

Town of Dudley

Board of Selectmen
Highway Commissioners
Cemetery Commissioners

February 5, 2018 @ 6:30pm
Dudley Municipal Complex
71 West Main Street, Dudley, MA
Room 321A
Approved 2/26/2018

Some matters have been taken out of agenda order but were typed up in agenda order for ease of locating information when necessary.

1. Call to Order, Pledge of Allegiance

John Marsi opened the meeting at 6:34pm. In attendance were Paul Joseph, Steven Sullivan and Jonathan Ruda. Also in attendance were Greg Balukonis, Town Administrator and Michelle Jervis, Administrative Secretary. Kerry Cyganiewicz was absent but participated in a portion of the meeting by Remote Participation.

2. Approval of Minutes:

Jonathan Ruda motioned to approve but not release the Executive Session minutes of the Special Meeting held on January 18, 2018. Pau Joseph seconded. Unanimous 4-0.

Jonathan Ruda motioned to approve the minutes of January 22, 2018. Paul Joseph seconded. Unanimous 4-0.

Paul Joseph motioned to approve but not release the Executive Session minutes of January 22, 2018. Jonathan Ruda seconded. Unanimous 4-0.

Paul Joseph motioned to approve but not release the Executive Session minutes of January 30, 2018. Jonathan Ruda seconded. Unanimous 4-0.

3. Appointments/Resignations:

Special Counsel Appointment – Michele Randazzo from Kopelman & Paige Law – Mr. Balukonis stated that Attorney Randazzo has been working with the Board on a labor issue and feels she is a logical choice to be appointed for this complaint. Jonathan Ruda motioned to appoint Michele Randazzo from K&P Law to handle the issue outlines in the email dated 2/5/2018. Paul Joseph seconded. Unanimous 4-0.

4. Public Comments/Citizens Comments – Informational:

5. Town Administrator's Report:

Mr. Balukonis reported that the town is preparing to convert our streetlights to LED lights. The project should be considered and it is the right time to move forward. MAPC (Metropolitan Area Planning Council) prepared a summary/ cost analysis on the LED streetlight program. The town owns 613 streetlights, the old orange lights. He is concerned about burnt out lights and the savings for the town in electrical and maintenance costs will be significant. It will cost the town \$190,075 (\$310.00 per light) but will receive a utility incentive of \$30,165 and a MAPC Grant of \$41,352 for a total savings of \$71,516. He suggests we keep the budget the same, our costs will go down and the decrease will be used for the cost of the bond. He has hired a consultant to do a streetlight audit and will give everyone an update at our next meeting. An Agreement must be signed at that time so that all the lights can be

updated in the year 2018. **Paul Joseph motioned to table this issue. Jonathan Ruda seconded. Unanimous 4-0.**

6. Around the Town – Focusing on Local Businesses:

Tanya Christianson – Luminosity Hair Salon – Ms. Christianson came before the Board. Her salon is located at 257 West Main Street and was chosen to be the Best Hair Salon in Worcester County by the Telegram and Gazette. She was thrilled to get this award. Her company has been in business for 6 years and does a full range of haircuts for men, women and children along with nails. She annually raises money for the Boston Children’s Hospital and gives free haircuts to our homeless and people in need. She is directly involved with the Blessed Backpack Brigade. The Board thanked her for attending the meeting.

7. Public Hearing:

8. Public Business:

a. **Gregg Desto, Superintendent of the DCRSD** – Mr. Desto came before the Board along with Richard Mathieu, Director of Finance and Operations. He stated that the State funding formula has shifted with the burden from the state to the town. The school system receives 1 million from the State and they have 1.5 million in fixed costs. The remainder of the funds must come from the Towns. Finding a way to get by a year at a time. The school has vastly different responsibilities than in the past such as technology, school choice, homeless/foster children, special education, English language learners and mental health issues. There are annual recurring costs (salaries, health insurance, retirement, transportation, etc.) that are fixed costs and he has prepared a plan for FY19 and FY20 broken down in two years. The first year he would like to update technology infrastructure in the 6 of the 7 schools, modernized teaching/learning, mental health supports hire 2 technology teachers and two additional adjustment counselors for pre-K-4 which would be a total of approximately 1.25 million. In Year 2 he would like to update the technology at Shepherd Hill, add two additional foreign language teachers for languages such as Mandarin and German, as well as hiring a Director of College and Career Pathways at Shepherd Hill. He is requesting a special election be held on 4/3/18 to implement an override for these services. Paul Joseph publicly supports the override and he would be willing to talk to people and hold a sign. Mr. Balukonis stated that the ballot question needs to be crafted with specific language and voted on at the next meeting on 2/26/18. Regarding the asking amount for the override, Catherine Kabala, school committee member, stated that they are still waiting for the transportation and health insurance estimates that should be available soon. All agreed we need to support the schools. Mr. Desto thanked the Board for their support.

b. **Senator Ryan Fattman and Representative Peter Durant** – Senator Fattman stated that the State is up on revenue projections in the amount of \$392,000,000 (35% up from what was projected). Hopefully trends will continue. The Senate begins the third week in May; jointly working with Representative. Durant and Senator Anne Gobi, they are working on regional transportation. They have requested to fund it 100% but the Governor always level funds it. Also they are looking at funding \$25,000 for fire and police and \$50,000 for the Quinebaug trail. They are always fighting for Chapter 70 monies and will get additional information to us as the budget evolves. Paul Joseph asked if they had any information about the Cod Fish License Plate that was a license plate in 1927-1928. He would like to see that license plate once again. Rep. Durant stated that he could file a bill but it will be late and Senator Fattman stated he would co-sign it. Mr. Joseph also asked about the No Call List. Senator Fattman stated that if you tell a telemarketer that you are on the No Call List you should be removed from their list. If they call again you can call 617-722-1420 which is the Attorney General’s Protection Office. They will look into it for consumers. Finally, Mr. Joseph asked about our school district needs. Dudley has the lowest tax rate in Central Massachusetts yet the tax rate cannot be increased to support the school’s needs. He would like our legislators to file a bill to provide relief or assistance for the towns that have to pay to catch up for regional school districts. John Marsi agreed and thought it would advantageous to band together with other regional school districts. We tried this once before but it did not get funded. Representative Durant stated that if we have any capital items we would like to have funded please contact his office. Gregg Desto came before the Board asking why the State does not fund regional bus transportation 100% as they promised. At this time the district

gets reimbursed 60%-70%. Representative Durant stated that it's a fight. It is a bipartisan issue and he is working with Senator Gobi and Senator Fattman. It is an important issue for them but feels it will never be fully funded. The Board thanked them for attending tonight's meeting.

c. **Sarah White – H.A.N.D.S** – Sarah White came before the Board. The non-profit who provides help to seniors with fuel assistance had awarded up to \$700 so far this year. In all they have helped 151 residents. This toll booth is their biggest fundraiser. **Paul Joseph motioned to approve the request from H.A.N.D.S (Helping Address the Needs of Dudley Seniors). Jonathan Ruda seconded. Unanimous 4-0.**

d. **FY19 Budget Kickoff** – Members of the FAA, Gerry DiDonato and Ann Gaudreau were present for the budget kickoff. Mr. Balukonis stated that the budget for Fiscal Year 2019 begins on July 1, 2018. The schools are asking for additional \$400,000. If the override they are proposing fails, 4/5th of our budget will be going to the schools. That will leave the town with \$100,000 to fund services. We are a full service community and rank 71 out of 71 towns in Central Mass regarding the tax rate. His challenges for the upcoming budget will be how to pay for all those services. He was happy to report that we are not spending at the rate we were spending a year ago. Real Estate and Personal Property revenues increased \$244,956 and the excise taxes are coming in the next few months. Regarding the PILOT payments on the solar projects, he will be placing an article on the warrant to transfer that money to the Capital Improvement Account. He will be sending out the budget calendar to department heads for their specific budgets this week. The estimated local receipts had an increase of 2.7% or \$79,607. We have been conservative and modest with our spending since the Town does not raise a lot in tax revenues. He will be updating the Board as the budgets are submitted.

e. **Consider Engagement for Representation in Joining a Civil Suit regarding the Opiate Epidemic.** – Mr. Balukonis stated that he has received a request to join a civil suit fighting the national opioid epidemic. Each town can be involved with this suit aiming at recovering monetary damages from the pharmaceutical manufacturers and distributors for their role in the opioid epidemic. There are no upfront costs but a 25% contingency fee if we receive an award. After discussion **Steven Sullivan motioned to sign the Letter of Engagement for Representation to engage in the opiate tort action. Jonathan Ruda seconded. Unanimous 4-0.**

9. **Board Member Comments:**

10. **Departmental Communication:**

Police Chief Wojnar informed the Board that the traffic light at the intersection of West Main Street and Schofield Ave. has been installed with a green left arrow. The arrows are coordinated to work for ease coming from Webster onto Schofield Ave. and heading east to Webster taking a left on Village Street. He hopes this will suffice until the intersection is redesigned.

Fire Chief Kochanowski informed the Board that he has submitted a grant for 33 airpaks for a total of \$280,082. Also he would like to commend his department on a job well done regarding the house fire over the weekend at 12 Schofield Ave. He is hopeful the house can be salvaged. There were no injuries and the animals were saved.

11. **Adjournment/Executive Session:**

The agenda was posted on 2/1/18 with an Executive Session under M.G.L Chapter 30A §21(a)(1) – To discuss the discipline or dismissal of, or complaints or charges against, a public officer, employee, staff member or individual.

Town Counsel Gary Bracket, received a written notice to attend said Session under M.G.L. Chapter 30A, Section 21(a)(1) on 2/1/2018 and has requested it to be held in Open Session. John Marsi announced that Kerry Cyganiewicz will be participating remotely under 940 CMR 29.10 (7) – Remote Participation – Open Meeting Law adopted on 2/4/2013 and has determined geographic distance is the

factor that makes his physical attendance unreasonably difficult. All votes taken shall be by roll call vote. Mr. Cyganiewicz dialed in at 8:32pm.

Jonathan Ruda opened the meeting with Gary Brackett. He requested Mr. Brackett's appearance to give him an opportunity to explain the discrepancies in the dates that a Motion for Reconsideration was filed regarding the law suit Islamic Society of Greater Worcester (ISGW) v. Zoning Board of Appeals (ZBA) et al. At the Executive Session of 9/25/17 Attorney Brackett informed the Board that he had filed a Motion for Reconsideration on the grounds that he believes the Land Court Judge erred with significant factual errors and Attorney Talerma, attorney for the ISGW, falsifying his affidavit in opposition to defendant's Motion for Sanctions, which was denied. He felt it was his obligation to file the Motion and truly believes the Judge made several mistakes. Mr. Ruda stated that he didn't care and that on 9/25/17 the Board was notified that the Motion was already filed due to the 10 day appeal process. Mr. Ruda stated at that time that he would have liked for the Board to vote on the Motion prior to filing but instead he decided to bypass an authorizing vote of the Board. After reading an article in the Telegram & Gazette stating that the Motion was denied and filed on 9/28/17 and not 9/25/17 he asked the Town Administrator to delve into the actual filing date which was confirmed to be October 2, 2017 per docket entry pursuant to Rule 9 of Order denying defendant's Motion for Reconsideration. Kerry Cyganiewicz stated that we have been discussing this issue for over an hour and Attorney Brackett has not answered Mr. Ruda's question. Mr. Brackett stated that indeed the Motion was not filed on the date that he stated and that he was truly sorry and apologizes. He takes responsibility for not mailing it out on 9/25/17 and would like to come back to a constructive working relationship with the Town. He feels that as our attorney he was supposed to defend his client vigorously. Jonathan Ruda stated that he represented the error was made; he didn't call the Town Administrator to let him know, the Board of Selectmen were not happy it was filed. Paul Joseph stated that the Judge in denying our Rule 11, in his opinion, took appropriate action out of the Board's hands. He has supported Attorney Brackett right down the line and it was tough absorbing Attorney Talerma's behavior. He lied in documents and was not representing what his clients were told. He is frustrated but the court ruled. Mr. Ruda questioned Attorney Brackett stated that is it possible your action on Rule 11 filing and request for reconsideration is your displeasure with Attorney Talerma? Attorney Brackett stated that his reason, preparing the Motion over the weekend, is that he never faced an attorney that was "so fast and loose with the truth". He was extremely frustrated and had never had a case like that one in his 44 years of practice. After much discussion Jonathan Ruda motioned to amend Gary Brackett's appointment from June 30, 2019 to May 30, 2018. Steven Sullivan seconded for discussion. Paul Joseph stated that Attorney Brackett made a mistake, and his explanation to Mr. Ruda was not acceptable. He asked what the next step is. Mr. Ruda stated that we can prepare an RFP for new Town Counsel. Paul Joseph asked if Attorney Brackett could include himself in the RFP. Yes, he can. Mr. Balukonis stated that the term of his appointment is June 30, 2019. After discussion **Jonathan Ruda retracted his first Motion and motioned to amend the appointment of Gary Brackett as Town Counsel from June 30, 2019 to June 30, 2018. Steven Sullivan seconded.**

Roll Call Vote:

Jonathan Ruda, Aye

John Marsi, Aye

Paul Joseph, Nay

Kerry Cyganiewicz, Aye

Steven Sullivan, Aye

Paul Joseph motioned to adjourn at 10:05pm. Steven Sullivan seconded.

Roll Call Vote:

Jonathan Ruda, Aye

John Marsi, Aye

Paul Joseph, Aye

Kerry Cyganiewicz, Aye

Steven Sullivan, Aye

Respectfully submitted, Michelle Jervis, Administrative Secretary