Road’s Commission believed it had the authority to take this step and questioned if they did have that authority. Ms. Hutton responded that at that time, prior to the adoption of the Personnel By-Law, the Road’s Commission had the authority to take the action it did in the memo.

The distinction appears to be that the credit is for vacation, and the Road’s Commission’s minutes from the period do not indicate anything more than what the memo states. The Board noted that really this means that this is a matter of interpretation which will, ultimately, set precedent. Ms. Hutton stated that Labor Counsel is concerned about whether intention could have been formed by the Road’s Commission to convey a benefit that did not exist at the time of the granting. It was not as of yet foreseeable that the town would adopt a Wage & Classification Chart. The Board discussed whether allowing the consideration of vacation in this case, would impact other benefits. A former Roads Commissioner, Mr. Regan, explained that what was contemplated at the time was what existed. They saw it as a negotiation, and did not give him any time he hadn’t worked. Meaning, they did not count the years he was away from the town. From the beginning the intention of the Road’s Commission was to impact vacation, sick, and other related benefits. The pension, obviously, was beyond their authority and wasn’t impacted.

Had the Commission understood that there would be in the future a correlation between wages and years of service they would have addressed it, this was simply not something that was not anticipated at the time. The Commission today sees no reason not to treat this benefit any different than any other benefit such as sick and vacation. Ms. Hutton reiterated Labor Counsel’s position and elaborated further. She noted that if the Board decides to count these years, the precedent will impact how time served is determined. It would make the years of service total rather than consecutive for longevity. This would decrease the incentive for employees to stay. The Board discussed what the impact would be of the decision and any precedent that would occur. Whether this is a grandfathering situation and if the decision would really have future impact and how often this kind of thing would occur. There was subsequent discussion of how long a separation would have to be. This prompted the question of what would happen if an employee served in one job and then came back years later into a different job in a different department. It was noted that this kind of thing can result in conundrums.

Patch work will probably be necessary in the next few years to address these kinds of situations, but there is still the problem of precedent. Now that the policy is in place, it should be adhered to going forward, but this situation is one the Board feels must be molded to fit. Discussion returned to the issue of time served and how that is considered for future situations. The Board noted that a person may be hired under the Chart at any level on the Chart. Ms. Hutton agreed clarifying that the Personnel Board would make the recommendation to do something like that, such as hiring someone at a higher rate than the entry rate. Mr. Devlin recused himself from any vote on the matter that might occur. Ms. Hutton responded that a formal motion is not necessary. There was then a question of a possible separation by the same employee after having coming back under the terms of the 2005 memo. Mr. Martin and the Road’s Commission understood that not to be a separation but rather a vacation. Ms. Hutton noted that the Treasurer/Collector has confirmed this was indeed a separation. Discussion returned to the issue at hand and how to respond future situations like it that arise. Moving forward, the policy ought to be that a separation is a separation. This is to ensure equity. The Road’s Commission had no objections to the policy going forward.

Solicitation of Goods By-Law

A request has been made that the town consider modification of the Solicitation of Goods By-Law which delineates parameters for the solicitation of goods in town. This would include modifying such limits as to

Approved and adopted on 1/11/17

prohibit the solicitation of goods after a specified time in the evening. The Police Department currently tries to encourage companies and persons not to solicit goods after 7:30 pm. It was noted that the by-law was adopted in 1962 and has never been altered. Chief Dow elaborated by noting that people who simply handout information are not governed by this by-law and it is very difficult to do so. There has to be actual solicitation. While Chief Dow agreed that this is something that may need to be addressed, assuming it can pass muster under law, he was not positive that a time restriction may be enforced without a posting of the property for trespassing. Ms. Hutton stated she would inquire with Town Counsel. Chief Dow finished by highlighting some issues that could come up as a result of a time restriction and elaborated on alternatives.

GDRSD Financials

The Board noted that while the financials may be found online they do not appear to be readily and easily available. The Board would like to see monthly expenditures. Ms. Hutton stated that the quarterly expenditures are posted online. It was noted that quarterly is not always helpful, especially in situations where nothing occurs in the quarter or in the instance that the budget, as it was this year, was delayed in approval and therefore what a previous quarter shows is a DESE provisional budget. There was then some ensuing discussion revolving around the override and the current school budget and the impact expected for FY18.

Alexander Estates Update

Ms. Hutton elaborated on the situation as she understands it and the bond situation. Mr. Regan made some comments about his understanding that several lots were supposed to be pledged as part of the bond for the road being built. The developer wanted to build spec houses on those properties and Planning Board wasn't originally going to release the properties but was going to give permission to build on the properties with the town having the first lien on the lots. He was not sure if this was entirely followed through on and as this is purely his recollection. Ms. Hutton then stated that the development is not close to road acceptance as of yet and elaborated on some other areas of concern. There was then some discussion of peer review and how that process may be applied to future developments. Discussion then finished on what the developers intentions for the Annual Town Meeting are and the prospects of road acceptance in regards for Alexander Way.

Administrators Report

Ms. Hutton started by reporting that the preliminary budget will be considered by the Advisory Board at their next meeting scheduled for January 9th, 2017. That budget will include an additional \$223,000 to the GDRSD assessment which corresponds with the amount allocated as a place holder in Groton's preliminary budget. From there Ms. Hutton informed the Board that the Town Hall will likely close along with the GDRSD's administrative offices (school is currently out on break) at Noon on December 29th, 2016 due to inclement weather. NOAA is forecasting 7 to 10 inches. This closing will be in conformance with the Snow/Inclement Weather Closure Policy. The only real impact this will have is on a ZBA's hearing, but the hearing has already been rescheduled. Ms. Hutton then reported further on the ZBA. ZBA has been scheduling hearings promptly and submitting documents in a timely manner. From there she reported on the situation with the Electrical Inspector. The town has been unable to get a hold of him for the past two days and it appears that the Electrical Inspector may be on vacation and may have neglected to inform the town, but his alternate will be covering.

Otherwise the Inspections Department appears to be working okay and proceeding with the issuance of permits and inspections of work. Ms. Hutton then elaborated on the MIIA meeting that is coming up. She will not be attending as she will be on vacation. She then turned discussion to the 91 River Street property. The tenant has not responded to overtures to discuss the matter of the lease. The question is how hard the town should push to have this done. The Board favored getting this done sooner rather than later to protect the town. Ms. Hutton then reported on an email from NMCOG regarding the pipeline. This matter involves the continued opposition of the town to the pipeline and any other proposed pipelines in the area. She then turned to another email regarding a resolution for school choice. The proponent asks that the town resolve to endorse and recognize "School Choice Week." The group claims to be nonpolitical and nonpartisan. The Board was not in favor of taking further action on this matter. Ms. Hutton then finished by discussing the latest Community Compact Grant updating the Board on what the funds will do.

Approved and adopted on 1/11/17

Use of Town Property & Banner Request

The Board considered two requests from the 2nd Massachusetts Regiment for use of the Town Hall. The first application was for January 21st and the second for February 25th. The Board saw no reason not to approve them. The Board then considered a request from Boutwell Early Childhood Center to hang a banner for the Boutwell Preschool open house (open to parents in both Groton and Dunstable). The banner would hang for one week from January 15th, 2017 until January 21st, 2017. The Board saw no reason not to approve.

A motion was made by Ms. Basbanes to approve the applications from the 2nd Massachusetts Regiment. The motion was seconded by Mr. Alterisio and passed unanimously.

A motion was made by Mr. Devlin to approve the application by the Boutwell Early Childhood Center to hang a banner across Main Street. The motion was seconded by Ms. Basbanes and passed unanimously.

Minutes

The Board considered the minutes for the meeting held on November 30th, 2016 and the Tax Classification Hearing held on December 15th, 2016. The Board seeing no necessary changes or adjustments determined to approve the minutes as drafted.

A motion was made by Mr. Alterisio to approve the November 30th, 2016 minutes as written. The motion was seconded by Ms. Basbanes and passed without objection.

A motion was made by Mr. Alterisio to approve the December 15th, 2016 minutes as written. The motion was seconded by Mr. Devlin and passed without objection.

Warrants & Mail

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

Executive Session

Walter F. Alterisio made a motion to enter Executive Session for Negotiations with Non-Union Personnel in accordance with MGL Chapter 30A §21(a)2, and with the intention not to return to ordinary session afterwards. The motion was seconded by Leah D. Basbanes. The motion was adopted without objection by Daniel F. Devlin, Walter F. Alterisio and Leah D. Basbanes.

Walter F. Alterisio made a motion to enter Executive Session for a Real Estate related matter in accordance with MGL Chapter 30A §21(a)6, and with the intention not to return to ordinary session afterwards. The motion was seconded by Leah D. Basbanes. The motion was adopted without objection by Daniel F. Devlin, Walter F. Alterisio and Leah D. Basbanes.


Walter F. Alterisio made a motion to enter Executive Session for discussion of Contract Negotiation Strategy with Union Personnel in accordance with MGL Chapter 30A §21(a)3, and with the intention not to return to ordinary session afterwards. The motion was seconded by Leah D. Basbanes. The motion was adopted without objection by Daniel F. Devlin, Walter F. Alterisio and Leah D. Basbanes.

The Board entered into Executive Session at 7:45 pm

A motion to adjourn was made by Mr. Devlin at 8:50 pm. The motion was seconded by Ms. Basbanes and passed without objection.

Respectfully submitted by

Approved and adopted on 1/11/17



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

Approved and adopted on 1/11/17