

# DENNIS WATER DISTRICT

## *Board of Water Commissioners*

Minutes of Meeting held

January 29, 2020

A meeting, having been duly posted, was held this date at the Dennis Water District, 80 Old Bass River Rd., S Dennis and called to order by Paul F. Prue, Chairman at 10:33 AM. Water Commissioners Peter L. McDowell and Alan Tuttle was present. Also in attendance were David Larkowski, Superintendent and Sheryl A McMahon, Treasurer.

The Chair recognized Katie Clancy, the realtor representing the owners of 636, 635 and 635A Old Bass River Road.

Mr. McDowell distributed an 8 ½ x 11 paper that represented a reduction of a Plan of Land in Dennis, Massachusetts, as prepared for Dennis Old Bass River Road Realty Trust and Joshua Howes Family Realty Trust (June 18, 2015). Prepared by Sweetser Engineering. He noted that the plan is not for a subdivision but, allows for duplexes built as a condominium plan and conforms to current zoning regulations. Ms. Clancy noted that is Plan has not been recorded. The purpose of the meeting is to identify what questions need to be covered and to see if there can be a “meeting of the minds” as stated by Mr. McDowell. Mr. McDowell asked if the meeting was being recorded. Ms. McMahon affirmed. Therefore, it was agreed that the purchase price would not be stated aloud. (Due to a technical issue, the meeting was *not* recorded). The first step is for the parties to agree to the terms and conditions. Mr. Larkowski said that there should be a list of items that would go to the attorneys for the parties for the creation of a Purchase & Sales (P&S) Agreement.

A list of possible items to consider as terms and conditions were developed by the Mr. Larkowski and Ms. McMahon for the Board’s consideration.

- Subject to good and clear title acceptable to the Board. Mr. Larkowski said that the District would want to have a title examination of all of the pieces that comprise the overall parcel. Mr. Larkowski reminded the Board that the current owner of the property was the party that sued the District in six different eminent domain takings, some dating back to the 1960’s. It was noted that Attorney Aarons representing Mr. Devine (owner) is the same Attorney that represented the plaintiff in the suits. The suits were dismissed more than a year ago. Mr. Larkowski noted that the cost of defending the suits was nearly \$50,000 to his recollection. However, Ms. Clancy stated that the acceptability of the title to the Board as a condition was acquisition was acceptable to her client.
- “Friendly” eminent domain taking. A condition of the acquisition would be the owner’s agreement that the District would record a confirmatory instrument of taking following the recording of a deed(s) transfer. Ms. Clancy did not believe that there would be any issue for that condition.
- Should the District do a confirmatory survey plan for this acquisition? Mr. McDowell said that the District could simply hire Mr. Wilcox (Sweetser Engineering) to redo the plan according the District’s requirements. Ms. Clancy stated, once again, that the “Plan” is not recorded. Mr. McDowell suggested that the owner provide the District with a compatible plan. Mr. Larkowski stated that the District needs a perimeter plan and it must include special and specific language required by the Department of Environmental Protection. Ms. McMahon noted that to the best of her recollection, the District has always been exceptionally prudent in hiring its own surveyor for the development of the plan. Mr. Larkowski estimated the cost at likely less than \$3,000. The Chairman given the amount of money to be expended, it was the wisest course of action. On a motion made by Alan Tuttle, and duly seconded, the Board ***VOTED: 2-1-0 (PLM) to authorize the Superintendent to procure a perimeter plan of land for the proposed acquisition.***

- Removal of all encroachments prior to recording. Mr. Larkowski explained to the Board members that there is significant encroachment by owners with properties on Old Bass River Road on to the property proposed for acquisition. Mr. Larkowski did not believe the responsibility of ordering the property owners to remove their encroachments should fall to the District and should be the owner's responsibility prior to the closing. There was considerable discussion concerning encroachments and adverse possession. Ms. Clancy said she understood the concern and would relay it as a condition to the owner. Mr. Tuttle said that he was aware of a Town that had significant encroachment issues and forced the property owners to comply. Mr. McDowell was concerned that it may be considered an adverse possession against the current owner and may result in a legal entanglement. On a motion made by Alan Tuttle, and duly seconded, the Board ***UNANIMOUSLY VOTED: to make the removal of encroachments on the proposed acquisition the responsibility of the seller as a condition of the P & S and prior to closing.***
- Subject to 2/3 majority vote at the Annual District Meeting (April 28, 2020) assuming all conditions the Board requires prior to the District vote are met. Ms. McMahon explained that since the acquisition would require a borrowing authorization, it would require a 2/3 majority vote of those present. Ms. Clancy asked if there is difficulty getting a quorum. Ms. McMahon responded that typically at the Annual Meeting there are anywhere from the required quorum up to 45 or so.

M. Clancy inquired as to the time-frame of receiving an Offer to Purchase. Ms. McMahon stated that the District had no appropriation to bind the offer monetarily. There was discussion as to how fast this could be wrapped up with a P & S. Ms. McMahon said that it would probably save considerable time not to negotiate an Offer to Purchase but, simply go straight to a P & S. There was agreement on this. Mr. Larkowski said he would get a hold of Attorney Marsh for the District today and advise her of the Board's desire to purchase this property and an outline of the conditions discussed this morning.

With no further items to be discussed, the Chairman thanked Ms. Clancy for attending and Ms. Clancy extended the same expression of appreciation. Ms. Clancy left the room at approximately 11:16 AM.

Ms. McMahon advised the Board that their desire to change the time and location of their regular monthly meetings could be accommodated. She has confirmed the availability of the Stone Hearing Room at Town Hall on the fourth Thursday of each month at 10:00 AM. The exception being November and December in which the meeting will be held on the third Thursday of those months. On a motion made by Peter L. McDowell, and duly seconded, the Board ***UNANIMOUSLY VOTED: in accordance with their previously adopted meeting schedule the time and location of the meetings have been changed from 6:00 PM to 10:00 AM and from the Training Room, Dennis Police Station, 90 Bob Crowell Road to the Stone Hearing Room, Town Hall, 685 Route 134, South Dennis.***

On a motion made by Peter L. McDowell, and duly seconded, the ***BOARD UNANIMOUSLY VOTED: to adjourn their meeting at approximately 11:28 AM.***

Respectfully submitted,

Sheryl A McMahon, Clerk