



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 called the public meeting to order at 6:30 p.m. on July 25, 2011 in room 304.

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

PR11sick	\$8,637.67	PR53	\$365,367.02	PD1152B	\$230,423.28
D1152C	\$139,776.90	S1152C	\$32,375.41	T1152C	\$98,904.84
PR01	\$71,449.31	PD1201	\$786,937.76	T1202	\$5,444,063.85
PD1152C	\$13,278.57	P1152D	\$22,133.79	S1152D	\$219,615.40
T1152D	\$88,673.29	PR03V1	\$142.33	PR03	\$353,973.24
PD1203	\$151,503.68	T1204	\$226,887.47	M1203	\$125.00

SEEAL & Bristol County Savings Bank.

Jennifer Marshall was present from the South Coast Energy Challenge.

Bristol County Savings Bank presented SEEAL with a check in the amount of \$4,900.

Meeting with David Hickox, Director of Public Works re: Dartmouth & Elm Street updates.

David Hickox, DPW Director, updated the Board on the project on Dartmouth and Elm St. Mr. Hickox stated that the contractor is back working on the project, the hold-up has been the relocation of some of the utilities and crews that have been working in Western Mass were they have no electricity due to the hurricane. The DPW Director also addressed the plan for maintaining road ways.

Clark's Cove Regulations (Rogers Street).

Joseph Hannon, Chairman of the Waterways Commission, stated that the Waterways Management Commission has determined that the estimated cost of maintaining the parking lot and enforcing the regulations far exceeds the revenue that that will be generated under the current regulations. Mr. Hannon mentioned that the Waterways Commission recommendation is to eliminate the seasonal parking pass, and to increase the day rate of \$10 per single space and \$20 per double space. Mr. Hannon provided the Board with the Rogers St. cost analysis.

Selectman Trimble is not in favor of the proposed regulations; this access is being restricted to the general public.

After a motion was made by Selectman William Trimble and seconded by Selectman Joseph Michaud, it was voted (four) in favor and (one) opposed (Selectman McDonald) to table this matter until August 8th.

Appointment to Waterways Commission.

Michael Gill, Chris Hemmingway and William Keene briefed the Board on why they would like to serve on the Waterways Commission.

After a motion was made by Selectman Shawn McDonald and seconded by Selectman Joseph Michaud, it was voted unanimously to reappoint Michael Gill and Chris Hemmingway to the Waterways Commission.

Selectman McDonald mentioned he would like to keep William Keene's letter of interest handy, in case of an opening.

Application of UMass for a Special One Day Beer & Wine License for July 30, 2011.

A representative from UMass was present for the Application.

After a motion was made by Selectman Shawn McDonald and seconded by Selectman Joseph Michaud, it was voted unanimously to approve the Application of UMass for a Special One Day Beer & Wine License for July 30, 2011.

Appointment to Greater New Bedford Regional Refuse Management District.

David Vincent presented the Board on his work history.

Richard Medeiros presented the Board on why he would continue to serve on the Greater New Bedford Regional Refuse Management District.

A motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, to appoint David Vincent; with no further motions forthcoming, the motion fails.

After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted (four) in favor and (one) opposed (Selectman Michaud) to reappoint Richard Medeiros to the Greater New Bedford Regional Refuse Management District.

Application of Horseneck Holy Ghost “Blowout 2011” for a Special One Day Beer & Wine License for August 13, 2011.

John Haran was present for his Application.

After a motion was made by Selectman Shawn McDonald and seconded by Selectman Joseph Michaud, it was voted unanimously to approve the Application of Horseneck Holy Ghost “Blowout 2011” for a Special One Day Beer & Wine License for August 13, 2011.

GASB45 Appointment.

After a motion was made by Vice-Chairwoman Lara Stone and seconded by Selectman Shawn McDonald, it was voted unanimously to appoint David Tatelbaum to the GASB45 Committee.

Charter Review.

Doug Roscoe briefed the Board on the following information on approved motions.

CHARTER REVIEW COMMITTEE

APPROVED MOTIONS

Motion 18:

That the Charter include provisions for the recall of Elected Town Officers under the following procedures:

That an affidavit signed by at least 200 registered voters, including 15 from each precinct, be filed with the Town Clerk containing the name and title of the Elected Town Officer whose removal is sought.

If the affidavit is determined to be valid, the Town Clerk shall thereupon deliver to the first 10 names on the affidavit a blank petition form to be used for the collection of petition signatures. The petitions forms must be returned to the Town Clerk within 20 days of their issuance and must contain the signatures of at least 20% of the number of persons registered to vote as of the date of the most recent town election.

If the petition is determined to be valid, provision shall be made for a special recall election to be held within 90 days but no sooner than 65 days thereafter, except in the event that a regular town election or other special election shall be held within 110 days, in which case the recall election shall be held concurrently.

Ballots used in a recall election shall ask if the Elected Town Officer named shall be recalled, and shall provide the names of candidates seeking the office of the Officer recalled. An Officer whose recall is sought shall not be a candidate to succeed to the office in the event the recall vote is in the affirmative. The nomination of other candidates, the publication of the warrant for the recall election and the conduct of the same shall all be in accordance with the provisions of this Charter and general laws regulating elections.

If the votes cast upon the question of recall is in the affirmative, the candidate receiving the highest number of votes shall be declared elected and shall serve the balance of the unexpired term, provided that at least 35% of those persons registered to vote at the time of the election shall have voted. If the Officer is recalled, he shall be deemed removed from office upon certification of the election results.

No recall petitions shall be filed against Officers during the first six months of their term or during the final six months of their term, or in the case of an Officer subject to a recall election and not recalled thereby, until at least 6 months after the recall election.

Motion 17:

Delete the text in Section 4-4(b)(4) and replace with: "The hiring, supervision and termination of department heads as provided for in this Charter."

Delete the last paragraph in Section 4-4 (beginning with "No action by..." and ending with "...by the executive administrator."

[*Note: these changes resolve conflicts that would arise with the adoption of Motion 8.*]

Motion 16:

Change the title "Executive Administrator" to "Town Administrator."

Motion 15:

Move Section 7-1 into Section 1.

Motion 13:

That the following text be added:

"At the first town meeting session at which the moderator presides following his or her election, the moderator shall appoint a deputy moderator to serve as acting moderator in the event of his or her temporary absence or disability, or in situations involving a conflict of interest. The appointment of a deputy moderator shall be subject to confirmation by the town meeting.

The deputy moderator shall perform such other duties as may from time to time be assigned to the office of moderator by bylaw or other vote of the town meeting. "

Motion 12:

That the text “, incumbents first” be deleted from Section 3-1(e); and that the text “alphabetically according to their surnames” be deleted from Section 3-1(e) and be replaced with “according to random lottery”. [Note: motion was reopened to strike language that was determined to be in conflict with state statute.]

Motion 11:

That members of the Library Board of Trustees and the Parks and Recreation Board be elected in single-member office elections, in which the candidate who obtains more votes than any other is elected (first-past-the-post/plurality victory). [Note: extends the purpose of Motion 5 to these additional boards.]

Motion 10:

That Section 2-11(c) be eliminated; that the text of Section 2-11(b) be deleted and replaced with the following text: The select board shall include on the warrant for a town meeting the subject matter of all petitions ~~filed in conformity with paragraph (b) above~~ *by (1) any individual elected town officer, (2) any multiple member body acting by a majority of its members, (3) any ten voters for the annual town meeting and any one hundred voters or thirty-six town meeting members for a special town meeting, provided such petitions which have been received by it* within the time period it has established for the warrant to be open. *Articles on the warrant shall list the petitioner(s).* Whenever a town meeting is to be called the select board shall give notice by publication in a local newspaper of such intention and shall include in the warrant for such town meeting the subject matter of all petitions which are received at its office on or before four o'clock in the afternoon of the fourth business day following such publication. [Text struck from original Section 2-11(c) is noted; new text is italicized.]

Motion 9:

That the members of the Parks and Recreation Board be elected for 3-year terms.

Motion 8:

That the positions listed below be selected by a majority vote of the Select Board; that for each selection a screening committee be established for the purpose of recommending candidates to the Select Board in a form deemed appropriate by the Select Board; that the screening committee be composed of those individuals defined below and others at the discretion of the Select Board; that the employees in the positions listed below shall respond to the direction of the individual noted below regarding the regular operations of their departments, notwithstanding their obligation to follow the policy guidelines established by the applicable Boards, where appropriate, as noted below.

Position	Minimum Screening Committee Composition	Respond to Direction Of:	Policy Guidelines Set By:
Director of Budget and Finance	one member from Select Board; Executive Administrator; one member from Finance Committee; one member from School Committee	Executive Administrator	
Chief of Police	one member from Select Board; Executive Administrator; one member of the law enforcement community chosen by Select Board	Select Board	
Public Works Director	one member from Select Board; Executive Administrator; one member from Board of Public Works	Executive Administrator	Board of Public Works

Planning Director	one member from Select Board; Executive Administrator; one member from Planning Board	Executive Administrator	Planning Board
Library Director	one member from Select Board; Executive Administrator; one member from Library Board of Trustees	Executive Administrator	Library Board of Trustees
COA Director	one member from Select Board; Executive Administrator; one member from Council on Aging	Executive Administrator	Council on Aging
Health Director	one member from Select Board; Executive Administrator; one member from Health Board	Executive Administrator	Health Board
Harbormaster	one member from Select Board; Executive Administrator; one member from Waterways Commission	Executive Administrator	Waterways Commission
Director of Parks and Recreation	one member from Select Board; Executive Administrator; one member from Parks and Recreation Board	Executive Administrator	Parks and Recreation Board
Environmental Affairs Coordinator	one member from Select Board; Executive Administrator; one member from Conservation Commission	Executive Administrator	Conservation Commission
Building Commissioner	one member from Select Board; Executive Administrator; one member from Zoning Board of Appeals or Planning Board	Executive Administrator	
Administrator of Assessing	one member from Select Board; Executive Administrator; Director of Budget & Finance; one member from Board of Assessors	Executive Administrator	Board of Assessors
Veteran's Agent	one member from Select Board; Executive Administrator; one member for Veterans Advisory Commission	Executive Administrator	Veterans Advisory Commission

That the words “under the executive administrator” be deleted from line 13, page 13; that the words “department head” be deleted and replaced with “permanent full time employee” on lines 16-17, page 13.

Motion 6:

That the functions of the Board of Park Commissioners, Recreation Commission and Cemetery Commission be consolidated into a Parks and Recreation Board, composed of five members.

Motion 5:

That members of the School Committee be elected in single-member office elections, in which the candidate who obtains more votes than any other is elected (first-past-the-post/plurality victory).

Motion 3:

That the Town Charter shall be amended by adding the following “Section 4 (2) b:” The Executive Administrator shall make available to the general public a means for submitting a

statement of interest and qualifications for appointment to any appointed board, commission, task force or other programs/activities for which the town is seeking volunteers. The Executive Administrator shall retain submissions of any person expressing an interest in serving in a town office position for at least 2 years from the time of submission and without regard for the current status of said town offices or positions.

Motion 2:

That all votes at Town Meeting be counted and recorded using portable electronic devices (i.e., clickers) such that the vote of each individual is recorded; that the record of these votes be made available to the public; that, in the event of a technical failure of the voting system, votes shall be taken by voice, with determination of the result by the Moderator, notwithstanding the right of Town Meeting members to challenge the Moderator's determination and call for a teller vote.

Motion 1:

To eliminate the position of Town Agent (Section 3-1).

Continued 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.

After a motion was made by Selectman Shawn McDonald and seconded by Selectman William Trimble, it was voted unanimously to deny the Application on the following motions below for a Transfer of the Year Round 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.

MOTION TO DENY TRANSFER

Moved that:

Based on the documents incorporated into the record and the testimony provided by the Applicant and its representatives and consultants and by others who attended the hearings, the Select Board makes the following findings:

1. There is no public need for another liquor store at the proposed location. At the present time, there are four existing stores with All Alcoholic Package Goods Store Licenses within the immediate area in which the applicant seeks to open a fifth store. Specifically, Dartmouth Wine and Spirits is approximately .25 miles from the proposed location, Cardoza's Wine and Spirits is within approximately .75 miles, Town Liquors is within approximately 1.25 miles and Lizzie's Liquors is within approximately 2 miles of the proposed location.
2. In light of the numerous existing liquor stores in the immediate area, there are already an adequate number of places at which the public may obtain the different sorts of beverages for the sale of which the provisions of MGL Chapter 138, §23 are made.

3. The applicant has not demonstrated that there is a public need to transfer a license from a highly populated area several miles away to the proposed location.
4. The proposed location is in close proximity of the University of Massachusetts at Dartmouth. There are already a number of existing stores in the area and this requested transfer will increase the potential accessibility of alcoholic beverages to its students, many of whom are minors.
5. The Board also received a petition, opposing the transfer signed by approximately 250 town residents.
6. The applicant did not present any evidence as to the potential noise and traffic the proposed location would generate.
7. The Board has considered evidence as to the reputation of the applicant. In particular, the Douglas Wine and Spirits store located at 446 Dartmouth Street, New Bedford, has been cited four times since 2003 for selling alcoholic beverages to a minor. The Douglas Wine and Spirits store at One People's Way, Fairhaven was also cited for selling alcoholic beverages to a minor in March of 2010, at which time a minor purchase vodka at the store and collapsed outside the store a short time thereafter, requiring him to be taken by ambulance to a local hospital for treatment. Documents from the Town of Fairhaven, which were submitted to the Board, indicate that representatives from Douglas Wine & Spirits offered no defense regarding this incident.
8. The applicant did not present any evidence regarding the parking situation at the proposed location. The addition of a liquor store at that plaza would likely result in parking problems in a plaza which already has existing issues regarding sufficient parking.

and further moved that:

Based upon these findings, the Select Board denies the requested transfer of liquor license.

Continued 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.

Johnni Massaad withdrew his application.

After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to accept the withdrawal of the Application.

Application of New Bedford Yacht Club for a Special One Day All Alcoholic License for August 5-7, 2011.

Marilyn Sams was present for the Application.

After a motion was made by Selectman Joseph Michaud and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to approve the Application of New Bedford Yacht Club for a Special One Day All Alcoholic License for August 5-7, 2011.

New Business:

FY2011 Local Receipts.

The Executive Administrator briefed the Board on the FY 2011 local receipts. The FY 2011 surplus is \$806,127.55. Mr. Cressman stated that there has been an increase in Motor Vehicle Excise Tax, Meal Room Occupancy Tax, Meal Tax, and Building Permits. The Executive Administrator also addressed the non-recurring receipts.

Resignation from Board of Appeals Alternate.

Resignation Letter from Gregory Demelo, Board of Appeals.

After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to accept the resignation letter from Gregory DeMelo, Board of Appeals Alternate.

Resignation from Veterans' Advisory Board.

After a motion was made by Selectman Joseph Michaud and seconded by Selectman William Trimble, it was voted unanimously to accept the resignation letter from Chuck Lally, Veterans' Advisory Board.

Resignation letter from Chuck Lally, Veterans' Advisory Board.

Municipal Facilities Committee.

The Chairman mentioned that Selectman William Trimble will be the representative to service on the Municipal Facilities Committee.

Addendum to Memorandum of Agreement re: Lincoln Park

The Executive Administrator stated that this Addendum is for Lincoln Park.

After a motion was made by Selectman Shawn McDonald and seconded by Vice-Chairwoman Lara Stone, it was voted unanimously to approve the Addendum to the Memorandum of Agreement for Lincoln Park.

The Executive Administrator mentioned that the Selectman Shawn McDonald will serve on the Southeastern Massachusetts Metropolitan Planning Organization.

Old Business:

Cemetery Commission.

The Chairman informed the Board that he left a message for Mr. Lake; he expects to hear from him to get an update. The Chairman is a little concerned since there is less than \$700.00 in the budget which is not going to cover maintaining the cemeteries. Chairman Watson stated that we need some structural changes.

Vice-Chairwoman Lara Stone congratulated Robert Szala, the Chief and Gary Soares for all the work they have done for the Mark Accreditation which was on the 20th.

Vice-Chairwoman Lara Stone updated the Board on the Community Park Project stating that the playground equipment arrived last week. Vice-Chairwoman Stone thanked the DPW, School Department and Tim Lancaster for all their work on this project. The Park should be completed sometime in the fall.

Minutes:

Minutes of July 11, 2011.

Vice-Chairwoman Stone requested a more detailed description under the Legal Service. This was tabled until the next meeting.

Attest:

David G. Cressman, Executive Administrator

Transcribed by: Linda Torres

