A Meeting of the Board of Selectmen was held on Thursday November 20, 2017, at 6:30 PM in the Francis O’Brien Meeting Room, 26 Bryant Street, Dedham, Massachusetts. Present were:

Dr. Dennis J. Teehan, Jr.

James A. MacDonald

Michael L. Butler

Dennis J. Guilfoyle

Brendan G. Keogh

Dr. Teehan called the Meeting to order at 6:35 PM.

**PLEDGE OF ALLEGIANCE**

Led by Dr. Teehan.

**DEDHAM CITIZENS - OPEN DISCUSSION**

None.

**Discussion & Vote Re: 2017 Dedham Square Holiday Stroll & Approval of Holiday Free Parking for December**

Ms. Baker informed the Board that the holiday stroll is Friday, December 1, 5 - 8:30 PM. Ms. Baker added that the request asks to close High Street from the intersection of Washington down to Harris and Eastern Avenue from High Street to the entrance to the Keystone Lot, across from CVS. Ms. Baker continued, saying that a portion of the Keystone Lot will be closed to traffic for the tree lighting and sandwich Board signs and a banner will be placed at the location. Ms. Baker stated that there is also a request for the usual Holiday free parking in Dedham Square from December 1 through January 1.

Mr. MacDonald moved approval; seconded by Mr. Guilfoyle.

After some discussion the Holiday free parking in Dedham Square will be from December 1 through December 31.

**On the Vote:** Mr. Keogh, yes; Dr. Teehan, yes; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

**Discussion & Vote Re: Black Friday Openings for Toys R Us & Best Buy**

Ms. Baker informed the Board that they had a request from Dick’s Sporting Goods in front of them.

Mr. Guilfoyle stated that he will vote to approve the request as long as Chief D’Entremont is on Board with this and knows how many details are needed.

Ms. Baker informed all that Chief D’Entremont has reviewed all three applications.

Mr. Butler moved to take an item not on the agenda; seconded by Mr. Keogh. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

Ms. Baker stated that Best Buy is looking to open at 1 AM.

Mr. Butler moved approval; seconded by Mr. MacDonald. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

Ms. Baker stated that Toys “R” Us is looking to open at 1 AM.

Mr. Guilfoyle moved approval; seconded by Mr. Butler. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes

Ms. Baker stated that Dick’s Sporting Goods is looking to open at 12:30AM.

Mr. Butler moved approval; seconded by Mr. Guilfoyle. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

**Discussion & Vote Re: Contract Extension for Town Manager**

Dr. Teehan stated that this is a six-month Memorandum of Understanding, to extend the current contract. Dr. Teehan stated that he, being the Chairman and Mr. MacDonald, being the Vice-Chairman, will sit down with Town Manager, James Kern and negotiate the terms for the upcoming three years.

Mr. McDonald moved that the Board enter into an interim employment agreement with the Town Manager to bridge the gap from his current contract until a new one is agreed-upon; seconded by Mr. Butler. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

**Ames Building Project - Authorize Town Manager to Pursue Compliance with Project Schedule – Discussion & Vote**

Mr. Kern stated that the original construction schedule, under the contract, was 11 months starting in the middle of summer 2016 and was to be completed in the middle of summer 2017. Mr. Kern informed the Board that the contractors estimated completion date has now slipped several times, first to September 15, then to November. Mr. Kern added that in the middle of October the date was moved from November to February 26, 2018. Mr. Kern continued, saying that the most recent estimate provided was received by the Town Manager on November 10, is for April 2018. Mr. Kern stated that even with the extended date into April, there are still questions about the schedule. Mr. Kern added that he believes the schedule that has been submitted does not meet contract information requirements. Mr. Kern continued, saying that the Architect has reported that work items not being performed at the scheduled time or within the sequence indicated on the schedule that leads to additional delays. Mr. Kern continued, saying that in addition to the delays, there are still various staffing and performance issues. The project team, consisting of the Town, Architect and the Owner’s Project Manager does not believe that the contractor is providing sufficient personnel at the worksite, especially for carpentry type work. Mr. Kern added that in the past week the number of carpenters has been reduced again.

Mr. Kern informed all that certain work items installed have deviated from the description presented by the contractor and approved by the Architect under the shop drawing submittal process. Mr. Kern added that even though we are past the third different completion date, the contractors to providing submittals for work to be installed, work that should have already been completed.

Mr. Kern informed all that they’ve had a couple of conversations with Town Council and he is satisfied that under the contractor’s performance bond for the project, the Town can make a claim to the Bonds surety, when the contractor is failing to meet the contract obligations. Mr. Kern added that that is his recommendation and the recommendation of Town Council.

Dr. Teehan introduced David Doneski from KP Law, who has been assisting us regarding this issue.

Dr. Teehan read the following statement:

As you’ve heard tonight we have serious concerns regarding lack of progress and continued substantial delays to the project schedule.

As recently as June 15, the Board of Selectmen and Jim Kern discussed in our meeting an anticipated project completion date of September. This is in our minutes from that evening. What happened since that evening’s meeting remains a matter of discussion. However, as soon as the Board first learned of the change in the schedule in July, and the sudden and dramatic slowdown in progress in the building over the late spring and early summer, we immediately began to take action.

Over the past four months, myself, the Board and Mr. Kern have all devoted a considerable amount of time and energy towards managing the situation as best as possible. In particular I would like to thank Mr. Kern for his attention and leadership during this process. Unfortunately despite those efforts the schedule has been changed from July to September, September to November, November to February and now February to April.

The best solutions to matters like this do not usually involve attorneys or insurance companies. We tried extensively over the past four months to resolve this matter without involving either. We offered both positive incentives and negative consequences to the contractor in an attempt to encourage them to meet their commitment to the Town of Dedham as quickly as possible. This included a $1000 a day liquidated damages penalty for delayed completion, which was triggered in July and which continues to accumulate.

This is plain and simple about a contract that was signed with the Town of Dedham to finish a project in July and for whatever reason their commitment to the Town of Dedham has not been fulfilled and it in an extreme way and it has placed us all in a difficult situation. I will now open to comments from the Board.

Mr. MacDonald stated that because the Town is heading down a road that it has not gone down before,

he will defer any comments and let this go through the process.

Mr. McDonald moved that the Board vote to authorize the Town Manager to work with Town Council to pursue the contract for the Ames Schoolhouse/Town Hall project, through a claim against the performance bond of the contractor CTA; seconded by Mr. Guilfoyle. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes.

Dr. Teehan stated that he would provide a little bit of background for this process and read the following statement:

If we make a claim against the bond we are in essence asking for the bonding company to get involved and help CTA complete the project because of the concerns that have been outlined tonight without formally terminating the construction company. This is not a step we are enthusiastic to take but it is one that we believe is necessary given the concerning lack of progress and delays on the building project. Unfortunately, our efforts over these last several months have not been successful in getting better progress and action from the contractor. After very careful consideration with all parties involved in after hearings from Town Counsel, I believe a claim against the bond is the best option for Dedham right now. This is something that, above all, we will be doing to protect the interests of our taxpayers and ensure the project achieves completion under the best possible terms.

This is a difficult situation. We have a lot of people on our side trying to do the very best that they can to manage this unfulfilled commitment to our Town and taxpayers. I’m extremely hopeful that this step will prove to be a watershed moment in this process and one that ultimately results in taxpayers getting the building they deserve in the quickest possible time.

**OLD/NEW BUSINESS**

Mr. Guilfoyle wished everyone a safe and happy Thanksgiving. Mr. Guilfoyle informed all that once again they will be holding the “Toys for Tots” event on December 10, at 6:30 PM at the American Legion. Mr. Guilfoyle added that this is in collaboration with the Town Manager’s office, the Board of Selectmen and the Dedham Housing Authority.

Mr. Keogh reminded everyone that the Turkey Trot will take place Thanksgiving morning at 8AM from the Endicott Estate.

Mr. McDonald stated that there will be a rally for the High School Football Team at 7 PM at the VFW this coming Wednesday evening.

Mr. Butler expressed his thanks to Town Meeting for supporting the new Public Safety Building and thanked all those who put in hours of hard work to get this done. Mr. Butler added that there was a good turnout, pushing 80%, amongst Town Meeting representatives.

Dr. Teehan added that the level of discourse at Town meeting was great.

Mr. McDonald moved to adjourn; seconded by Mr. Butler. **On the Vote:** Mr. Keogh, yes; Dr. Teehan, Yes.; Mr. Butler, yes; Mr. Guilfoyle, yes; Mr. MacDonald, yes..

The Meeting was adjourned at 6:57 PM.

The next Meeting is scheduled for Thursday November 30, 2017 at 7p.m. This is to certify that the above is a true and accurate record of the minutes of the Selectmen’s Meeting held on November 20, 2017, which minutes were approved on January 11, 2018.

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Dennis Teehan, Jr. – Chairman