

Dighton Water District

192 Williams Street
North Dighton, MA 02764

Sue Medeiros
Patrick Menges
Edward Swartz

COMMISSIONERS

Carol A. Stevens
TREASURER

The following meeting was both audio and video recorded.

Monday, February 10, 2014 at 7:00 P.M.
Water District Headquarters

Chairman of the Board of Commissioners, Susana Medeiros, called the meeting to order at 7:00 P.M.

Pledge of Allegiance

APPROVE MINUTES OF PRIOR MEETINGS:

Chairman, Edward Swartz, moved that the minutes of the meetings dated January 6, 2014, January 14, 2014, and the executive session minutes of December 9, 2013 be approved as prepared by the Acting District Clerk. Patrick seconded and the motion carried.

COMMISSIONERS' TOAST:

Patrick proposed a toast to the residents and customers of the Dighton Water district that shoveled their fire hydrants in the recent snow storms, congratulations, thank you for your help and keep up the good work.

MEETINGS WITH SCHEDULED GUESTS

Attorney Rob Fredericks – Williams Street Real Estate Acquisition- tabled to later in meeting.

Richard Feodoroff – Stonegate landing – tabled to a later date.

Attorney Rob Fredericks – 527 Somerset Avenue Disposition Purchase & Sales Agreement – The board discussed 527 Somerset Avenue disposition Purchase and Sales with Attorney Rob Fredericks, Attorney Thomas and Ryan Nadeau.

Attorney Fredericks first discussed the pipes that run under 527 Somerset Avenue that supply fire protection to 455 Somerset Avenue and also the emergency connection to Taunton water supply. Attorney Fredericks stated that the Building Inspector, James Aguiar, has a public safety problem with the pipes remaining on private property. His concerns are that you would have a private property serviced by a public utility that's not in full control of the public utility.

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There are also new regulations that will be coming into effect that may affect the pipes on private property. Fire Chief, Antone Roderick's, wrote a letter with his concerns for the fire protection and public safety of 455 Somerset Avenue that is supplied by the water lines that run under 527 Somerset Avenue. Attorney Fredericks feels these pipes need to be moved to proceed with the sale. Attorney Fredericks also suggested that the board may want to inform the District residents that the sale of the property with the moving of the pipes would reduce the price significantly from the voted \$200,000.00 sale price voted at the November Special District meeting. Ed stated that the board would have to go back to a District meeting and request the funds to move the pipes. Superintendent Greg Olsen received estimates on moving the three pipes costing about \$75,000.00.

Attorney Thomas, representative for Ryan Nadeau, stated that Ryan has put in a lot of time, effort and money trying to purchase this property.

Attorney Fredericks explained to the board that he felt if the District obtained an easement to the pump house on the 527 property and moved the 3 pipes to the easement this would probably be acceptable with the new legislature.

Sue read letter from Fire Chief Antone Roderick, attached.

Patrick read his letter to the board and all present, attached.

Ed stated that rescinding the vote to award the bid to sell 527 Somerset Avenue is in the best interest of the rate payers.

The board discussed reimbursing Ryan Nadeau for his expenses incurred in trying to purchase the property. The board asked Ryan to submit an invoice to the District and the board will need to bring to a District meeting for approval.

Based on the facts that we have gathered since the bids were submitted Ed made a motion that the board rescind the vote of December 20, 2013 awarding the bid on 527 Somerset Avenue. Patrick seconded the motion. Ed made a second motion to advise the bidder to submit in writing the costs that were associated in the pursuing of this property then we will meet to vote to put on the District warrant.

The board discussed the motions with Attorney Thomas and Ryan Nadeau. The board directed Ryan Nadeau to submit an itemized bill with back up for his expenses.

Ed repeated the motion to rescind the awarding of the bid of December 20, 2013, Patrick had seconded and Sue asked if all were in favor: Sue and Ed – aye, Patrick – no. The motion passed. Ed motioned to request that the bidder submit reasonable, reimbursable expenses for the proposition based on the new facts that we got that changed what was necessary because in good faith all parties were ready to sell and it took a turn and didn't happen that way. We will meet with them after they are submitted and place an article on the Annual District meeting for reimbursable expenses. Patrick seconded the motion, all were in favor, motion passed.

Patrick moved that the board go into executive session under Chapter 30A, Section 20 (6) of the General Laws. Sue took a roll call, Ed – aye, Patrick – aye, Sue – aye. The board went into executive session at 8:30 P.M.

The board motioned to come out of executive session at 9:15 P.M.

READING OF CORRESPONDENCE:

The board received a copy of the communication from Karen O'Connor resigning from the Dighton Water District's Finance Committee. Ed motioned to accept with regret, Patrick seconded with regret. Sue added that Karen did a great job, she kept the Finance Committee together and we will miss her on the committee. Sue took a vote all were in favor, motion passed.

REVIEW EXECUTIVE SESSION MINUTES:

The board reviewed executive session minutes. Ed motioned to release the executive session of August 7, 2013. Patrick seconded, all were in favor and the motion passed.

FINANCIAL CONDITION/WEBSITE UPDATE:

Ed motioned to accept the financial report as prepared by the Acting District Treasurer. Patrick seconded, all were in favor and the motion carried.

Tina Bragga stated that the minutes approved at the January board meeting have been posted and the new water rates.

Patrick made a motion that the warrants stand approved as prepared for our approval by the District Accountant. Ed seconded the motion, all were in favor and the motion passed.

Patrick made a motion that the website update be approved as delivered by the District Clerk. Ed seconded the motion, all were in favor and the motion passed.

SUPERINTENDENTS REPORT:

Superintendent Greg Olsen reported that the Pleasant Street bridge project is on hold until weather is better due to temporary main that could possible freeze. Clean Harbors will be coming on Tuesday February 11th to pump the tight tank at the treatment plant cost is about \$2,600.00. Greg reported that the new meters, software and interface is being shipped. There was a small leak on Gray Terrace which was repaired. The altitude valve and check valve is repaired on the Williams Street tank and hopes to have it up and running in a few weeks. Greg reported that he would be sending letters to subdivisions in regards to flushing their hydrants. The commissioners stated if the subdivision did not give permission to flush their hydrants we would notify the Fire Chief. Hydrant flushing will begin the end of March beginning of April.

Greg reported that there are two pumps that pump the recycled water from the lagoons back into the treatment plant. Both pumps have failed, this is the third or fourth time they have failed. There is a pressure issue causing the problem. Ed recommended that for the next meeting to have a short term plan for these pumps and place a Special Article on the warrant for the Annual District meeting for long term plan for pumps.

Greg contacted two companies for quotes on mixer in the tank that will be going on the Annual District meeting warrant. Cedar #2 is online. Greg suggested not bidding for home heating oil instead call around when the District needs oil. The board suggested using the state bid list or joining the Regional School contract.

Ed made a motion to take home heating oil off of the bid list for the upcoming fiscal year at the request of the Superintendent. Patrick seconded the motion, all were in favor and the motion passed.

Greg will be offering a confined space class to all employees to comply with the emergency response training requirements. Patrick suggested that the town hall was having a three day National Incident Management System class that he could possibly attend.

Ed would like an update at the March meeting on how Greg is planning to utilize 527 Somerset Ave.

OLD BUSINESS:

Five Year Capital Planning Committee – Greg stated that he has calls out to the other two members to set up a meeting to organize and that one of the members will have a report for the Annual Meeting.

FISCAL YEAR 2015 BUDGET AND SPECIAL ARTICLES:

Patrick stated that the budget and special articles should be presented at the March meeting and ready for the Finance Committee. The Finance Committee is in need of 3 new members.

NEW BUSINESS:

Water District Abatements – Ed made a motion to deny the three abatements as presented. Patrick seconded, all were in favor and the motion passed.

The board voted to go into executive session at the end of the meeting to discuss the fourth abatement.

ANNOUNCEMENTS:

Sue announced that the next Water Trust Resource meeting will be Thursday, February 20th, 2014 at 9:00 A.M. The next regular meeting of the Board of Commissioners will be Monday, March 3, 2014 at 9:00 A.M.

Sue announced that nominations for Commissioner for three years will be open from March 3rd, 2014 to April 3rd, 2014 with the election being held May 19th, 2014 from 12 P.M. to 7:00 P.M. Papers will be available at the District Office. The Annual District meeting is being held Thursday, May 22nd, 2014, place and time to be announced at a later time.

ACKNOWLEDGEMENTS: None.

PUBLIC INPUT: None

Sue announced that the board would be going into executive session and will not be returning to open session.

Ed motioned to enter into executive session under Chapter 30A Section 21. Patrick seconded the motion. Roll call was taken, all were in favor.

Meeting adjourned at 10:10 PM.

Respectfully Submitted,

Tina Bragga
Assistant District Clerk

Those in Attendance:

Sue Medeiros
Patrick Menges
Edward Swartz
Greg Olsen
Tina Bragga
Attorney Rob Fredericks

Attorney Thomas
Ryan Nadeau
Jeff Cloonan
James Ready
Dorian Jefferson

Chairman Sue Medeiros

Clerk Patrick Menges

Commissioner Ed Swartz

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Note: The highlight portions of this statement were read by commissioner Menges at the February 10, 2014 monthly meeting.

SUBJECT: Water District Property Sale
DATE: February 10, 2014

Opinion of Mr. MENGES, Commissioner.

The Dighton Water District has for years now been attempting to sell the 527 Somerset Avenue, Dighton, former District Headquarters building, that is largely disused since the opening of its Williams Street Water Treatment Plant in 2007.

Last fall, a special district meeting voted unanimously to reduce the sales price of the Somerset Avenue property to \$200,000.00, in hopes of attracting a buyer. An interested party appeared, prompting the District to publicly advertise the property for sale in area newspapers, and the State Central Register. Proposals for sale of the property for not less than \$200,000.00 were invited. The Board of Commissioners of the District publicly voted to accept an offer of Mr. Ryan Nadeau of Nadeau Tree Service, to buy the property. With that acceptance, Mr. Nadeau obtained the approval of his bank for a loan for the purchase.

The acceptance of Mr. Nadeau's offer, required an initiative to recover whole title to the property by the return of an easement owned by Omnatex of New Jersey. This initiative came to be forestalled by allegations that the property could not be sold because it was dangerous.

It is alleged now, that the property may be polluted by the undergrown flume of an old diesel oil spill, and that test borings should be made on the properties of neighbors to dispel this possibility. It is also the stated opinion of professionals that the presence of pipes under the building, although the building has no excavated cellar, raises a potential threat to the structural soundness of the building, and that geotechnical studies are required to insure that the building will not collapse due to the presence of these underground pipes.

As a result of these concerns, the Dighton Water District clearly has a moral obligation to Mr. Nadeau, a businessman whose future depends upon his ability to make firm plans; the District owes it to Mr. Nadeau to be honest about concerns which have been raised about the land, and a possible decision by the Board of Commissioners not to sell the property as a result of these concerns.

However, the future of the building at 527 Somerset Avenue includes the forthcoming day when that building will no longer belong to the Dighton Water District. Tonight, I speak to that future, and leave these observations for the future generations that will be faced with deciding the fate the building, as well as similar matters important to the future of Dighton itself.

The idea of not selling a piece of property because of its potential dangerousness is new indeed. Where would our country be if when the Transcontinental Railroad were being built the Federal Government had said that the western lands with their deserts, challenging weather conditions, rock slides, roving buffalo herds, and not infrequently lethal Indian attacks, were too dangerous, and therefore the land could not be sold to Union Pacific Railroad? Every transfer of land involves danger to the purchaser, danger equal to the opportunity afforded by the land. The more one is willing to invest in overcoming the challenges of the land, the greater the reward, both for the entrepreneur, and for society. All land must be tamed, purged, and harnessed for usefulness. Often, land has to be purged of its old sins. In a town like Dighton where urban renewal is not familiar, this concept is not familiar. But in large cities, decadent buildings are frequently transferred to far seeing new owners who can make the sites useful, by eliminating past dangers.

It is the historic policy of Anglo Saxon Law, that land move from one owner to another, that it be what the law calls alienable. The alienability of property is a pillar of our way of life, and all things that militate against the sale of a piece of land to an ambitious positive new owner for constructive purposes, are obstructions which our national public policy and storied traditions abhor.

As was stated in Jarman's commentary on the Rule in the Duke of Norfolk's case, "consider for a moment what would be the state of a community in which a considerable portion of the land and capital was locked up. That free and active circulation of property, which is one of the springs as well as the consequences of commerce, would be obstructed; the improvement of land checked; its acquisition rendered difficult; the capital of the country gradually

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withdrawn from trade; and the incentives to exertion in every branch of industry diminished. Indeed, such a state of things would be utterly inconsistent with national prosperity...”

Many of us live in homes that stand over holes in the ground called cellars, with pipes running underneath them. I myself live in such a building that was constructed in 1860. Without geotechnical studies, the building was enlarged and remodeled in 1923, and has been twice added to. I do not doubt the sincerity of professional opinion that the pipes running under our 527 Somerset Avenue building pose a danger that the building might fall down, even though it has no cellar underneath it and has been sound for fifty years. I also have no doubt of the need of geotechnical experts for work. In any case, it is clear to me, that whatever becomes of 527 Somerset Avenue when someday it no longer belongs to the Dighton Water District, the ambition, willingness to take a chance on locating in Dighton, and forward thinking of the businessman who has offered to buy that building now, and whose offer whose commission today is going to spurn, will be indispensable in the future. The gentleman has obtained from the Board of Assessors an estimate that his annual property tax to the Town had he been allowed to purchase the building, would have been \$10,000.00 a year.

I wish to point out there are many sites in Dighton, the former uses of which may have been less than ideal for their future, but which in the hands of men with dreams and ambitions, will be rehabilitated to usefulness in the future of the town's economy. The Town of Dighton has just sold the Spring Street bank building, on the verge of it being condemned and torn down, to an entrepreneur who believes that he may be able to rehabilitate it, waving aside all doubts. The Dighton Water District's building at 527 Somerset Avenue is in far more structurally safe a condition than the old Spring Street bank. Let no man say otherwise. Not to sell the Somerset Avenue property because the presence of pipes underneath it threaten to destabilize it after all these years, makes me curious as to the motives that underlay such an assertion. At this time, having supported Ryan Nadeau's attempts to purchase the former Water District Property at 527 Somerset Avenue, I personally deeply apologize to Mr. Nadeau, and the Mechanic's Cooperative Bank. I still believe that the building will one day have to be sold in the best interests of the Water District, and that a future generation will be left to wonder why we did not do it tonight.

I have refused to participate in a secret Executive Session to discuss behind closed doors with an attorney the reports of the Building Commissioner and Fire Chief concerning 527 Somerset Avenue. The vote of the District to sell the building was public. The advertisements for proposals from potential buyers was public; the vote of the Board of Commissioners to accept Mr. Nadeau's offer was a public vote; and discussions concerning this matter until tonight have been public, not to mention that the reports of the Building Commissioner and Fire Chief under Massachusetts Law are both public record. By not participating in an Executive Session concerning this matter, I expressly reserve my right as a Commissioner and as a private citizen, to comment publicly at will upon this matter. Not having participated in an Executive Session concerning the matter, my comments in public about it will not be held against me as having divulged Executive Session proceedings illegally. In the meantime, I request that the text of this statement be included verbatim and complete, in the minutes of tonight's meeting, and I will forward a copy of this statement to the Attorney General of the Commonwealth, perhaps with a cover letter from me, and if I decide to send the statement under a cover letter, I will furnish that letter to the District Clerk as a public record. In advancing the sale of the 527 Somerset Avenue property which I consider inevitable, and in the best interest of the economic future of Dighton, I wish that I could do more; however, as a matter of honor to this gentleman who has come forward and tried to buy it, and in view of my commitment to posterity, I shall have done no less.

Patrick W. Menges