

Executive Minutes – Board of Selectmen  
August 22, 2016

Dudley Municipal Complex, 71 West Main Street, Dudley, MA in Selectmen Office – Room 302  
**Approved 9/12/2016 – Released 11/13/2017**

John Marsi opened the meeting at 8:10pm.

In Attendance: Paul Joseph, Peter Fox, Greg Balukonis, Town Administrator, Gary Brackett, Esq., Town Counsel, John Davis, Special Counsel and Michelle Jervis, Administrative Secretary. Steven Sullivan was absent.

Vice- Chairman Marsi announced that Jonathan Ruda will be participating remotely under 940 CMR 29.10 (7) – Remote Participation – Open Meeting Law adopted on 2/4/2013 and has determined that geographical distance is the factor that makes his physical attendance unreasonably difficult.

**John Marsi motioned to enter into Executive Session at 8:15pm for pending litigation under Massachusetts General Law Chapter 30A §21(a)(3) Islamic Society of Greater Worcester (ISGW) v. Zoning Board of Appeals (ZBA) et al. Paul Joseph seconded:**

**Roll Call Vote:**

**Jonathan Ruda, Aye**

**Paul Joseph, Aye**

**Peter Fox, Aye**

**John Marsi, Aye**

**Islamic Society of Greater Worcester (ISGW) vs. Zoning Board of Appeals et al**

Special Counsel, John Davis, opened the discussion by informing the Board that he had recently communicated with Jason Taleran, attorney for the ISGW. He stated that Attorney Taleran is still proposing the original plan of 55 acres and Attorney Davis informed him that the Board had little interest in joining in the purchase with ISGW. Also he asked Attorney Taleran why they want to go with their original plan when the ISGW had their engineer create another plan showing a 6 acre cemetery? He had no answer. Attorney Davis asked the Board if they were interested in hiring a Public Relations spokesperson. The Board feels that after tonight's meeting and after informal discussion with Attorney Brackett and Karen Webber, Editor of the Telegram as well as with the Boston Globe they might not be a need for one. John Davis asked the following question to all members of the Board. Do you want to purchase the land on Corbin Road? All agreed that they do not or feel it would not be good for the town but they have their concerns. Attorney Davis' recommendation is as follows: 1). vote not to buy it because it is too much money; 2). it is not fiscally responsible for the town; 3). The Board has not articulated very well on its interest in the land and recommends they should not exercise its Right of First Refusal; whereas the applicant can remand back to the ZBA. 4). in approximately two weeks from tomorrow he would not file an Answer to the Complaint but rather file a Motion to Dismiss. There will be no back room deals and it is open and transparent. Jonathan Ruda stated that it's the size of the project that he does not like. Paul Joseph stated that the Board does not have the grounds to stop a cemetery but does not want to buy it. He rather put the money towards the fire station project. Peter Fox stated that one way or another there's going to be a cemetery. He is against purchasing the remaining land for half the cost and agrees with Mr. Joseph that the money should be used for a new fire station. Attorney Brackett posed a scenario that if we were standing in front of the land court judge today regarding the Chapter 61A the judge would question if the town has a "public purpose" for the land. The Town can't purchase it without a need, a public need, a legitimate need, for the property. The judge would then be looking at studies completed regarding a need for water and if we hasten preparing the studies it would appear to be manufactured. Also the Water Commissioners stated that they do not want the invest in the

property. Jonathan Ruda stated that our Water Commissioners have said the property is not a viable source of water but we need something tangible in our hands We need letters from Chief of Police, Fire Chief, Highway Superintendent, Conservation Commission, etc. We are an elected Board and need cover. The residents want us to fight harder and it tough because all those residents will feel we have hung them out to dry. John Marsi wants to let it all out and have the voters decide. Paul Joseph stated that we should take the decision out of the hands of the public. Best to have reasons in writing to support why it was the best decision. John Davis wants to do this quickly. The land court is overloaded and putting together a punchlist for the judge, he would dismiss the case, one less case to have to deal with. He would like to file the Motion to Dismiss for it would give opportunity for the opposition but will be moot right away. After much discussion all members were in favor of having the Town Administrator prepare a cover, with bullet points, along with letters from other departments backing the decision. It would be an educated decision articulating the reasons. Attorney Davis emphasized that the Board needs to step up and exercise its authority for the good of the town since there is no justifiable reason for purchasing it. Peter Fox stated that if the Board makes this decision it is going to get people angry. This will end the case and put Talerman in a corner since we are not violating any civil rights. Attorney Brackett agrees with Attorney Davis that the town should not purchase the land. The town should take the high road. If we take out the Chapter 61A issue Attorney Talerman will be on shaky ground. A judge will be asking him what supports his grounds for a case. In conclusion Mr. Balukonis will be crafting a bullet point narrative with support from various departments. At the meeting scheduled for Monday, August 29, 2016 the Board will need to deliberate on Chapter 61A-Right of First Refusal and have a script prepared for the meeting. We need to be ready to react on this vote.

**Paul Joseph motioned to adjourn at 9:35pm. Peter Fox seconded.**

**Roll Call Vote**

**Jonathan Ruda, Aye**

**John Marsi, Aye**

**Peter Fox, Aye**

**Paul Joseph, Aye**

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**Roll Call Vote:**

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**John Marsi, Aye**

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**Roll Call Vote**

**Jonathan Ruda, Aye**

**John Marsi, Aye**

**Peter Fox, Aye**

**Paul Joseph, Aye**