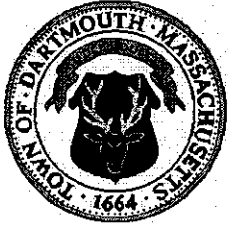


REVISED



Town of Dartmouth

400 Slocum Road  
Dartmouth, MA 02747

Board of Selectmen

**Select Board Members Present:**

Michael P. Watson-Chairman  
Lara H. Stone-Vice-Chairwoman  
William J. Trimble

Joseph Michaud  
Shawn McDonald

The Chairman opened the Public meeting at 5:45 p.m.

The Chairman polled the Board for a roll call vote to convene into Executive Session pursuant to M.G.L. Ch. 30A, Sec. 21: Selectman Michaud, yes; Selectman McDonald, yes; Selectman Trimble, yes; Vice-Chairwoman Stone, yes; Chairman Watson, yes.

The Chairman reconvened the public meeting to order at 6:30 p.m. on July 11, 2011 in room 304.

Board members signed the **warrant(s)** for the following bills from various departments in the amounts of:

PR51	\$2,265,282.69	PD1152	\$839,563.60	P1152A	\$18,845.72
S1152A	\$21,658.33	T1152A	\$240,931.33	T1201	\$31,312.81
PR52	\$640,825.07	PD1152A	\$684,312.15	D1152B	\$100,409.27
S1152B	\$475,554.52	T1152B	\$74,163.44	T1201	\$31,312.81

**Wendy Henderson, Director of Board of Health Re: Vicious Dogs.**

Wendy Henderson, Director of Board of Health, gave the Board an overview of history of dog bites in town. Ms. Henderson read the list of dogs with labs and pit bulls being two of the highest. The Director of the Board of Health will work with the Executive Administrator on a By-law.

### **Appointment to the Shellfish Committee.**

Selectman McDonald read into the record a letter from Joseph Hannon, Dartmouth Waterways (see attached).

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, it was voted unanimously to appoint Russell Luiz to the Shellfish Committee.*

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, it was voted unanimously to appoint Mark Nunes to the Shellfish Committee.*

### **Bill Mosher, designee for SRTA Board.**

Bill Mosher briefed the board on the SRTA Budget and informed the Board on a federal grant that will provide the COA with a new vehicle.

### **Seth Pickering, Green Community Coordinator.**

Seth Pickering, Southeast Regional Coordinator, presented the Board with a presentation on the following topics: Green Communities Act, Global Warming Solutions Act and the Green Jobs Act.

### **Hearing-Application for a Transfer of the Year Round All Alcoholic Package Goods Store License from Mass Market, Inc. d/b/a Dartmouth Market Plus to Hokalq, Inc. d/b/a Douglas Wine & Spirits, 39 Faunce Corner Rd., Manager Joshua Sullivan.**

The Chairman opened the public hearing.

Attorney Walter Smith was present on behalf of Douglas Wine & Spirits.

Attorney Brian Corey, Jr., representing Patson Inc., mentioned to the Board that there must be a need for this kind of establishment, we already have several package stores within a two mile radius of this proposed location. Attorney Corey also presented that there needs to be a lease agreement in place and not a proposed lease. Attorney Corey also addressed a liquor violation from the Douglas Wine & Spirits in Fairhaven.

Attorney Kimberly Moses Smith, representing the Patel's, spoke in opposition of granting the license to Douglas Wine & Spirits. Attorney Smith also mentioned that the Patel's have no liquor violations.

Several residents also spoke in opposition of the Douglas Wine & Spirits.

The Chairman closed the public hearing.

*After a motion was made by Selectman William Trimble and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to continue the hearing for two weeks.*

*The Executive Administrator stated that after hearing the testimony and speaking with Town Counsel, it likely that further litigation over the decision will continue whether the license is granted or not grant. The Executive Administrator advised that Select Board Members contact Town Counsel to assist them with a motion for finding facts for a favorable vote or denial.*

**Hearing-Application for a Year Round Wine & Malt Beverage License to Mass Market, Inc. d/b/a Dartmouth Market Plus, Manager/Owner, Johnni M. Massaad, 610 Dartmouth St.**

The Chairman opened the Hearing.

The Chairman asked Johnni Massaad for a favorable continuance of this hearing.

The Chairman closed the Hearing.

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, it was voted unanimously to continue the hearing-application until July 25 until the previous hearing-application is rendered for a Transfer of the Year Round All Alcoholic Package Goods Store License from Mass Market, Inc. d/b/a Dartmouth Market Plus to Hokalg, Inc. d/b/a Douglas Wine & Spirits, 39 Faunce Corner Rd., Manager Joshua Sullivan.*

**Application of Dartmouth Natural Resources Trust for a Special One Day Liquor License & Common Victualler License for 8-27-11.**

Dexter Mead was present for his Application.

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman Shawn McDonald, it was voted unanimously to approve the Application of Dartmouth Natural Resources Trust for a Special One Day Liquor License & Common Victualler License for 8-27-11.*

**Application of St. George Greek Orthodox Church for a Special One Day Beer & Wine License & Common Victualler License for 7-30-11 & 7-31-11.**

George Bebis was present for his Application.

*After a motion was made by Vice-Chairwoman Lara Stone and seconded by Selectman Shawn McDonald, it was voted unanimously to approve the Application of St. George Greek Othodox Church for a Special One Day Liquor License & Common Victualler License for 7-30-11 & 7-31-11.*

**New Business:**

**Reappointment to the Greater New Bedford Regional Refuse Management District**

The Chairman read a letter of interest from Richard Medeiros. Selectman Michaud stated that David Vincent is also interested in serving.

*Vice-Chairwoman Stone mentioned that a Select Board Member should serve and recommended Selectman McDonald.*

The Board questioned whether Nathalie Dias is still serving and would need to further research her appointment term.

This will be on the agenda for the 25<sup>th</sup> of July.

**Reappointment to the Agricultural Commission.**

*After a motion was made by Vice-Chairwoman Lara Stone and seconded by Selectman Joseph Michaud, it was voted unanimously to reappoint Susan Guiducci to the Agricultural Commission.*

**Correspondence to Local Elections Districts Review Commission.**

The Executive mentioned that on June 22, 2011 I and the Town Clerk learned from your staff that there was an error between the legal description for Precinct 3 and Precinct 4 as the Town used a census block description rather than the proper description as shown on the Precinct Map. Since the Select Board discussion focused almost entirely on the Precinct Map and the change in the number of precincts rather than focusing on the legal description of the Precinct Map, the error in the legal description prepared by the Town Planner will most likely be considered a Scrivener's error. Since the Select Board is not meeting again until July 11, 2011, a corrected legal description to conform to the Precinct Map has been prepared and is being submitted with this letter for your consideration. The Select Board should vote on July 11, 2011 to confirm this new legal description and then submit it to you for your consideration.

*After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to support this legal description.*

### **Discussion on Bristol County Advisory Board.**

Selectman Shawn McDonald updated the Board on the Bristol County Advisory. Selectman Shawn McDonald mentioned that at a meeting he learned that County has financial problems for which municipalities within the County such as Dartmouth are assessed.

*After a motion was made by Selectman William Trimble and seconded by Selectman Joseph Michaud, it was voted unanimously to send a letter to State Representative, State Legislation and Bristol County Administrators to dissolve the Bristol County Advisory Board.*

### **Bullard Center Lease Amendment.**

The Amendment to the Bullard Center Lease for Exterior Grounds.

*After a motion was made by Selectman William Trimble and seconded by Selectman Shawn McDonald, it was voted unanimously to adopt this amendment.*

### **Discussion on GASB45.**

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, it was voted (4) four in favor and (1) one abstention (Chairman Watson) to appoint Chairman Michael Watson as designee for the GASB45 Committee.*

Anyone interested in serving on this committee can submit a letter of interest to the Board. This issue will be discussed on the 25<sup>th</sup> of July.

### **Statewide Public Safety Mutual Aid.**

While the law appears to allow the Executive Administrator to sign the attached documents committing the Town of Dartmouth to the Statewide Public Safety Mutual Aid Program, The Executive Administrator suggested the Board adopt a motion concurring with this.

*After a motion was made by Selectman Shawn McDonald and seconded by Selectman Joseph Michaud, it was voted unanimously to adopt the above motion.*

### **Renewal Application of a Class A Public Vehicle License.**

*After a motion was made by Selectman Joseph Michaud and seconded by Selectman Shawn McDonald, it was voted unanimously to approve the Renewal Application of a Class A Vehicle License for Agnes Bizarria.*

**M.G.L. Chapter 148A-Ticketing for Violation of State Fire Code & State Building Code.**

M.G.L. Chapter 148A allows municipalities to issue tickets for the violation of the State Fire Code or State Building Code. District 3 Fire Chief Arruda and Director of Inspectional Services Paul Murphy have requested that the town implement this law as a means of addressing such code violations rather than using the criminal justice system. Mr. Barnes and I have experience in using this law in our prior work experience and support this. To implement this, the Town only needs to appoint a Municipal Hearing Officer and attain the ticket booklets. Finance Director Barnes has agreed to be the Municipal Hearing Officer and waive the \$2,500 stipend provided that I provide him with the necessary clerical assistance which we can take from the manpower account. Thus, I would recommend that the Select Board adopt a motion appointing Mr. Barnes as the Municipal Hearing Officer.

For your information, fines cannot exceed \$200, and if any, appeal to Municipal Hearing Officer's decision is made to the Housing Court.

*After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to appoint Greg Barnes as the Municipal Hearing Officer.*

**Police Brotherhood Contract.**

*After a motion was made by Vice-Chairwoman Lara Stone and seconded by Selectman Shawn McDonald, it was voted unanimously to approve the Police Brotherhood Contract.*

**Public Service Announcements-Padanaram Village and Lloyd Center.**

The Board watched the DCTV Public Service Announcement for Padanaram Village and the Lloyd Center.

**Line Item Transfers.**

Greg Barnes, Director of Budget and Finance, was present.

Computer Services \$3,125.00; DPW \$12,000; Town Counsel \$15,100; Collector \$544.66.

*After a motion was made by Selectman William Trimble and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to approve the above Line Item Transfer.*

**Old Business:**

## **Update of Joe's Used Cycles.**

Joseph McConnell, owner of Joe's Used Cycles, was present.

Letter from Paul Murphy, Director of Inspectional Services, stating as of June 30, 2011 and present, he finds Joe's Used Cycle's largely in compliance with the terms of its Class II and Class III Business Licenses. This analysis is based on the substantial cleanup efforts made.

*After a motion was made by Selectman William Trimble and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to extend the license of Joe's Used Cycles until the end of 2011.*

## **Legal Services.**

Vice-Chairwoman Lara Stone stated that legal fees have continued to drop since 2009 to present. Vice-Chairwoman Stone stated within the last two years we have several circumstances that required Town Counsel services: terminated a Building Inspector, Executive Administrator, and Grants/Paralegal. Vice-Chairwoman Stone mentioned that contracts for life in Dartmouth was not a good policy, and this has brought the Town costly litigation. We have also terminated 2 Police Officers, hired a new Budget & Finance Director, and hired a new Executive Administrator and Police Chief for whom Attorney Savastano has written their contracts. We also have Town Counsel working on the review of the Charter, By-Laws and new Massachusetts Open Meeting Law requirements, Zoning Board of Appeals issues and Planning Board Issues.

Members of the Board suggest going forward this is a substantial budget item that we put out an RFP for each of the Counsels, Labor, General and Special in an effort to save the town some money.

Attorney Savastano stated that he returned a \$16,000 check from legal fees accrued that should have been applied to his 2011 legal services. Attorney Savastano mentioned that the Town is self-insured and all the Workers' Compensation should be on a separate line item. In closing, Attorney Savastano stated in six years with an average of approx. 30/40 cases per year he has only lost one case, when ZBA went against his recommendation.

## **Minutes:**

### **Minutes of June 20, 2011.**

*After a motion was made by Vice-Chairwoman Lara Stone and seconded by Selectman William Trimble, it was voted unanimously to approve the Meeting Minutes of June 20, 2011.*

Attest:



---

David G. Cressman, Executive Administrator

Transcribed by: Linda Torres



175 Rockland Street  
Dartmouth, MA 02748  
July 11, 2011

Select Board  
Town of Dartmouth  
Slocum Road  
Dartmouth, MA 02747

RE: Shellfish Cooperation

Dear Select Board

This member of the Waterways Management Commission (and its current Chair) watched and listened with dismay to the DCTV re-broadcast of the June 20, 2011 Select Board meeting. The comment by Barry Walker that the WMC and Harbormaster have not been cooperative in the resolution of the shellfish warden issue is inaccurate and has no basis in fact.

Select Board member Stone has it right, The truth is that the Harbormaster and the WMC have responded favorably to every request made of us to assist in resolution of the shellfish warden issue before the shellfish warden office became vacant.

You should know that the Harbormaster has volunteered considerable hours of his time (not user funded) on water sampling for the Division of Marine Fisheries, assisting with Fairhaven transplant process, mapping open areas permitted by Select Board, and answering and responding to WMC and Executive Administrator's questions and those of the public, all in addition to squeezing in the State's shellfish training course, prior to the current vacancy in the position.

Please bear in mind that the office of shellfish warden is not now and has not since 1995 been under or within the Waterways Management Department. In Article 25 the 1995 Spring Town Meeting voted to separate the Shellfish warden function from the Waterways Management Department, and to fund it separately from the Waterways Enterprise Fund.

The Waterways Enterprise Fund is fully funded by vessel users, mooring permittees, and the many persons on the waiting list for a mooring assignment. The users fees offset the cost of providing services to those who pay the fees. The WMC and the Harbormaster work diligently to assure that user funds are not diverted to services and activities beyond the scope of the Enterprise Fund. Any diversion is regarded as an illegal tax on the vessel users.

With this in mind, the WMC favored a shellfish training program, requested by the Executive Administrator, for the Harbormaster, which the Harbormaster completed this past winter at the expense of deferring his vacation plans. Given the vacancy in the shellfish office, it was thought prudent to be able to provide some level of expertise when necessary for enforcement to protect the public and Town interest.

However, the WMC and the Harbormaster have consistently and repeatedly advised and cautioned that whatever shellfish enforcement might be required of the Harbormaster must be paid for with funding other than the Waterways Enterprise fund.

The WMC and the Harbormaster are represented on a special shellfish committee with the Executive Administrator and Select Board member Stone to find the ways and means to protect and preserve the Town's interest in its shellfish resources.

Among the measures proposed was the shellfish study denied by the Finance Committee, and it was the same Mr. Walker who vigorously argued against the study. The WMC and the Harbormaster supported the study. Indeed WMC member Race proposed it and did the homework. The proposed study was and is viewed as a sensible way for the Town and the Select Board to determine the nature and extent of our shellfish resource, and, thereby, the best response in terms of enforcement and shellfish protection and propagation.

As Select Board member Stone accurately observed at the Select Board meeting on June 20, the shellfish issues remain to be resolved and the funding necessary remains to be found. The WMC and the Harbormaster remain cooperative, mindful, however, that the Waterways Enterprise fund must never be diverted to pay for the Town's shellfish endeavors.

Very truly yours,

Joseph P. Hannon

cc.  
Executive Administrator,  
Harbormaster  
Waterways Management Commission