

Executive Minutes – Board of Selectmen
September 26, 2016

Dudley Municipal Complex, 71 West Main Street, Dudley, MA in Selectmen Office – Room 302
Approved 10/3/2016 – Released 11/13/2017

Jonathan Ruda opened the meeting at 5:35pm

In Attendance: Paul Joseph, Peter Fox, Greg Balukonis, Town Administrator, John Davis, Special Counsel and Michelle Jervis, Administrative Secretary. Gary Brackett, Town Counsel arrived at 5:45pm. and Steven Sullivan were absent.

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

Chairman Ruda announced the purpose of the meeting was Executive Session at 5:36pm for pending litigation under MGL Chapter 30A Section 21(a)(3) Islamic Society of Greater Worcester (ISGW) vs. Zoning Board of Appeals (ZBA) et al and not to reconvene into Public Session. Paul Joseph seconded.

Roll Call Vote:

Jonathan Ruda, Aye
Paul Joseph, Aye
Peter Fox, Aye
John Marsi, Aye

Attorney Davis stated that he filed an Answer for the Dudley defendants last week but has not filed a Motion to Dismiss. He wanted to discuss with the Board about the ramifications that will take place since the Attorney General's (AG) office will be weighing in on the litigation. We have a Public Records Request from the Department of Justice (DOJ) that needs to be submitted. Attorney Davis also informed members that he gave a written proposal to the plaintiffs' attorney on 9/12/2016. He stated that the Plaintiff is requesting the six (6) acre cemetery and wants to bypass a town meeting vote. He feels they are backpedaling and will be reaching out to Judge Mills, who is presiding as Mediator. He stated that the Judge is available by telephone and had a conference call that included Attorney Brackett. They gave the Judge an overview of what has transpired and another meeting is scheduled in land court in Boston next Friday. The previous land court meeting included himself, Greg Balukonis and Attorney Talerman. Attorney Brackett did not attend. Attorney Davis feels that the ISGW will provide us with the Dover materials, a hearing will take place, they will close it and then deliberate. Also the extension of Waldron Cemetery is the criteria. The ISGW feels that they do not have to go before Conservation but that is clearly up to the members of that Commission. Attorney Davis feels that Judge Mills will be empathic to the ISGW and they are entitled to the original 12 acres if we go back and forth on this. They are agreeable on a moratorium for 10 years on six acres of burial sites. Paul Joseph stated that a representative from ISGW was quoted that "the ISGW is only looking for just what they need, nothing more". Paul Joseph is concerned that if they exceed what they need they can make it into a regional cemetery with increased traffic and the town will have to flip the bill. Peter Fox stated that the ISGW there is a fundamental agreement that it is a full six acre cemetery and the Mediator is agreeing to it as well. The Dover protection can give them more than six acres and he feels if we are stuck on six acres the Mediator will grant the 12 acres for burial sites. Attorney Brackett stated that Attorney Talerman is also asking for his attorney fees to be included and we were informed the insurance company would pay them. Jonathan Ruda asked about the town meeting vote issue. Attorney Davis stated that under MGL Chapter 14 § 34 a cemetery needs permission from the town but the plaintiffs' attorney feels this does not apply. Attorney Davis stated that if this cemetery is under a religious use no town meeting vote is required. The AG's office might attend the town meeting and if there is a vote this can cause problems. The AG's office feels that the ISGW should be able to bury their dead on their own property and practice their own religious

beliefs. Paul Joseph stated that he would not allow to pay for attorney fees for Attorney Talerman, no six acre burial site cemetery and no moratorium on extension of the cemetery for under 100 years. He has no personal objection for a Muslim Cemetery in Dudley. John Marsi stated he was okay with the six acre cemetery; it is more than they need, the alternative is much bigger and should go through a public process, and no plaintiffs' attorney's fees. Peter Fox stated that he was okay with the six acres, okay with 10 year moratorium on extension, send the public process to all the Board and no town meeting vote. Jonathan Ruda agreed with everything that has been said but he fears the remedy, the infrastructure would have to be improved if a larger regionalized cemetery ever exists. Finally the discussion on a legal Purchase and Sale Agreement was discussed since the closing date has expired.

The Board reconvened into Public Session at 6:35pm.

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Roll Call Vote:

Jonathan Ruda, Aye
Paul Joseph, Aye
Peter Fox, Aye
John Marsi, Aye

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