

DENNIS WATER DISTRICT

Board of Water Commissioners

Minutes of Meeting

October 26, 2023

A meeting, having been duly posted, was held this date at the Stone Hearing Room, Dennis Town Hall, 685 Route 134, South Dennis and called to order by Paul F. Prue, Chair, at approximately 10:00 AM. Water Commissioners Peter L. McDowell and Robert M. Perry were present. Also present was Sheryl A McMahon, Treasurer.

The Pledge of Allegiance was recited.

Public Information

Mr. McDowell said he had asked, a number of weeks ago from the Clerk-Treasurer, for a summary of FY 2021 and 2022 and he got the Annual Reports of those two years. He said, however, that there was more information needed than just that. He said this ties into a much larger pattern of other things he will get into later this morning. Mr. McDowell read aloud the request he made in writing of the Clerk-Treasurer which was essentially the total compensation and total benefits for each employee and commissioner. His request instructed the Clerk-Treasurer to certify that report. The request was dated October 13, 2023.

The Chairman asked Ms. McMahon if she had a response and she advised that it would take a discussion of the Board to review that request. She advised that the request had been reviewed with Mr. McDowell with Mr. Larkowski also present. Mr. McDowell had asked in a phone conversation yesterday, if the information he requested would be available for this meeting. She had reminded him that when he submitted his request that she advised it would take two and half to three weeks to prepare that report. It was her belief that this request should be on the Board's agenda as she thought there was a larger issue; that being "How much can an individual water commissioner ask of administration without the foreknowledge and approval of the entire Board.

Being recognized for a *point of order*, Mr. McDowell said there would be ample time later to discuss this and Public Information does not require a response for answering. It is simply a piece of information and there will be ample time further into the meeting to we will be getting into it quite a number of times. He wanted to spare the Clerk-Treasurer from getting into an explanation and we should go on to the agenda that she has prepared for us and in that agenda, we are going to find some things that we will want to be concerned about.

When asked, Mr. Perry said it was a bit of a surprise, but that Mr. McDowell had summed it up well by saying that Ms. McMahon was correct in that this deserves to be on an agenda. He said we may get into it later but, certainly if we are going to get into the details of employee, staff and commissioner compensation it is not something an individual discussion should happen outside of the Board. He said we should let Mr. McDowell's recommendation, to talk about this later, stand.

Updates: (7:00)

Waterworth – Water and Service Rate Analysis – Ms. McMahon stated that there was nothing new to report and that she needs to set aside time to forward additional data for incorporation into the model.

TechMD – Initial “Phishing” Test and Training – Ms. McMahon advised that she had an “on-boarding” exiting session yesterday as that process is essentially complete. There are several pieces of equipment that are not commercial grade, in other words they are more for home or home office type of environments. This equipment is not manageable by TechMD. They are putting together a proposal for replacing these items such as the main switch box in the basement as well as adding another drive to the server that are more robust. We currently have two drives in the server which mirror each other in case one fails. They are also putting together a proposal to have the system components that are in the basement installed in a locked cabinet. This is for not only for cyber security but for physical security as well. Costs of the upgrades will be part of the next budget cycle. She said she will be meeting at least monthly with the manager of the District’s cyber security team at TechMD.

Review of Board’s Rules and Regulations. (9:30)

Consider adopting Board’s Frozen Meter Policy into Rules and Regulations - Mrs. McMahon provided a short history of how this came to be a Board consideration. One of the types of edits was to change the terminology regarding the reading devices that are used to read meters. There was another recommendation to eliminate the dollar references for fees and substitute a reference to a fee schedule. This way the regulations do not have to be amended and reposted on the website in order for the Board to simply change a fee. Her recommendation to make this a regulation instead of a policy. It was her observation that having it as a regulation speaks of it as being more of an enforcement as opposed to a policy where that provides the Board with more discretion in the application of a policy as opposed to a regulation which is considered to be applied uniformly. Mr. Perry said that this is enough of a concern to add the Frozen Meter Policy to the Rules and Regulations.

(12:20) **Mr. Perry moved to that the Frozen Meter Policy no longer be a policy and to be within the Rules and Regulations as item 260 within the District’s Rules and Regulations. Mr. McDowell seconded the motion.** Mr. McDowell said that we have a number of different categories of rules and regulations. He then stated that the Clerk-Treasurer altered his agenda item and it is not there. He said we would go forward with it even though it is not there. Mr. McDowell said he had submitted it to Chair Prue at the direction of Ms. McMahon saying that she had suggested that anything he were to submit has to be with the consent of the Chair, which he said is absolutely and completely false. He said he wanted to have a solution where we have access to all of the rules and regulations and what they don’t have access to doesn’t exist. He said the item was changed from what he had put in and he was going to ask to have the same item put in for the next meeting.

(14:10) Ms. McMahon said, for the record, that Mr. McDowell said that he would come to the office at 9:30 with what his agenda item was. She waited for him and he did not come to the office. Having spoken with him the previous afternoon, she was fairly certain what his subject matter was so she posted the revised agenda with the Town Clerk before the 10:00 posting deadline. Ms. McMahon advised that she had spoken with Chair Prue the prior evening and confirmed with him that she was to include Mr. McDowell’s agenda item. It was not until Tuesday evening that Ms. McMahon spoke with Chair Prue again to advise him that she had re-posted the agenda with what she understood to be Mr. McDowell’s item. She said she did not change anything. The Chair had not forwarded to her the email Mr. McDowell had sent and neither had Mr. McDowell. She had no communication until she had spoken with the Chair that Mr. McDowell had a specific agenda item request. However, she stated that the scope of the agenda item (Item 10) is broad enough to include the discussion that Mr. McDowell wants to have. Again, Ms. McMahon wanted to be on the record that she never received his written request until it was sent to her via email by Mrs. Prue on Tuesday evening.

(15:56) Mr. Perry read Agenda Item #10 and said we should be able to settle this quickly. He asked Mr. McDowell to explain how this differs from his topic otherwise, we will have to put this off. Mr. McDowell said he would be happy to do so and she (*pointing to Ms. McMahon*) is explicitly and false and that is not what happened. He said that she had said that any agenda item would need the approval and consent of the Chair. As Mr. McDowell described the circumstances of his agenda item request, Mr. Perry asked for a *point of order*. Mr. Perry had asked to discuss the agenda item text and not the circumstances that has led to whatever confusion has arisen. Mr. McDowell said he could read his item and it is entirely different from what Ms. McMahon had. Mr. McDowell said that she indicated to her that Chair would have the authority to block us which is not legal and that is not law and she said that. (18:00) Ms. McMahon called for a *point of order* from the Chair. Mr. McDowell yelled “*Point of Order*”, “*Point of Order*” and pointing to Ms. McMahon he yelled “You keep still” – “You keep still.” Ms. McMahon said “No” and asked to address a *point of order* with the Chair. Chair Prue recognized Ms. McMahon to speak. She said that she was tired of being accused of impropriety by Mr. McDowell. She said she does her very best for the Board and she was tired of it. She felt it was inappropriate that Mr. McDowell can sit there and be judge and jury over circumstances of which he is accusing her. She felt this was beyond what she believed to be the respect she was due from this Board. She said she did not know where this vehement distaste for her comes from and reiterated that she does her best.

(19:10) There was a verbal exchange between Mr. McDowell and Ms. McMahon. The Chair recognized Mr. McDowell to continue. He said that following the Clerk-Treasurer’s forewarning that the Chair could block a subject matter going into the warrant, that she knows that is not true because we have gone all through the law, Mr. McDowell reiterated the circumstances of his request for an agenda item. He said he spoke with the Chair about the agenda item, he sent it via fax to the Chair and then called him back to make sure he had received it. Mr. McDowell read aloud his agenda item was: “*That we create and publish a professional quality document as the Town has provided and all municipal regulations, procedures, bylaws, rules, etc. the public can use to understand regularly the operations of our water district*”. He claimed the Clerk-Treasurer installed something entirely different. He read Item #10 from the agenda; “*Consider incorporating rules and regulations, bylaws, board policies and any other such documents into one location.*” He asked why she altered and substituted her words for his. He asked since when can a staff person change your wording, as he had a certain purpose for his wording, as opposed to what she dreamed up subsequently after he had submitted through the Chair – to her. He also said it should not have been an agenda item at the end, it was done timely before the deadline, and it should have been up in the front.

(23:00) Mr. Perry said the major difference is “*create and publish*” and he could see how it might have been paraphrased. He said we have moved out of an environment where things are published in hardbacked-bound volumes. He said all of our information today is on the internet. He felt the interpretation used in crafting this agenda item, however it was phrased, gave the Board the opportunity to discuss various options. He said it was a waste of the Board’s time to discuss the semantics of the item. Ms. McMahon asked to go on the record to say that she did not change Mr. McDowell’s agenda item because she never saw it until after the revised agenda had been posted. It was her opinion that what Mr. McDowell wants to discuss is fully within this agenda item. Mr. McDowell responded by asking if anyone of the Board members should be able to interfere with whatever any other Board member wants to be included. He said he submitted it to Mr. Prue before any agenda should have been done by the Clerk-Treasurer. He said he submitted it timely the day before the agenda. He said he received a copy of the agenda only a few hours afterwards. She could have done it a day before the final moments for us to enter data ourselves which is a certain point in the morning on Tuesday. Chair Prue said he was neglectful in not giving it to Ms. McMahon. Mr. McDowell thanked the Chair for that however, he said this whole thing is not really his error. He said the fact of the matter is, it is crystal clear the Board can insert subject matter provided it is before the deadline.

(27:26) Mr. Perry noted that several months ago, the District's attorney, explained to us and we took a vote that agenda items, which have never been blocked by the Chairman, would be approved or filtered through the Chair because it is customary and it is also indicated in Massachusetts law and the Massachusetts Code of Regulation. It is not crystal clear that the opposite is available to any commissioner to submit anything he likes on the agenda without review by the Chair and that was his position.

The Chair recognized Ms. McMahon for a *point of order*. She said that the Board was no longer on topic for the agenda item and as Clerk she was warning the Board to focus on the agenda item and noted that the topic of agenda items going through the Chair was not a topic of discussion covered by the agenda for today. She noted that there was a motion on the floor to adopt the Frozen Meter Policy as number 260 in the Board's Rules and Regulations. (29:27) Mr. McDowell reiterated his insistence that there is no law that interferes with an elected Board member's right to submit a subject matter on an agenda. He said the issue is with the suggestion that the Chairman can interfere with this and it has been established as false. He provided additional reasons why.

(31:35) Mr. Perry brought the discussion back to the motion on the table; reminding the Board that the motion was to adopt the Frozen Meter Policy as No. 260 in the Board's Rules and Regulations and it had been seconded by Mr. McDowell. The Chair called for the vote which was found to be unanimous.

Consider adoption of the "clean" version of the Board's Rules and Regulations - Ms. McMahon noted that the version of the Rules & Regulations before the Board for consideration had been modified with just grammatical edits along with a change in the terminology referencing the automatic reading devices for a more generic term. Mr. Perry noted that the Rules and Regulations note that unpaid bills are on lien on the real estate. On a motion made by Robert M. Perry and duly seconded, the Board ***UNANIMOUSLY VOTED: to adopt the revised version of the Rules and Regulations, including section 260 Frozen Meters and a minor spelling correction on Page 7.***

(35:00) Update on Review of Town of Dennis' Site 2 Hydrogeologic Evaluation Report – Ms. McMahon advised that the Superintendent is advising that there is nothing new to add as the District's consultant, Maura Callahan, is waiting for the Town to approve the updates to the Site 2 Evaluation as the District has requested, to be done by CDMSmith. Ms. McMahon suggested that perhaps some political pressure might be brought to bear on the Town to have the requested work be done.

(36:25) Mr. McDowell said that the drinking water is threatened in the days and years ahead. He referenced new regulations concerning PFAS being set at a limit of 4 parts per trillion. He said there are no specifications available from CDMSmith on what the wastewater facility treatment will do. He thought that, if the Board had any questions about the wastewater being discharged under the land of Dennis, and we insist that we get absolute assurance that this wastewater facility will not interfere with our drinking water quality. He said the answer is simple and it is to have it discharged in the ocean. There was some give and take between Mr. Perry and Mr. McDowell in that Mr. Perry said that we have heard this all before. Mr. McDowell continued by saying it was just a matter of time when there will be billions of treated wastewater discharged in Dennis. Mr. Perry suggested that the Board move to the next agenda item.

Consider Scope of Work (draft) for conducting a Water Supply Capacity Analysis – Mr. Perry noted that it had been included in the Board's packet. He said that this analysis will relate to the entire system going forward; as it relates to rainfall, buildout of the Town, past water quality and we need to

do this. Ms. McMahon noted that this topic was placed on the agenda as a result of Board discussion from the last meeting. She noted that the Board had discussed that if there is sewerage, then it eventually negates the restrictions imposed by Title V and that it could lead to significant growth in the Town. These are questions we do not have answers to in terms of looking at the District's pumping capacity. She further noted that the District is under a temporary continuation of its water withdrawal permit (1.189 billion gallons). This draft scope is presented to the Board for review so that questions and concerns can be addressed. When the scope is complete, a price for doing the capacity analysis can be incorporated in the FY 2025 budget. Ms. McMahon noted that, based on any sense of urgency by the Board to complete the work, the Board might consider an appropriation from Free Cash at the Annual Meeting in April. There was some additional discussion regarding the scope and Ms. McMahon encouraged the Board members to reach out to the Superintendent for any questions or suggestions. Mr. McDowell said this was nickels and dimes and what the Board needed to do is to not support anything unless we gain absolute assurances that there will be no adverse effects to the drinking water. Mr. Perry said that this analysis will speak to the issue of wastewater discharge as it will give us information that we don't have and he preferred to be educated before taking any strong positions. The Chair agreed. Mr. McDowell said that the project should be blocked. Mr. Perry noted that Mr. McDowell has been on the commission since 2009 and the Wastewater Task Force has been in existence for at least ten years and there should have been, and could have been, much stronger involvement by this commission during that formative process. He said he would prefer the discharges to be south of Route 6. He said as a commission we owed it to our reputation and the ratepayers that for us to move in any direction we need to know the information. Mr. Perry said we are a long way from contaminating our water supply with sewerage. He believed that we are taking the only steps we can take, such as the Site #2 study that is in process, along with the Board of Selectmen and our own capacity study, which will take into account localized contamination sources that are a threat to us right now. He said we don't disagree with Mr. McDowell but, we are trying to accommodate his concerns as practically as can be. (1:00) There was cross discussion among the Board members.

Superintendent's Report Ms. McMahon said that the Board may recall that, at the last meeting the Superintendent advised that as of that meeting, the District was fully staffed. That same afternoon, an entry level employee that had been with the District for just under a year and half gave his two-week notice. He accepted a job with Eversource reading meters for \$39 per hour.

Treasurer's Report

Ms. McMahon advised that she is still working on preparing the closing entries for the year-end. The audit for FY 2023 will begin November 6 so finishing this work just became her top priority.

Minutes: September 28, 2023 Mr. Perry noted that on the first page there needed to be an "s" added to the word "term". He commented that while there is a need for the Board to have discussions, we owe it to the Clerk-Treasurer, who is tasked with doing the minutes, to limit our discussions if possible. *A motion was made by Robert M. Perry to accept the minutes of September 28, 2023, as edited. The Chair second the motion.* Mr. McDowell said he had not read them so he would be abstaining. **The Chair called for the vote which was found to be: 2-0-1 (PLM abstaining).**

Consider Incorporating Rules & Regulations, Bylaws, Board Policies and any Other Such Documents into One Location.

(1:05:20) Ms. McMahon said she had a discussion with the Town Clerk regarding the Town's published book of codes, etc. She noted that the Town's Book contains the Town's Bylaws, the Select Board Rules and Regulations, the Board of Health Regulations and the General Laws and Special Acts

that have been adopted by the Town. Ms. McMahon then distributed to each of the Board members a three-ring binder that contained the District's Enabling Act and amendments, District's Bylaws, the Board's Rules and Regulations (as most recently amended), Board Policies and a listing of General Laws accepted by District voters. There was a suggestion by Mr. Perry to keep one or two copies on hand in case someone requested it. Mr. McDowell said he was very impressed. He suggested that an index be included. Ms. McMahon then spent the next several minutes demonstrating on the display screen, which was connected to the internet, the District's website and how all of the same information contained in the binder could be accessed by anyone with an internet browser. She noted that she is the only one that does work on the website. She said she had done some testing of what she thought would be more common search topics on the District's site and would continue, when time allowed to update the site.

(1:23) Consider conducting an EXECUTIVE SESSION in accordance with M.G.L. Chapter 39, Section 23B; Reason 6) to consider the purchase, exchange, taking, lease, or value of two parcels of real property as the Chair has declared that an open meeting may have a detrimental effect on the District's bargaining position.

A motion was made by Robert M. Perry to enter into an EXECUTIVE SESSION in accordance with M.G.L. Chapter 39, Section 23B; Reason 6) to consider the purchase, exchange, taking, lease, or value of two parcels of real property as the Chair has declared that an open meeting may have a detrimental effect on the District's bargaining position and not to return to open session. The motion was seconded by Peter L. McDowell. The Chair then called for the roll call vote which was found to be as follows:

Robert Perry "aye"

Paul Prue "aye"

Peter McDowell "aye"

Clerk's Note: The Executive Session was adjourned at approximately 11:35 AM.

Respectfully submitted,

Sheryl A McMahon, Clerk