

**Town of *Dunstable* Selectboard
Meeting Minutes
December 15, 2014
Town Hall, Dunstable, MA 01827**

Convened: 7:33 pm

Present: Walter F. Alterisio, Chair, Kenneth J. Leva, Daniel F. Devlin member; Madonna McKenzie, Town Administrator

Advisory Board Update

Mr. Metzler, Advisory Board Chair, reported and updated the Board on the subject of the school roof, how it was replaced, and the funds for paying for it. He explained that the school obtained a short term note and did so with the mind of getting the proper 10 year note and having it approved properly at a later time. They claimed to the Advisory Board that they had notified the proper authorities in both Groton and Dunstable. Neither Advisory Board nor the Selectboard recall being made aware and there appears to be nothing stemming from the annual town meeting to cover it i.e. a proper vote on borrowing. Mr. Metzler reports that the change will not come on the 2015 budget this late into the fiscal year. Instead it will have to go on the 2016 one. The vote for exclusion can occur, Ms. McKenzie notes, this Annual Town Meeting with the payment occurring in 2016. The Board consensus is to put it on the Annual Town Meeting's warrant and explain the matter to the public at that time.

Ms. McKenzie reminded the Board that surprises like this will not readily occur again in the future now that Dunstable will have a town administrator in place going forward. Ms. McKenzie also reported to the Board concerning the borrowing for the salt shed and engineering borrowing costs. She noted that the costs were good; the interest rate is about .05 percent or half a percent.

She returned to the matter of communication by recommending that the Board continue to have joint meetings with the different boards, committees, and commissions to maintain communication. Ms. McKenzie elaborated that since this communication is what has led to the revelation of many of the issues being cleared up; continuing to keep the lines open will help continue to smooth out problems.

Discussion Concerning the School (GDRSD)

The Board briefly discussed the Groton-Dunstable School District. The Board expressed that there is a need for Dunstable and Groton to discuss re-affirming the regional school district, in essence to reaffirm the basis for it. To this end, the Board feels that that it should be determined what the advantages of the district are and what the each of the towns bring to the table. Ms. McKenzie reported that she is working towards this end by drafting a letter to the Groton Selectboard requesting a joint meeting. She noted that this matter will be left until after the Holidays.

Ms. McKenzie also reminded the Board that the Superintendent and the Business Manager at the school district are clearly trying to have dialogue with Dunstable and to talk to the town so as to better understand Dunstable's positions. Finishing up the discussion, Ms. McKenzie informed the Board that she is hoping that the school district will return with discussion of re-doing the special education program, which she feels we ought to support since in the long run it will be more cost effective for the town.

Turning to the Planning Board

The Board started off by noting that the main issue of concern to them on this topic is to promote safety and the general welfare of the citizens. The Board determined that it would begin by speaking about some of the problems that have arisen, recently, and ask for the Planning Board to help them by taking a look at some broad areas that need to be addressed. The Board's primary aim is to talk to the Planning Board

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about the zoning by-laws and to revisit some issues such as the earth removal permit. The need to do this is pressing to the extent that things will be happening in the town over the course of the next few years and both boards need to get ahead of these issues.

Ms. McKenzie told the Board that she spoke with Cheryl Mann, the Planning Board Secretary, about the by-law changes that the Board wants to change, and Ms. Mann informed her that the Planning Board has changes it would also like to see happen. Ms. Mann, who is also the Conservation Commission Secretary, told Ms. McKenzie that the Conservation Commission would also like to see by-law changes and updates. The Board reiterated its resolve that the next major item for consideration is the removal of earth by-law. As it is, the Board feels that the by-law is too vague.

So far, the Planning Board appears inclined to having that by-law updated to be more clearly delineated. The Board also discussed the need for re-addressing the cap of 5,000 cubic feet for removal in that by-law as well. And discussion on that count also included talk about having the conditions start earlier in the process, essentially that they begin to emerge before the plan approval process is complete in concerns to the Planning Board. Finally, the Board agreed with Ms. McKenzie that the issue of the affordable housing by-law being in general by-laws instead of zoning by-laws will need to be addressed.

The Board closed out this part of the meeting and moved to the Grange Room to join the Planning Board for a joint meeting at 8:01pm.

Joint Meeting – Planning and Board of Selectmen

The Board of Selectmen and the Planning Board entered into a joint meeting starting at 8:24pm.

Present: Joan Simmons, Chair, Joseph Vlcek, George Basbanes, Brett Rock, and Joshua Kelly, Planning Board; Walter Alterisio, chair, Kenneth Leva, Daniel Devlin, Board of Selectmen; Madonna McKenzie, Town Administrator; Jeffery Rider, Town Engineer; Michael Martin, Roads Commission; Cheryl Mann, Planning Board Secretary

By-Law Discussion

Both boards started off by exchanging greetings and briefly outlining the topics they would discuss. Following this, the Board started off by thanking the Planning Board for their time and then outlined what their desired outcome going forward from this meeting was. It was noted that in the next few years, like it or not, development will continue in Dunstable. Currently the town's roads are in many cases narrow and small. The likely development that will occur over the next few years will compel the town to begin addressing this. This among other reasons is why the town must begin to look at the by-laws both general and zoning to determine what steps need to be taken to better address future development and growth.

➤ *Gravel Removal*

After the recent experience with Alexander Estates, the Board would like to address the process in the earth removal by-law. The Board expressed their position that the current number in the by-law is arbitrary and fails to address the fact that circumstances in each development will be unique and different. The Board would like the by-law to be clearer that the ability to remove earth is not a "*right*" but rather a necessity that should be dealt with on a case by case basis. From start to end, the process needs to be made clear as to how the permit is achieved, and the ball needs to start rolling before the Planning Board gives its approval to the development plan.

The Planning Board started off by noting that during review of the plan before approval they had missed the fact that Alexander Estates would need to remove earth. They conceded that this sort of thing needs to

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be addressed earlier in the process before approval of the plan occurs. The Planning Board also expressed that they would like to see some changes to the by-law including a requirement that any gravel removed be given to the town or at the very least that the town be given a first right of refusal. There was some discussion amongst the Planning Board members about whether that requirement if adopted would be enforceable.

The Board reiterated that they would like to see more joint work on this kind of issue between the two boards. The Planning Board noted that it operates under law, but expressed interest in seeing a by-law as suggested by the Board. Ms. McKenzie took an opportunity to clarify the Boards desire that in cases where the Planning Board finds that the developer before them will obviously need an earth removal permit, that they send them to the Board before approving their plans. She elaborated that this would allow the Board to work with the Planning Board in concerns to conditions and terms of the permit before approval of the development plan. In essence, to promote harmony in the conditions and requirements set by both boards that the developer would have to adhere to.

The Planning Board returned to the issue of the current cap on earth removal and noted that they are not in favor of removing it. The Board explained that they feel that lifting of the specificity of the cap is a good idea because they can settle it on a case by case basis. Mr. Leva explained for the Board that this would allow for sensitivity for each piece of land and situation. He elaborated that currently if someone wants to remove 3,000 cubic yards the Board cannot necessarily deny them since it falls under the cap. Lifting the cap and making it case by case would allow the Board latitude to allow more or less to be removed depending on the circumstances.

Mr. Rider, the Town Engineer, noted that if this is something that the town wants to be keep a handle on, they should put into consideration a traffic management plan. He clarified for example that the gradient requirement for fire trucks (which is part of this issue) are not necessarily binding on the Planning Board. Therefore the Planning Board may be able to waive some of it. Mr. Rider also noted that the arbitrary cap could become a real problem, because the design a developer chooses to get around the rule may not be best for the town. He thinks it should be that “you can’t take out more than what is determined as prudent or best by the Planning Board to complete the project...” along those lines. Ms. McKenzie followed Mr. Rider up by pointing out that the traffic management regulations are normal practice in most towns, and are completely under the Planning Board’s regulatory power.

➤ *Impact Fees*

Ms. McKenzie noted to the Planning Board that when they waive things like sidewalks, they can make other requirements. She pointed out that other communities have done this and the Attorney Generals take on this is to not take a position on impact fees. Rather the Attorney General tells communities they have to make up their own minds on the issue. The Planning Board objected that legally there is a serious issue in concerns to impact fees and that this only works so long as the developers cooperate. Ms. McKenzie told the Planning Board that if it waives a requirement, they can ask the developer to put the funds into something else, such as a sidewalk elsewhere, etc. The Planning Board responded that counsel has advised that this is troublesome issue that is not without legal risk. There was discussion from that point about how the Planning Board could at least ask, and that there would be little harm since they couldn’t compel, the developer in any way. The resulting consensus was that this wouldn’t be 1 to 1, but that the developers may be willing to give something in return for what they get.

➤ *Master Plan*

Both boards agreed that an outline needs to be drawn up for reviewing the master plan, or at the very least an update. The town needs to begin looking at ways that this plan could provide revenue opportunities that would supplement the real estate and excise taxes. In essence, it was agreed that something needs to

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be done that will complement the existing structure. The Board wants to look at ways that are acceptable to help. Perhaps creating overlay districts which may be allowed due to special permit issuance, etc. The Board expressed a wish to see this done cooperatively between the Planning Board and the Board and may require a year or more to conduct. There was also some discussion about perhaps a creating a committee. Ms. McKenzie picked up that thread by bringing the discussion to a proposed Master Plan & Review Committee that would continue the work with periodic reviews that would be ongoing into the future. The Planning Board agreed in principle, noting that there is some “low hanging fruit” which could be addressed easily and with some immediacy.

➤ *Solar & Other Things*

Ms. McKenzie started off by noting that at the request of town counsel and on behalf of the Board, she has begun to consider some necessary zoning by-law changes. She elaborated that she has been in discussion with Ms. Mann and Mr. Rider on this matter as well as counsel. Mr. Rider entered the discussion by suggesting some changes. These would include such things as taking into consideration the cost of roads, and other related matters. Ms. McKenzie moved from that to the issue of light pollution, a concern brought up by the Conservation Commission.

Following that there was discussion of looking at a solar farm project, and how the community could benefit from having a town owned one. The Board noted the possibilities moving forward, including town buildings that may be done (new fire, etc.) and so forth. The example discussed was Tyngsborough, which has done this. It will cost them \$1 million spread over 10 years. Discussion of the solar idea was concluded by noting that there might be a chance that Dunstable could possibly gain something by doing this, namely by selling power to Groton Light.

➤ *Affordable Housing in General By-Laws*

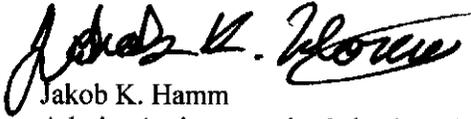
The Board started off discussion of this topic by noting that town counsel would like to see this by-law changed due to the likelihood of its failure to withstand court challenge should one arise. Counsel believes that the by-law, if enforced, could lead to a lawsuit. Ms. McKenzie again noted as she has in the past that how other towns have addressed this is to take a carrot and stick approach, offering something in return for developers building affordable houses. This has taken multiple forms from reducing the required lot size in the development (allowing for more houses to be built) to allowing for the building of apartment buildings in return for a number of affordable units. The boards agreed that this by-law will need to be addressed going forward.

➤ *Storm Water*

Mr. Rider informed the boards that he would like to take a moment to take advantage of having multiple boards together at the same time so that he could discuss the Storm Water issue. Mr. Rider brought up some of the things that will need to come up every year with the permitting and he mentioned that the town will need to create a by-law that when somebody disturbs one acre of ground or more they will need a permit. He pointed out that this requirement does not include farmers and plowing. He finished by noting that the town will have to start sampling storm water as well.

A motion was made to adjourn by Mr. Leva, and was seconded by Mr. Devlin. The motion passed without debate and the meeting adjourned at 9:21pm.

Respectfully submitted by

A handwritten signature in black ink, appearing to read 'Jakob K. Hamm', written in a cursive style.

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

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