

Town of *Dunstable* Selectboard
Meeting Minutes
September 6, 2017
Town Hall, Dunstable, MA 01827

Convened: 6:30 pm

Present: Walter F. Alterisio, chair, Leah D. Basbanes, vice chair, Ronald J. Mikol, member; Tracey Hutton, Town Administrator; Alan Chaney, Conservation Commission; Ryan McLane, David Hardman, Cemetery Commission; Pat Murphy, Personnel Board; David Tully, Highway Superintendent; James Dow, Chief of Police; Sergeant Darrell Gilmore, Sergeant Nicholas Papageorgiou, Police Dept.; Brian Rich, Fire Chief; Cheryl Mann, Conservation Commission Secretary

Selectboard Reviewed & Signed the Following:

- Vendor & Payroll Warrants
- Council on Aging Commendations to Citizens Age 90

Open Forum

Mr. Alterisio explained the purpose of the public forum and went over the Boards agenda which included Appointments, Building Use Requests, Discussion Regarding the Speed Limit on Groton Street, Surplus Proceeds from Excluded Debt, a Quote for Surveying Town Property on River Street, Retiree Benefits, Stop Sign(s) on Thorndike & High Streets, Liquor Licensing & Town Meeting, Public Safety Building Land Agreement, and Revolving Fund Proposals.

Speed Limit on Groton Street

Ms. Hutton started off by providing the Board with a copy of a letter from a resident on Groton Street. The resident is requesting the Board examine and possibly consider lowering the speed limit. Currently the limit is 40 mph on Groton Street. The speed limit on Chicopee Row in Groton, which becomes Groton Street in Dunstable, ranges between 30 and 35 mph. The resident alleges that the common speed of traffic on Groton Street is often in excess of 50 and as high as 60 mph. The resident is concerned about the safety of pedestrians and children on the road, and has noted that checking one's mailbox is often a harrowing experience for residents. Given the general narrowness of the street, as well as the start of the school year, the resident requests the Board take action. The Board noted that many streets in Dunstable do have lower speed limits, in most cases precisely because Dunstable has narrow streets with rather high traffic. Most streets in town range from 25 mph to 35 mph. Chief Dow elaborated on the process for the speed limit changes and the town's recent experience with changing the limit on Kemp Street.

The Chief reminded those present that when a speed study is done, there is always the risk the speed limit could actually increase. The Board agreed, stating that it was the Commonwealth that set the speed limit on Groton Street originally. However, the Board is not against consideration of lowering the limit, in particular the area of Groton around Larter Field and the line of sight for Dogwood Lane. Past Hall Street going towards the town line with Groton, the Board felt lowering it would be remote. However, the Board noted that it is not up to the Board to actually set the limit, but rather to call for the study and change in the limit. Nonetheless, the Board asked Chief Dow and Ms. Hutton to look into triggering a review of the matter, by MassDOT, in particular to the areas noted around Larter Field and Dogwood Lane heading to the intersection between Groton and Pleasant Street. From there the Board suggested some signage that perhaps should be considered by the Roads Commission for Groton Street. Chief Dow noted that as part of the procedure, MassDOT sends out a representative who is usually willing to consider suggestions and community considerations. There was also discussion of what happened on Forest Street. The last time its speed limit was considered it actually increased from 30 mph to 35 mph. So there is a legitimate possibility of an increase, although the Board felt that a limit higher than 40 mph on Groton Street is remote. Discussion ended there.

Approved and adopted on 9/20/17

Surplus Proceeds from Excluded Debt

Ms. Hutton started by providing the Board with a copy of DOR's Division of Local Services informational guideline on the topic at hand and went over some of the work that the Town Accountant has done on this front. There is a little over \$15,000 left on the Salt Shed. These funds may be applied to the debt service for it. The Board inquired as to why the funds were there. Ms. Hutton responded that the funds simply weren't needed, and the remaining funds may be applied to the debt for the service. There was a question about what the funds could be used on otherwise. Ms. Hutton explained that what they can be used on, as the guide indicates, is limited. It is the recommendation of Ms. Hutton and the Town Accountant to use the remaining funds to be applied to the debt on the Salt Shed. The Board agreed to do so.

A motion was made by Mr. Mikol to apply the remaining funds to the Salt Shed debt as allowed by law. The motion was seconded by Ms. Basbanes and passed without objection.

Appointments

Ms. Hutton reminded the Board of the vacancy on the Cemetery Commission, which resulted from the retirement of Judy Larter who subsequently moved out of town. The Cemetery Commission requests Thomas Bacon be appointed to fill the resulting vacancy. The Board inquired as to the Commissioners being in agreement as to this appointment. Mr. McLane and Mr. Hardman indicated they unanimously favor Mr. Bacon's appointment. The Board was pleased. The Board then considered the Council on Aging request for the appointment of Nancy Nowak to fill its vacancy as well as two appointments to the Safe Pathways Committee.

Thomas Bacon is appointed as a member of the Cemetery Commission Expires May 21st, 2018
Motion by Ms. Basbanes, seconded by Mr. Mikol, passed unanimously

Robert Irzyk is appointed as a member of the Safe Pathways Committee Expires June 30th, 2018
Motion by Ms. Basbanes, seconded by Mr. Mikol, passed unanimously

Catherine Irzyk is appointed as a member of the Safe Pathways Committee Expires June 30th, 2018
Motion by Ms. Basbanes, seconded by Mr. Mikol, passed unanimously

Nancy Nowak is appointed as a member of the Council on Aging Expires June 30th, 2020
Motion by Ms. Basbanes, seconded by Mr. Mikol, passed unanimously

91 River Street Property Survey

Ms. Hutton informed the Board that the town has obtained a proposal for the surveying of town property owned on River Street in connection with 91 River Street. The estimated cost of the surveying is \$12,000. This could be funded out of Free Cash or as a warrant article. The Board noted that the issue with the property is that it was taken on a deed, and the deed basically says plus or minus certain acreage. It appears that the acreage amount is off by a significant magnitude, essentially 35 to 50 acres. The goal has always been to define specifically what it is the town owns. There is no pressing urgency with this particular property. It was asked if this could be placed on the Capital Plan. Ms. Hutton responded that it cannot be. This led to some questions about the original costs. Originally it was thought that the survey would cost \$30,000. Some of those funds were moved to a more pressing project and now there is about \$2,500 left in the line item. The line item can be retired or left indefinitely. The Board was in favor of taking no action on the survey proposal at this time, but decided the line item shouldn't be retired at yet since the survey should be done at some point in the near future.

Stop Sign on Thorndike & High Streets

Ms. Basbanes reported on her meeting with the Mr. Gove of the Roads Commission and with Mr. Tully, the Highway Superintendent, to look at the intersection in question. They concluded some solutions for the intersection to improve traffic flow that will not require a new stop sign. The Board was generally pleased with these solutions.

Approved and adopted on 9/20/17

Retiree Benefits

Mr. Murphy, the chair of the Personnel Board asked on behalf of that board, that the Board to consider revisiting the question of OPEB and the adoption by the town of retiree benefits, including the hiring of an actuary. He explained that the Personnel Board determined it would cost about \$5,000 to hire an actuary to consider the matter. He was surprised that the town does not offer retirement health benefits for full time town employees that retire from the town. Obviously doing this would cost money, but healthcare funds are certainly more stable than pension funds. The actuary would provide specific data to the town to help determine the real costs. Ms. Hutton noted that the minimum is 50 percent on the match for the municipality. If adopted the town pays at least 50 percent of the cost and the retiree pays the rest. Mr. Murphy stated that before the town says no or yes, it should consider the real costs which may only be determined with an actuary. He felt that having the benefit does help attract good employees and helps retain them. From there he discussed the options and the ways that the law would work. Ultimately, in his opinion, the \$5,000 investment in the actuary is worth it to get the data and to understand what the costs would be.

It would also go a long way to demonstrate to employees that the town is serious, even if it decides that implementation is too expensive. The Board expressed some reservations noting that these kinds of reports come forward and do not always have the right data points. Ms. Hutton stated that the data in this study would be from Dunstable and not comparison towns. The Board was fine with this, but would like to see more information from an actuary explaining what precisely the town would get for the money. It may be possible to pay for the actuary costs from Free Cash. But, ultimately, the question will be how the town can fund the whole thing. Mr. Murphy went over some of the nuts and bolts of the process as he understands it. The Board expressed the opinion that people are important as a resource for the town, and the Board is willing to consider finding out what the number would be to implement it and whether this is something the town can afford. But a reoccurring revenue stream would have to be identified for it. The Board does not want to create an unsustainable unfunded liability. Ms. Hutton then suggested she could get some recommendations on actuaries from the Town Accountant and try to get some good estimates and proposals for the Board to consider.

Dunstable's Dry Status, Liquor Licensing, & Town Meeting

Ms. Hutton noted that the question of the towns status relating to liquor was discussed at the Board's last meeting. Although it was talked about, the topic was otherwise left off without a decision on whether or how to proceed. She asked the Board if this is still something it wants to put on a Special Town Meeting for the fall and what conditions for the Special Act should be asked for with the General Court. The Board expressed the belief that a Special Act would likely not be passed for some time, and the process in total could take 2 years. In the meantime, the Board would like to see more information and more vision on the topic. This includes more from the Master Plan process. In the meantime, due diligence should be done. That way, when the town does proceed, if it proceeds, the town is fully prepared and ready and this proposal should be married to the Master Plan. The focus would also be more on restaurants and bed and breakfasts. Ms. Hutton clarified that this would mean on-premises licensing and could include rules on seating and establishments. She then went over some of the recommendations of Town Counsel, noting that she provided all of them to the Board at its last meeting.

On-premises would preclude package stores and other general stores such as the Dunstable General Store from obtaining liquor licensing. The Board was not opposed to on-premises for restaurants as the economics of restaurants in this modern era essentially require it. Discussion then turned to the question of club houses. For on-premises, it would require that there be food served. The emphasis on such places not being purely bars or pubs, but places oriented to food that also serve liquor. There was then some light discussion on seating rules. Ms. Hutton then agreed with the Board that, ultimately, this process will take years from start to finish between what the town must do and what is required from the General Court. There was a question as to how many licenses would be issued should the town become wet. Ms. Hutton responded it is likely that only one, possibly two licenses would be allowed by the Commonwealth. The Board determined that this should be earmarked for the Annual Town Meeting rather than a Special Town Meeting in the fall. This would allow for more discussion and consideration of the matter without putting it off indefinitely.

Public Safety Building Land Agreement Update

Ms. Hutton stated that all the details of the agreement have been ironed out. There was one provision, passive recreation for the lot, was a sticking point. The land donor was only okay with this provision for once he's passed. As a result, this will require some work by Town Counsel. In the meantime, the agreement will allow for water infrastructure improvement and for the building of the actual Public Safety Building. The agreement, once ready, which should be by the Board's next meeting, will be signed by the Board and will carry through until the matter is ratified and accepted at a town meeting. Currently the plan is to accept at the proposed Special Town Meeting. There was a question as to whether the property has been inspected to ensure suitability. Ms. Hutton responded that it will be. She then elaborated on some other related items for the Special Town Meeting that will go towards this. Discussion ended there.

Revolving Fund Proposals – Planning Board & Roads Commission

Ms. Hutton provided the Board with a copy of the opinion by Town Counsel regarding the vulnerability of waiver-for-fee systems in the Commonwealth. Counsel finds that such fees as well as impact fees are problematic in Massachusetts based upon current case law. Municipal fees are only lawful where (1) they are charged in exchange for a particular government service which benefits the party paying the fee in a manner not shared by other members of society; (2) the fee is paid by choice, in that the party paying the fee has the option of not utilizing the governmental service and thereby avoiding the charge; and (3) it is collected not to raise revenues but to compensate the governmental entity providing the services for its expenses. If a municipal charge does not satisfy these requirements the charge may be found to be an unlawful tax that is contrary to the Massachusetts Constitution's Home Rule Amendment. Counsel feels that waiver-for-fee systems relating to subdivision regulation or site plan review are not likely to meet the first two of the three requirements. Additionally, given the nature of the proposed revolving funds, the funds raised would appear closer to general revenue than compensation to the town for its expenses, and therefore not meet the third of the three requirements. Finally, Town Counsel feels that the vulnerability for challenge is high for such a program and notes that in most cases where towns have adopted waiver-for-fee systems, it has been as part of a board's regulations and not through more conventional means such as a by-law; this likely done so as to avoid the scrutiny of the AG's office.

From there, Ms. Hutton then reported on the systems in place in Chelmsford, Tewksbury, and Westford along with some comments on each from Town Counsel. Chelmsford, in order to deal with the case law, has done a few things including dividing the town up into different quadrants. They negotiate the amount and assume that if it is kept reasonable it won't be challenged. They also put the funds into a gift fund, but get written up on their audit for it every year. Tewksbury has admitted to being advised not to do this, but nonetheless their elected Planning Board has implemented it through its own rules and regulations. Westford also does theirs as a gift fund and was able to adopt it through a by-law approved by the AG. But they keep the amount to what the developer would pay for the sidewalk as reviewed by their town engineer. Nobody has challenged this yet. Town Counsel still has reservations, but feels Westford's is the closest to acceptability under the law. At the end of the day, Ms. Hutton noted, all of these towns have one major thing in common: they are wealthy enough to afford a challenge should one arise. The Board agreed that a suit would likely outweigh the benefits to the town should it be successful. Ms. Hutton finished by stating that she has never seen good things come out of not taking the advice of legal counsel. All of this agreed to, the Board noted that the funding needs remain, in particular, the need for roads which may sustain damage due to development. Traditionally the town has tried to use bonds, but these can be a difficult and tricky tool to utilize due to the burden of proof that the bonded party is in fact the party responsible for the damage. Ms. Hutton suggested that this is a related matter, and she stated that she would research the town's other options to determine if there is some way to address these problems.

Tree Warden Inquiry

The Board asked Ms. Hutton to inquire with the Tree Warden about the removal of a tree. It may require National Grid to remove it, but could fall under the Tree Warden. Ms. Hutton agreed to contact the Tree Warden.

Approved and adopted on 9/20/17

Police Contract Update

The Board requested information on where things stand with the contract. Ms. Hutton reported that the matter is in the hands of the Union currently and won't proceed until the Union is done on their end.

Mill Street

Discussion centered on the reasons for why Mill Street is currently in a crumbling state. This included the narrowness of the road, traffic patterns, and other related reasons. Ms. Hutton noted that the first step is the pavement management plan. She is in the process of applying for a grant to get the plan done. It is a MIIA grant and the town has had good luck. The cost wouldn't be that much. This would be done before the Annual Town Meeting. The Board noted that a discussion should be had with the Roads Commission. There was light discussion of how often the Roads Commission meets and whether the Board should go to their meeting or invite them to a meeting of the Board's. Discussion ended there.

Administrators Report

Ms. Hutton noted a couple of things. The Fire Department is doing its annual live forestry burn on September 17th, 2017 in the MUD. If the weather doesn't permit they'll change the date, likely being a subsequent Sunday. They will place signage warning the public of the training prior. She then reported on 91 River Street. The tenants are finally out, the locks changed, and the building secured. The Fire Department would like to use the building for search and rescue training. The training exercise will not do any damage to the building. Chief Dow noted that the Police Department could also use the building for police training as well and cross training with Fire. The Board agreed these would be good usage of the building. Ms. Hutton noted that the barn on the property is in good shape and could be used for storage by various departments including the Highway Department and Fire Department. Chief Rich noted that he has little room at the Fire Station and it would be useful to be able to use the barn. The Board only had reservations concerning the remoteness of the property and security. Chief Rich felt confident that what would be stored there would not be of high enough value to be stolen as it would be mostly training props. The Board was not against allowing departments to pursue use of the barn assuming the Police Department keeps an eye on the building.

Chief Dow noted that there really haven't been any issues in that part of town and there are officers who live in the area as well. He felt confident that low value items really won't attract theft. Chief Rich suggested putting a gate across the driveway, which is rather long. Chief Dow followed that by suggesting the possibility of a camera. Chief Rich then noted that the Animal Control Officer has previously used the barn and at one point the property was empty for a few years and was fine. Ms. Hutton then turned discussion to the Town Hall's boiler. Last year half the boiler was shut down per order of the Gas & Plumbing Inspector. The boiler limped along last year, and appears to not be in good working order. She has someone coming in to determine if it can continue to limp along or should be replaced. She suggested that should it need to be replaced it could be paid for at the Special Town Meeting in the fall from Free Cash. The Board inquired with Ms. Hutton about the consent decree for the Greater Lowell Technical School. Ms. Hutton responded that would be put on the Board's next agenda unless records can be found indicating that the Board has already accepted the decree. There was brief discussion regarding the hiring of a new Superintendent by the tech school and the work done by the town's representative. Ms. Hutton then finished by reminding the Board of a scheduled meeting with the School Committee and the Town of Groton on September 13th, 2017 at 7:30 pm.

Town Property Use Requests

The Board reviewed a request from the Grange for use of the Town Hall for a State Grange event on November 5th, 2017. The Board then reviewed a request from the Swallow Union Association of Parents & Teachers for use of the Town Common and Bandstand for a back to school picnic. The Board saw no reason not to approve the application. Seeing no conflicts for the dates requested by the applicants and having no reason not to proceed with the approving the requests the Board resolved to do so and wished both the Grange and the APT success.

A motion to approve the application by the Grange for use of the Town Hall on November 5th, 2017 was made by Ms. Basbanes and seconded by Mr. Mikol. The motion passed unanimously.

Approved and adopted on 9/20/17

A motion to approve the application by the Swallow Union APT for use of the Town Common and Bandstand on September 22nd, 2017 with a rain date of September 29th, 2017 was made by Ms. Basbanes and seconded by Mr. Mikol. The motion passed without objection.

Minutes

The Board considered the minutes for the meeting held on August 23rd, 2017. The Board noted some corrections, but determined to approve the minutes pending modification.

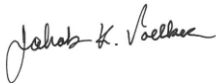
A motion was made by Ms. Basbanes to approve the minutes of August 23rd, 2017 pending modifications. The motion was seconded by Mr. Mikol and passed without objection.

Warrants & Mail

Mr. Alterisio reported on the warrants he has signed. This included highlighting the sums spent, some of the larger payments made to vendors as well as brief discussion of the payroll. The Board then reviewed its mail.

A motion to adjourn was made by Ms. Basbanes at 8:01 pm. The motion was seconded by Mr. Mikol and passed without objection.

Respectfully submitted by



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

Approved and adopted on 9/20/17