

**Date: April 3, 2017**

*Date Minutes Approved: June 26, 2017*

**BOARD OF SELECTMEN MINUTES**

**Present:** Shawn Dahlen, Chair; David J. Madigan, Vice Chair; and Theodore J. Flynn, Clerk

**Absent:**

**Staff:** René J. Read, Town Manager and C. Anne Murray, Administrative Assistant

TOWN CLERK  
2017 JUN 35 PM 1:24  
DUXBURY, MASS.

**I CALL TO ORDER**

The meeting was called to order at 7:00 pm in Open Session in the Duxbury Town Hall (Mural RM), 878 Tremont ST, Duxbury.

**II OPEN FORUM**

Mr. Madigan said that he would like to place on a future agenda a discussion of dogs on public areas. He mentioned that Animal Control Officer Eddy Ramos has been doing super duty picking up dog waste from public areas. Mr. Madigan suggested the discussion should be whether increased enforcement is necessary or whether to ban dogs from the public areas. ACO Eddy Ramos said that the two worst areas are East Street Bogs and the Bay Farm so he has been focused on those areas. He said enforcement is difficult because there are 10 public areas throughout the town, but he does have some suggestions he would like to discuss with the Board so that people do not lose the privilege of taking their dogs to the public areas.

It was suggested that this would be an agenda item of the Selectmen's Meeting on April 10, 2017.  
*[Editorial Note: Subsequently due to scheduling this topic was postponed and put on the April 24, 2017 Selectmen's Agenda.]*

**III NEW BUSINESS**

**7:01 PM Water & Sewer Commissioners**

- a. Water Commitment #3**
- b. Mandatory Water Ban and Discussion regarding Enforcement and Fines**

Mr. Flynn moved that the Board of Selectmen adjourn the meeting as Selectmen in order to meet as the Water & Sewer Commissioners, with the intent of re-convening as Selectmen afterward. Second by Mr. Madigan. VOTE: 3:0:0.

**a. Water and Sewer Commitment #3 FY17:**

Mr. Flynn moved that the Board of Water & Sewer Commissioners instruct the Treasurer to collect the amount of **595,826.70** for Water & Sewer Commitment #3 of FY17.

Mr. Mackin explained that the water billing is split up so that half the town is billed every six months.

**b. Mandatory Water Ban and Discussion regarding Enforcement and Fines**

Mr. Flynn moved that due to the drought conditions and in order to maintain our water supply for domestic use and fire protection, the Board of Selectmen, in their capacity as Water & Sewer Commissioners, approve mandatory outside watering restrictions effective from May 1, 2017 through September 30, 2017, as outlined in the Memorandum of April 3, 2017 from Peter Mackin, Water/Sewer Superintendent. Second by Mr. Madigan.

A discussion followed before any action was taken on the motion.

Mr. Dahlen mentioned the following:

- While he acknowledged that Mr. Mackin is following the State guidelines he expressed concern that the State is trying to treat every community the same instead of considering the water situation in each individual community.
- Given the recent weather the ponds and lakes are full, and he objects to having to start a water ban when Duxbury has a sufficient water supply. He has no problem with imposing a water ban when there are concerns about the supply.

Mr. Mackin said that a calendar base water ban is easier to enforce. After acknowledging that this would be a mandatory water ban, Mr. Read asked how it would be viewed if Duxbury were to impose a voluntary water ban instead. Mr. Mackin said that this not considered best management practice for the town trying to achieve staying within its assigned water withdrawal limit of 65 gals/ day / person. In response to a suggestion by Mr. Read that the date be changed to perhaps later in May, Mr. Mackin suggested as an alternative to leave the May 1<sup>st</sup> start date, but to perhaps include some provisions that would allow for the use of hand-held watering (i.e., watering with a hose that has a pistol-grip that requires a person to hold it for the water to flow) and/or to include a provision that would allow for the watering of a new lawn, but the provisions would have to spell out how that is defined.

Since the water ban does not have to take effect until May 1<sup>st</sup> Mr. Dahlen said that he would like to see some data before imposing the mandatory water ban. He wants to see what the water use in the past years was after the water bans were imposed.

In response to a question from Mr. Flynn, Mr. Mackin responded that the Duxbury water supply and the wells are in good shape. He said that the South Coastal basin currently has a surplus supply.

Mr. Madigan suggested putting off taking action until more data is provided, but suggested that a provision for hand-held watering be included in whatever ban is imposed.

It was agreed that this discussion would be continued at the next Selectmen's Meeting to allow time for some additional data to be provided for the Board's review.

The Selectmen were in consensus that they object to the way the State agencies are imposing the guidelines without considering the Town as an individual entity and looking at the particulars of its specific situation. Unlike many Towns in western or central Massachusetts where the withdrawal of

one community might effect a neighboring community with Duxbury's location on the coast any runoff is going into Duxbury Bay and is not available to a neighboring community.

Mr. Flynn moved that the Board adjourn their meeting as Water & Sewer Commissioners and re-convene as Selectmen. Second by Mr. Madigan. VOTE: 3:0:0.

### **Discussion pertaining to determination of uniqueness – Duxbury Beach**

Mr. Flynn explained that by making a “determination of uniqueness” regarding Duxbury Beach, it in effect allows the rental of the property to proceed after the determination and the reasons are published so that the rental of the property does not have to be put out to bid under the procurement laws.

Mr. Flynn moved with regard to the proposed lease by the Town of Duxbury of land owned by the Duxbury Beach Reservation, Inc., consisting of approximately 66 acres and including any improvements thereon, and located at and described as: all the land and interests in the land in the towns of Duxbury and Plymouth called Duxbury Beach owned by the Reservation south of a line running approximately east to west along the northerly edge of the northerly parking area at the east end of Powder Point Bridge and north of the entrance to Gurnet/Saquish, subject to continuation of the Massachusetts Audubon Society migratory shorebird refuge at High Pines, and excluding the land at High Pines now or formerly leased to Patrick J. Cudmore, I would suggest that the Board move that advertising concerning this lease will not benefit the Town's interests because of the unique qualities or location of the property needed by the Town, such land satisfying the Town's unique requirements in the following manner: the property is located immediately adjacent to, and comprises part of, Duxbury Beach and provides access to the Beach; similar access to the Beach is not possible from other locations as the result of the local geography and environmental limitations in the area; and the parcel provides much needed parking for and access to the beach for members of the public. Second by Mr. Madigan. VOTE: 2:0:1. *(Mr. Dahlen is a Director of the Duxbury Beach Reservation, Inc. He announced his affiliation before the motion and vote, and indicated he would be abstaining.)*

### **Acceptance of Donation to Harbormaster Department**

Mr. Flynn moved that the Board of Selectmen accept with gratitude the donation of a 2017 Ford F150 (approximate value: \$32,000) by the Duxbury Beach Reservation to the Duxbury Harbormaster Department to be used for beach and endangered species management. Second by Mr. Madigan. VOTE: 2:0:1 *(Mr. Dahlen is a Director of the Duxbury Beach Reservation, Inc. He announced his affiliation before the motion and vote, and indicated he would be abstaining.)*

### **Review and execute Quitclaim Deed and Record of Vote of Board of Selectmen with respect to the sale of Old Cordwood Path (Parcel #086-015-012) from Philip W. Delano, Jr. to the Town of Duxbury through its Conservation Commission**

Mr. Flynn moved that the Board of Selectmen, with respect to that parcel of land containing approximately 18.9 acres and situated at the Southwesterly side of Old Cordwood Path and identified as Town of Duxbury Parcel No. 086-015-012 (“the Property”),:

- (a) approve the deed to the Property from Phillip W. Delano, Jr., a/k/a Phillip W. Delano, to the Town Duxbury by and through its Conservation Commission, substantially in the form

presented to the Board of Selectmen at its April 3, 2017 meeting, with final changes to be made by the Town Conservation Administrator in his reasonable discretion in consultation with the town counsel; and

- (b) authorize the Town Conservation Administrator to take all actions on behalf of the Board of Selectmen that are reasonably necessary, in the judgment of the Town Conservation Administrator, to complete the acquisition of the Property, including without limitation signing closing forms, affidavits, documents and settlement statements.

Second by Mr. Madigan. VOTE: 3:0:0.

It was explained that authorization for the purchase was already approved and the funding was coming from the Conservation Fund.

#### **IV TOWN MANAGER'S REPORT**

Mr. Read mentioned two updates that are also in the Announcement but worth mentioning twice. He noted that the Beach and Transfer Station Stickers expired on April 1<sup>st</sup>. A new sticker must be purchased to continue to use the facilities. There will be a short grace period through this coming Sunday during which those who haven't gotten their new sticker will be allowed to use the facility, but after that date a new sticker must be affixed to your vehicle or you will be asked to leave the facility.

#### **VI COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION**

##### *Duxbury Housing Authority –Govt. Appointee -Appointment*

Mr. Flynn moved to appoint Bertram Walters as the Government Appointee to Duxbury Housing Authority to fill an unexpired term due to expire on 06-30-19.

Mr. Flynn explained that on October 11, 2016 Mr. James Borhesani resigned from the position of Government Appointee to the Duxbury Housing Authority. Usually the Dept. of Housing & Community Development (DHCD) has the authority for naming the Government Appointee. However the Town received notice that under the under the Municipal Modernization Act as of November 2016 "...If the department does not fill a vacancy in the position of that member within 120 days from the date the vacancy is created, the board of selectmen shall appoint, in writing, a person by a majority vote to fill such vacancy for the unexpired term...."

The Duxbury Housing Authority Commissioners have requested that the Duxbury Selectmen appoint Mr. Walters to fill the open seat. We needed to wait until after the 120<sup>th</sup> day and felt it best to wait until after the Duxbury Town Election before proceeding. Mr. Walters had previously served as a Duxbury Housing Authority Commissioner and has indicated his interest in serving again. So the Selectmen are asked to proceed with the above appointment.

Second to the motion by Mr. Madigan. VOTE: 3:0:0.

#### **VII ONE-DAY LIQUOR LICENSE REQUESTS - none**

## **VIII EVENT PERMITS**

### *05-13-17 Duxbury Newcomers' Spring Fling*

Mr. Flynn moved that the Board of Selectmen grant permission to Ms. Kathryn Cleary, as a representative of the Duxbury Newcomers' Club, to hold the Newcomers' Spring Fling on the grounds of the Wright Building and parking lot, on Saturday, May 13, 2017, from 11:00 am – 2:00 pm, subject to the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

### *05-21-17 Winsor House Oyster Festival*

Mr. Flynn moved that the Board of Selectmen grant to Mr. Charles Weillbrenner, as representative of Modern Family Associates DBA The Winsor House Inn, an Event Permit for entertainment at their Oyster Festival, to be held outdoors at The Winsor House Inn on Sunday, May 21, 2017 from 3:00 pm to 7:00pm, subject to the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

### *09-30-17 A Cure In The Nick Of Time (Run/Walk)*

Mr. Flynn moved that the Board of Selectmen grant to Ms. Jessica Curran an Event Permit to hold A Cure in the Nick of Time Road Race on Saturday, September 30, 2017 from 9:00AM to 1:00PM, subject to the conditions on the event permit.

Mr. Madigan asked what the "Cure in the Nick of Time" is? Ms. Murray explained that Ms. Curran's younger brother, suffers from Batten's Disease, which is a very sad progressive disease for which there is no cure yet. Her brother's name is Nick so they are hoping for a "cure in the Nick of time." They have held this event for several years and have done considerable fund raising for research towards a cure.

Second by Mr. Madigan. VOTE: 3:0:0.

### *10-08-17 Walk for Recovery*

Mr. Flynn moved that the Board of Selectmen grant to Ms. Anne Marie Winchester, as a representative of the South Shore Race Management, LLC, permission to hold the Walk for Recovery on Duxbury Beach on Sunday, October 8, 2017, from 7:00 AM to 10:00 AM and, contingent on the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

## **IX MINUTES**

### ***Executive Session Minutes: 03-27-17 Selectmen's EXECUTIVE SESSION Minutes-Draft***

Mr. Flynn move that the Board of Selectmen approve the 03-27-17 Executive Session Selectmen's Minutes, as presented, and release the minutes as the need for confidentiality has passed. Second by Mr. Madigan. VOTE: 3:0:0.

***Open Session Minutes: 03-27-17 Selectmen's Minutes-Draft***

Mr. Flynn moved that the Board of Selectmen approve the 03-27-17 Selectmen's Minutes, as presented. Second by Mr. Madigan. VOTE: 3:0:0.

**X ANNOUNCEMENTS**

Mr. Flynn read the following announcements:

**1) Battelle Property Public Meeting:**

The Town will be hold a public meeting on Wednesday, April 26, 2017 from 6 PM to 9:30 PM at the Duxbury Senior Center (Ellison Room), 10 Mayflower ST, Duxbury. The meeting is intended as a brainstorming session for possible future discussions or actions by the Town with Battelle should the property go back on the market.

**2) Commercial Shellfish Applications:**

Commercial Shellfish Applications are available in the Board of Selectmen Office in Old Town Hall. Commercial Shellfish Applications can be submitted during the month of APRIL ONLY. Applicants must be Duxbury residents and have a Massachusetts Commercial Fisheries license showing "endorsed shellfish."

**3) New Transfer Station Stickers:**

Reminder as of April 1<sup>st</sup> you must have a new Transfer Station sticker to use the facility.

**4) Beach Stickers:**

The discounted price for Beach Stickers ends on April 30<sup>th</sup> so buy your beach sticker online now.

**5) Next Scheduled Selectmen's Meeting is on: Monday, April 10, 2017.**

**XII ADJOURNMENT**

At approximately 7:30 PM., Mr. Flynn moved that the Board adjourn the meeting. Second by Mr. Madigan. VOTE: 3:0:0.

Minutes respectfully submitted by: C. Anne Murray

*(Documents listed on the next page.)*

*LIST OF DOCUMENTS FOR 04-03-17 SELECTMEN'S MEETING*

1. *Agenda for: 04-03-17 Selectmen's Meeting*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
  - A. *7:01 PM Water & Sewer Commissioners: Coversheet with suggested motions and*
    - i) *Water Commitment #3: Water and Sewer Commitment #3-FY2017*
    - ii) *Mandatory Water Ban and Discussion regarding Enforcement and Fines: Memorandum from Mr. Peter Mackin, Water Superintendent outlining proposed Mandatory Water Ban*
  - B. *Discussion pertaining to determination of uniqueness – Duxbury Beach; Coversheet with explanation and suggested motion*
  - C. *Acceptance of Donation to Harbormaster Department: Coversheet with Suggested Motion*
  - D. *Quitclaim Deed and Record of Vote of Board of Selectmen Old Cordwood Path (Parcel #086-015-012): Suggested Motion, copy of Quit Claim Deed*
4. *Town Manager's Report: no documents.*
5. *APPTS./Re-APPTS/RESIGNATIONS: Duxbury Housing Authority Govt. Appointee*
6. *ODLLs – none*
7. *EVENT PERMITS: packets with draft permit, Dept. Head Feedback, and the application materials for each of the following events: 05-13-17 Duxbury Newcomers' Spring Fling; 05-21-17 Winsor House Oyster Festival; 09-30-17 A Cure In The Nick Of Time (Run/Walk); 10-08-17 Walk for Recovery*
8. *MINUTES: 03-27-17 Selectmen's EXECUTIVE SESSION Minutes-Draft and 03-27-17 Selectmen's Minutes-Draft*
9. *ANNOUNCEMENTS: Suggested Announcements for 04-03-17*