

Town of *Dunstable* Selectboard
Meeting Minutes
April 13, 2018
Town Hall, Dunstable, MA 01827

Convened: 4:00 pm

Present: Walter F. Alterisio, chair, Leah D. Basbanes, vice chair, Ronald J. Mikol, member; Tracey Hutton, Town Administrator; Alan Chaney, Conservation Commission; Bob Nelson, Advisory Board; Carol Bacon, Affordable Housing; Paul Dalida, Roads Commission; Maria Amodei, Board of Health; Joe Vlcek, Joan Simmons, Planning Board

Selectboard Reviewed & Signed the Following:

- CR Paperwork for Conservation Commission Hardy Street and Best Triangle

Continued Discussion of ATM Warrant

The Board started off by going over the purpose of this special meeting. It is to take a look at some correspondence the Board has received as to the language of ballot questions received and some issues that may occur as to the legitimacy of these questions on the ballot. Some of them may as a result, be moved to a fall Special Town Meeting. The main concern is ensuring the operating budget goes forward at the Annual Town Meeting and that any matters which are contingent on ballot questions be addressed given the situation. The intent of this meeting is not to deal with the entire warrant, but with those matters which must be dealt with in regards to the ballot question issue. The Board has asked that several of the people in attendance be here for this meeting given their status as stake holders. Ms. Hutton then went over some of the ballot questions. The first being a new fire engine, with others pertaining to marijuana, and road infrastructure.

- *Marijuana*

One of the main concerns regards the marijuana situation, which is unique in some ways because of the manner by which the General Court has legislated. It needs to be understood among those at town meeting that some of the related marijuana articles will require a ballot response, and those questions may not appear on the Annual Town Election ballot set for the next day. All along the town has dealt with ballot questions in a certain way. Unfortunately, Town Counsel and the interpretation of the Massachusetts Attorney General's Office, the town has been doing these questions incorrectly. There is certain language that must be approved by the Board of Selectmen prior to the question going on the ballot within a certain number of days, and that period has been foreclosed. Mr. Vlcek had a question as to how much of an impact or scope this issue has, including whether it hurt past decisions or is only applicable to the marijuana question. It appears to only affect things moving forward. This prompted further questions regarding the specific issue of the marijuana articles and how the process is working. Mr. Vlcek elaborated on the position of the Planning Board. The Planning Board is in favor of foreclosing all sale of marijuana in the town, but is in favor of permitting cultivation. There may be room for allowing other marijuana related businesses in business zoned districts at a future point. There was then discussion of how to resolve precisely what the town wishes to do, how to provide options to the public. Whether it is option A) allow some form of marijuana business, or option B) prohibit all marijuana business in town. The Board then noted that a special election can be called so this may be resolvable through that mechanism. Ms. Hutton clarified as to the procedure noting that any change on the floor could have complicated the issue of putting the ballot question on the Annual Town Election, so having to put it on a special election could end up being an advantage.

This would allow the Planning Board to allow options to the public at Annual Town Meeting. What appears on the ballot will have to be specific as it can't be adjusted after it's placed on the ballot, and must appear in full on the ballot. So any by-law passed would have to appear in its entirety on the ballot. Mr. Vlcek then went over how to give the public options. There is a possibility of extending the moratorium that is in place and the AG's office would permit such an extension. Mr. Vlcek expressed the opinion that the most important thing here is to allow the voters in Dunstable to express their opinion on this matter both at a town meeting and at the ballot box. There is a question of preventing a free for all. One suggestion is to only put forward an

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extended moratorium and buy the Planning Board time to work on its marijuana by-law. Ms. Simmons had some questions regarding what the game plan is then. The Board noted that no special town meeting has been scheduled yet, but one isn't needed in this case as a special election can be called without a special town meeting depending on what course the town decides to take. Ms. Simmons expressed concern about hashing something out at the Annual Town Meeting only to put it off for a special election months down the road. The Board noted that we have to consider the issue of confusion. More time may actually help by providing further time to work on and clarify how all of this will work. It would also permit the Cannabis Control Commission to clarify and put forward more rules and regulations. The presumption is not that it is entirely prohibition or total embrace of legalization. Ms. Simmons asked what the feedback from the public is on this. The Board related various ways voters have communicated where they stand on the topic. Part of it certainly is public education. People don't always understand the process and they don't always have the time to read through the materials provided to them. Ms. Simmons noted that this subject has been discussed for months. The fact is that what is being proposed is truly uncontroversial if people paid attention.

The Board agreed that many bodies have attempted to do the homework and to some extent, voters need to trust that the elected bodies like Planning Board are doing that homework and attempting to act in the best interest and that public and open meetings are occurring and those who have questions can get answers by attending. Ms. Simmons said that the way to move forward is putting it forward at town meeting, and then putting it on the ballot. Let the voters decide. The Board generally agreed stating that the town meeting forum is where you explain it to the voters, including the exposure and the risks. Mr. Nelson tried to move discussion back to the ballot questions in general noting some concern about debt exclusions. The Board elaborated that those questions will be discussed, but later in the meeting. Mr. Vlcek then expressed concern that the sampling at the Annual Town Meeting will not be a broad cross section for the public, but rather those who are afraid and have a knee jerk reaction. This prompted renewed discussion of what the decision for the warrant should be including an extended moratorium or not. The presentation is complicated. Ms. Amodei elaborated on how to address the complications and procedures. She suggested the idea of putting forward multiple options, noting that a vote for no action or withdrawal can then be utilized. Mr. Vlcek expressed concern about those options and the exposure for the town depending on what passes at meeting and then goes to ballot. Ms. Hutton elaborated on how to work the meeting options and when to hold the special election. The earliest that it could be held would be June 26th, 2018. This would only be a few weeks after the Annual Town Meeting. Ms. Bacon then had some questions about how far an extended moratorium could go.

The Board noted that the moratorium if adopted would run through June 2019. Currently the town has a moratorium in place that barring any changes at town meeting, would run through December. Mr. Vlcek suggested going with the moratorium extension and taking the time between now and June 2019 to figure out a by-law. Ms. Simmons was uncertain how this is any different than the current moratorium which is challengeable as it stands. Ms. Hutton elaborated on how the AG's office views the current moratorium and how a new one would be considered. The Board noted that the Commonwealth has already announced that this extension of the moratoriums is allowable since it is understood that some towns are struggling with adopting by-laws to handle the marijuana question. Ms. Simmons expressed the opinion that a lot of this appears to be much ado about nothing and based upon a handful of people objecting. She felt that the town should move forward with the proposed by-law and put it to the voters. There was some ensuing discussion of just how comfortable Planning Board is with their proposed by-law. If it is the one that the Planning Board is most comfortable with, then perhaps Ms. Simmons is right about moving forward. Mr. Vlcek elaborated on the risk and why the moratorium extension gives the town the most protection. In the meantime, all of this appears increasingly likely to be a quagmire in his opinion. What he would like to see proposed to the voters and the mechanics of it are two different things and he wants to make sure that the town does not open itself up to having nothing in place and having businesses come in that the town doesn't want. Ms. Amodei clarified further about the existing moratorium. Because the moratorium in place now was not a ballot question, it is challengeable. Even though at the time of its adoption it didn't have to be a ballot question, under the current law it could be challenged.

➤ *The Ballot Questions & Special Town Election Options*

Ms. Hutton reported that June 26th, 2018 date is the earliest only if the Board allows the Annual Town Meeting to make substantial changes to the marijuana ballot questions. If the Board chooses not to allow that, the special election could be moved up date wise. The debt exclusion questions are easy to write the specific

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language for. This prompted further discussion of the differences between how the motion is made at town meeting and how it reflects on the ballot. The Board inquired as to the earliest date that a special election could be called. Ms. Hutton calculated that the earliest, assuming certain factors at town meeting, would be May 29th, 2018. Mr. Chaney noted that if the vote is held too late, people will see conspiracy. If it is held reasonably close to the town meeting, it will remain fresh on people's minds and there will be less suspicion that wool is being pulled over anyone's eyes. The Board followed by noting that if it all fails at town meeting, no special would even need to be called. Mr. Nelson noted that the debt exclusions are simple and the language is boilerplate in most cases. This prompted discussion of how debt exclusions work and what the AG is requiring. Discussion shifted to when the language should be approved for the ballot questions to go on a special election. The warrant for Annual Town Meeting will be done on April 18th, 2018. That warrant will not include the ballot questions. The Board will then have to work out logistics as to when to plan that special election and put forward related ballot questions. Mr. Nelson had some questions about when the date for that special election would be. Discussion finished with talk of various date alternatives.

➤ *Citizens Petitions*

There was then some discussion of how to handle the two citizen's petitions. Ms. Hutton suggested that the legal solution would be to find the petitions untimely. The Board noted that it has been promised to those petitioning that even if the Board does find the petitions untimely, that the town would still consider the content of those petitions. Each one of the petitions received the legally required minimum signatures, but were indeed untimely. As a result, while the Board cannot accept the petitions and put them forward, the spirit of the petitions can and will be considered by the town.

A motion was made by Ms. Basbanes to find the petitions untimely; but the content is in the spirit with what the Planning Board is proposing and what the town intends to put forward for consideration of the voters. The motion was seconded by Mr. Mikol, and the motion passed without objection.

➤ *Enterprise Funds & Transfer Station*

The Board noted some confusion as to communications about Enterprise Funds and what the plans for the Transfer Station are. Ms. Amodei started by noting that it appears that it is has been misrepresented that the Board of Health is willing to close the Transfer Station without also adopting an alternative like public curbside. The Board of Health has never been in favor of closing the Transfer Station without any other public alternative. Budgets both ways, either for public curbside or for the Transfer Station, have been provided by the Board of Health. Meanwhile things remain under review with Town Counsel. The Board of Health is also moving forward with negotiations with haulers for the public curbside. A few wrinkles have come up that may impact the hauler contract, but the Board of Health is working through them. There are also the grant funds that the Board of Health has procured to help buy the trash and recycling carts. The Board expressed comfort with allowing Board of Health to move forward as planned. Ms. Hutton then elaborated on the Advisory Board's view. The Advisory Board has discussed not funding the Transfer Station. This could cause the town to have neither a public curbside option nor a Transfer Station. Mr. Nelson elaborated on how the Advisory Board's position and why this discussion came up. There is concern about the contract with a hauler, whether enough citizens would opt for the public curbside option, and whether there might be a third way of putting the Board of Health in the position of helping citizens find alternative options without a contract providing for public curbside. Ms. Amodei noted how much work has been done on this project. The Board of Health has sent representatives to numerous other boards, committees, and commissions meetings and has attempted to work on this very publicly and Advisory Board's position has only been put forward very recently.

The Board noted that the Advisory Board is allowed to consider multiple options and make recommendations. Advisory Board can recommend a course of action they think appropriate, but the Board of Health may move forward with its work and put it to the voters to decide. Mr. Nelson responded that this hasn't been secretive and alternatives should be considered. Ms. Hutton elaborated a bit further on Advisory Board's view point. The Board noted that the Board of Health's goal was to try to leverage the number of people that can sign up to lower the price point on trash hauling in town. Currently the Transfer Station's permit cost appears to be acting as a ceiling on the private haulers. If public curbside can work, the potential for lowering cost is significant. Mr. Nelson responded by outlining some of the downsides and what could go wrong. Ms. Amodei admitted there is risk, and this is a major change for the public, but the reward is worth the risk. The Board agreed,

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noting that there are ways to mitigate risks and contingencies could be built in. What has been provided by the Board of Health so far makes sense budgetarily. Ms. Hutton then went over what the options would be if Advisory Board decides against Board of Health's proposal. The Board noted that it is still possible for the two boards to come to common ground. The Board then asked the Board of Health to start putting out as much information and notice to the public as possible. If it is to pass it will need it. Discussion then went back to the issue of Enterprise Funds including how the process works creating or disestablishing them at town meeting.

There was discussion about whether it may be preferable to allow the Water Enterprise fund to continue as it is and see how much in the red it goes into. This might help the town see what the costs truly are. Ms. Hutton expressed concern over the responsibility of allowing it to run in the red. Mr. Nelson suggested that it will be in the red as an Enterprise Fund or not. The Enterprise Fund is simply best practice according to the Commonwealth. The downside is that ending the Enterprise Fund is the need for a special water stabilization account. Without a water stabilization fund, you end up having to take any money for dealing with the running in the red from the town's stabilization fund, which requires a town meeting vote. He elaborated that the job is to look at the data, then present the options to the public and allow them to decide. He then noted that DOR has sent him a list of dozens of towns that subsidize their Enterprise Funds. There was a question of what the best solution for getting the water project done is. Ms. Hutton interjected that the eventual consent decree with DEP saying, "thou shalt" will likely see the water project done. Returning to the Enterprise Fund question, there was the thought that it might make sense to undo the Enterprise Fund for a variety of reasons some of which have to do with the underlying reasons for the establishment of it as an Enterprise Fund in the first place. Mr. Nelson reiterated what an Enterprise Fund is, how it works, and what it means from both a management aspect and from a revenue stream front. Sometimes the town has to kick in money to make it work. But it helps the town see what the issues are and assists with management. Ms. Hutton then asked the Board decide if it wants to keep the article on the warrant that would undo the Water Enterprise Fund or not. Given the timetables the town is under, a decision must be made at this juncture. The Board determined that for the time being, the Water Enterprise Fund should be kept and was in favor of removing the article from the warrant.

➤ *Excessive Noise*

Mr. Dalida had some concerns about the decibel. He was specifically concerned about a lack of decibel specificity. Ms. Hutton elaborated on why the by-law omits a specific decibel requirement and the logistics around that. Mr. Dalida had concerns about how objective this proposal is. Ms. Hutton noted that it is unfortunately too late to make substantial changes to the proposed by-law at this stage. But this can always be addressed in the future with changes to the by-law should it pass. Mr. Chaney then had questions about the impact of the proposal to the Right to Farm. He noted some possible problems with the noise issue and various farming equipment. He also asked about various types of agriculture such as tree farming. This prompted discussion of how to handle agriculture based noise in relation to this.

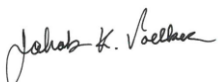
The Board then finished discussion on the warrant by noting its next meeting will be on April 18th, 2018.

Library

Ms. Hutton asked the Board, prior to adjourning, to deal with an issue at the Library. There is a contractor that has left some materials that need to be removed and currently constitute a hazard. Ms. Hutton asked the Board to advise on what action should be taken. The Board stated the contractor in question should be contacted and should dispose of the materials as soon as possible.

A motion to adjourn at 6:00 pm was made by Ms. Basbanes. The motion was seconded by Mr. Mikol and passed without objection.

Respectfully submitted by



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

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