

Date: April 24, 2017

Date Minutes Approved: July 10, 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, Admin. Assistant.

I CALL TO ORDER

At 7:00 PM the Chair called the meeting to order in Open Session in the Town Hall (Mural RM).

II. OPEN FORUM -nothing brought forward.

III NEW BUSINESS

7:00 PM Water & Sewer Commissioners: Continuation of Discussion Regarding Outdoor Water Ban, including enforcement and fines / Peter Mackin, Water Superintendent

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

Mr. Mackin said that it appears that we have reached the same conclusions that the withdrawal limits imposed by the Department of Environmental Protection (DEP) are not based on sound science. However, this is Duxbury's withdrawal permit, and Duxbury must be within it or face fines. He noted that you can't use a river in Duxbury because the Duxbury rivers are tidal, and therefore the Duxbury water withdrawal is tied to the levels of the Indian Head River in Hanover.

Mr. Dahlen said that in the groundwater aquifer Duxbury has plenty of water, but we also need to look at the effect on wetlands. One of the conditions in the withdrawal permit is if the North River Marsh gets below a certain elevation then Duxbury has to stop pumping at the Mayflower Well site. Mr. Dahlen questioned how often it happens that the North River Marsh goes below the threshold elevation. Mr. Mackin said that it happened last year and to his knowledge it has happened 6 times in the past since it became a condition. Mr. Mackin said that the Water Department maintain a gauge near the Mayflower Well.

Mr. Dahlen suggested that perhaps we could use the North River Marsh elevation instead of the Indian Head River in Hanover, which is not even part of the same water basin. Mr. Mackin cautioned that the North River Marsh only affects one of the wells, but did agree that it was a better indicator than a source eight miles away.

Mr. Madigan brought up the topic of a recharge credit. He mentioned that since most of Duxbury is on septic there is the possibility of getting credit against the withdrawal limit of the

amount of water recharged into the ground. Mr. Mackin said that if Duxbury would like to withdraw more water than what it is currently allowed, then Town of Duxbury would have to petition for the recharge mitigation. It would include a request to the DEP with calculated statistics of the estimated recharge amounts, which are based on a formula.

Mr. Wadsworth, who is the Chair of the Water & Sewer Advisory Committee, circulated some handouts. The first handout showed the average rainfall over a number of years. He indicated that the important thing is the recent drought had a starting and an ending point, and it does appear it has ended. The second handout was using the water usage at his residence as an example of a two-person household and showed it to be averaging 85 gal./person/day, which it was suggested was fairly average usage for most households. The third handout he said illustrates that it would be extremely difficult for Duxbury to reach 65 gal/person/day limit. In effect it would mean that the summer levels of usage would have to be equal to the winter levels, so residents would not be able to shower more frequently or do extra loads of laundry. He also mentioned that a lot of the water used does go back into the ground so some argument could be made for recharge. The fourth handout basically demonstrates that a ¼ inch of water use is what you need to save to get to the DEP withdrawal limit. Mr. Wadsworth said that the state agencies don't seem to care about the science. The withdrawal limits were set up as a reaction to the drying out of the Ipswich River a couple of years ago. He noted that the law does give them (the DEP) the right to fine \$25,000 / day and at the extreme to jail the water superintendent and/or the water commissioners. However if Duxbury doesn't meet the water withdrawal limits that have been set, the wetlands will not be dying based on his statistics.

The Board discussed the various possibilities regarding the timing of the mandatory water ban and the number of days. Mr. Mackin did advise the Board that regulations are supposed to be in place by May 1st and only allow watering 2 days per week. He stressed that the Water Dept. is doing all the right things to make sure we know what the water usage is and where the water is going, but based on the withdrawal limits given by the State there is too much residential use. However, it was noted that the State is not looking at each community as an individual entity, but forcing communities to conform to standards to make it easier for their management.

Mr. Madigan moved that due to the drought conditions and in order to maintain our water supply for domestic use and fire protection, the Water & Sewer Commissioners approve mandatory outside watering restrictions effective from May 1, 2017 through September 30, 2017, as outlined in the Memorandum of April 24, 2017 from Peter Mackin, Water/Sewer Superintendent, subject to the change that odd numbered houses will be restricted to Tuesdays, Thursdays, and Saturdays. And even numbered houses will be restricted to Mondays, Wednesdays, and Fridays. Second by Mr. Flynn. VOTE: 3:0:0.

Mr. Read asked what that this would mean if the State finds that the Town is not in compliance-- is it likely fines would be immediately imposed or is it likely that they would allow a response from the Town? Mr. Mackin believes that there would be some opportunity to respond.

Mr. Madigan moved that the Water and Sewer Commissioners recommend to Peter Mackin and René Read that we pursue a mitigation plan through an engineering firm to submit to the State to

get mitigation for all the septic systems that we have (*Duxbury has*). Second by Mr. Flynn.

VOTE: 3:0:0.

Sheila Lynch –Benttinen of West ST commented that if our water usage is being calculated by the Indian Head River in Hanover, which is tied to the Pembroke's and Hanover's water usage, then when the engineering calculation is done shouldn't Pembroke's and Hanover's usage be figured into the calculation. As a Duxbury resident, it is unfair that Duxbury usage is affected by Pembroke and Hanover's usage. She suggested that the engineering calculation should take the other town's usage into consideration.

Mr. Wadsworth, who is the chair of the Duxbury Water and Sewer Advisory Committee and who used to run two water facilities, commented that he feels that DEP is not willing to address the science.

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

Ms. Brenda Bolan of Kingstown Way asked how does the private well exemption draw down from the aquifer figures into any of this? Answer: You are not required to have a water withdrawal permit for private wells.

Mr. Wadsworth said that with regard to the private wells the Water Management Act, only kicks in above 150,000 gallons per day, and most private wells use less than that threshold. He opined that they would probably like to get into regulating private wells, but feels they would have a real issue doing so because when an individual buys a property it includes rights to everything below the ground.

Discussion pertaining to Animal Control Issues: Dogs on Public Lands

Mr. Read read a memorandum he had prepared regarding this topic with the proposed new rules for signage as follows:

Proposed Dog Walking Rules

Dog waste is a threat to health and degrades this recreational area. All persons walking dogs MUST pick up after their dog.

Dog waste must either be disposed of in the barrels provided or carried out by the dog owner/walker.

Please pay attention to your dog. If you do not know what your dog is doing or where it is, your dog is not under your control.

Please be respectful of each other and the surroundings. This are is not a dog park – it is for the use of everyone.

Dog walking on Town properties is a privilege and not a right. Failure to comply with these rules may result in finds for individual dog walkers and the future loss of the use of this are for all dogs.

For those dog walking areas on or near cranberry bogs. This location is an active farm. No dogs are allowed in the bogs at any time.

Mr. Eddy Ramos, Duxbury Animal Control Officer (ACO), said that this was prompted by the amount of dog waste he picked up about a month ago, and since then there has been improvement as many are concerned that they will lose the privilege. He suggested, however, that the situation does need to improve, and he thinks this will only happen with the help of people reporting offenders. He also suggested that he intends to bring an article to next year's Town Meeting to increase the fine to \$100. from the current \$25.00 1st offense, \$50 for 2nd offense, etc.

Mr. Read suggested that the Town consider a multi-faceted, phased approach. The signage and some education is the first phase. Increasing the fines might be the next step. Adding video cameras to some of the areas is being considered as another step. It was explained that the cameras would be at the parking lots and also pointed towards the trails. The idea being that if offender's dogs are seen doing their business and not picked up after, then a vehicle plate number could be matched with the dog's owner/handler. He did warn that we don't want citizen police and confrontations. It was suggested instead that citizens could report offenders by giving a description of the dog and the date and time or the owner's plate number to the ACO.

Ms. Tammy Serata of West ST said that she does not have a dog. She spoke for those who like to use the public areas to walk and /or to take their children or grandchildren to enjoy, but who do not enjoy having unleashed dogs jump on them. She asked the Selectmen to consider designating at least some of the public areas as "dog-free" zones. She stressed she was not asking that all areas be dog-free, but that there be a compromise to accommodate both groups. In response it was suggested to her that she could walk in the cemetery as dogs are not allowed there or on the Wildland Trust properties as dogs are not allowed on their trails.

Anne Bullinger, Tobey Garden ST, began by disclosing she is a professional dog trainer, but was speaking as a citizen. She acknowledged the prior speaker's concerns. She does feel it is hard for the ACO to enforce the laws. She mentioned that Hingham has been having dog issues in Bare Cove and they have tried off-leash, then all dogs leashed, and now they are going to every other day dogs are allowed either on or off-leash. She suggested having the ACO evaluate owners/dogs to determine which ones are truly under the owner's voice control.

ACO Eddy Ramos responded by mentioning that as the law is written the enforcement officers (himself, the Conservation Agent, and police officers) makes the determination whether the dog is under the person's control. He indicated that he has recently been focusing on two areas (Bay Farm and the East ST bogs), but eventually does hope to expand the process to look at a number of the other areas. He is suggesting that we try the new signage and enforcement and that an update be given in six months.

Ms. Lois Wood of West ST suggested that the local dog owners can really help the process by reporting offenders to the ACO. She suggested that ACO Ramos knows a large percentage of the dogs and owners, who are using the areas.

Ms. Lynn Wiese, a citizen and professional dog walker, agrees that the fines should be increased to at least \$100 to get the people's attention. She suggested that people who don't pick up after their pet don't want to be educated. She also raised a concern with riders whose horses leave piles behind in the middle of the trails. She suggested a dog park mentioning the following:

- 1) They are an enclosed area so within others' vision.
- 2) Can be covered with surveillance cameras.
- 3) Bags and barrels are provided for easy pickup and disposal of waste.
- 4) Town could charge for a permit and limit usage to residents.

ACO Eddy Ramos said that he is against dog parks mentioning the following concerns:

- 1) There are an increased number of dog bites on other dogs and people in dog parks, and with that increased liability.
- 2) Even though bags and barrels are there, many people who use them do not pickup after their dogs.
- 3) There is an increase to the spread of disease in dog parks.

Ms. Selden Tearse, Duxbury resident, asked:

- 1) How long it might take for the signage to be installed? ANS. About a week to 10 days for the signage to be prepared and installed.
- 2) She had offered to set up a GOFUNDME page if donations were needed to pay for the signage and asked if that was needed. ANS. The funding is available so a donation page is not needed.
- 3) What about those who use the bag but then leave them along the trail, will the signs address this? ANS. The bag has to be disposed of.
- 4) She is not a fan of a dog park.
- 5) She understands the concern of the woman who wanted dog-free areas. She suggested that if Duxbury did consider a leash-only or no dog area, then she feels that Bay Farm would be the most appropriate place.

Discussion regarding the Eben H. Ellison Trust Fund

As background Mr. Flynn mentioned the following: The Ellison Fund is a non-expendable trust, which was accepted by the 1990 Annual Town Meeting. The terms of the gift allow for half of the interest to be spent for worthy Town projects and the other half to be spent on the upkeep of the Ellison playground (i.e., the one adjacent to the Duxbury Free Library).

The Recreation Director has reviewed the upkeep of the Ellison Playground, per the inspection report, with the Trustees and made some suggestions regarding worthy Town projects. The Ellison Trustees have indicated that this year they want to the total amount of \$7,705.77 to be used for the upkeep of the Ellison playground, and the Trustees have given their approval of this expenditure. Of this total, \$4,000.00 is for impact zone material and \$3,705.77 is to be used for parts and labor for maintenance of the equipment. The Selectmen are asked to confirm the recommendation.

Mr. Flynn moved that the Board of Selectmen recommend a total expenditure of \$7,705.77 from the Eben H. Ellison Trust fund for the upkeep of the Ellison playground (i.e., the one adjacent to the Duxbury Free Library). Second by Mr. Madigan. VOTE: 3:0:0.

Acceptance of donation – fencing at Keene Street baseball field

Mr. Flynn moved that the Board of Selectmen accept with gratitude the donation from Duxbury Youth Baseball to the Town for fencing to be installed along the parking lot side of the Keene Street baseball field. The approximate value of this gift is \$5,982.00. Second by Mr. Madigan. VOTE: 3:0:0.

Acceptance of donation of a flagpole to the Board of Cemetery Trustees / Town

Mr. Flynn noted that the Board of Cemetery Trustees, confirmed that this gift was discussed at their meeting and the Trustees are most appreciative of it.

Mr. Flynn moved that the Board of Selectmen accept with gratitude the donation from Emmett and Susanna Sheehan of a 35' aluminum, commercial-grade flagpole to the Town to be used in the Mayflower Cemetery. The approximate value of this gift is \$2,500.00. Second by Mr. Madigan. VOTE: 3:0:0.

In response to a question it was indicated that the flagpole would be placed to the left of the main entrance near the Veterans' memorial.

Review and execute Quitclaim Deed and Record of Vote of Board of Selectmen with respect to 2 parcels: Lake Shore Drive and O Summer ST being conveyed to the care, custody, and control of the Affordable Housing Trust, established through Article #24 at the March, 2008 Annual Town Meeting for affordable housing.

Mr. Flynn moved that the Board of Selectmen approve and execute a Quitclaim Deed to convey two parcels of land known as and numbered 0 Lake Shore Drive, Parcel 040-500-121; and 0 Summer Street, Parcel 090-500-014; to the care, custody, and control of the Affordable Housing Trust, as approved by the Town Meeting vote at the March 14, 2009 Annual Town Meeting under Article 24 – Affordable Housing Lots. Second by Mr. Madigan. VOTE: 3:0:0.

IV TOWN MANAGER'S REPORT

Mr. Read reported on the following items:

1) Piping Plover Status:

Currently there are 15 active pairs with no nests yet. No closures at this time, but the beach may be closed dependent on upcoming weather conditions.

2) Duxbury Senior Center Building Committee:

The Town Manager said that he has appointed a 7-member Duxbury Senior Center Building Committee. They will be responsible for reviewing and making recommendations with respect to a proposed addition to the Duxbury Senior Center.

Appointed members:

Paul Brogna
Pam Campbell Smith
Jonathan Mark
Cheryl Ross

ex officio members
Scott Lambiase, Director-
Municipal Services
Joanne Moore, COA Director

Dennis Nolan
John Heinstadt
Marcy Bravo

Brian Cherry, Facilities Director
Peter Buttkus, DPW Director

Their first meeting will be held later this week.

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION -none

VI ONE-DAY LIQUOR LICENSE REQUESTS

05-06-17 Memorial Service for Carlisle Smith / Faith Fleming

Mr. Flynn moved that the Board of Selectmen grant to Ms. Faith Fleming a One-Day Wine & Malt License for the Memorial Service of Carlisle Smith on Saturday, May 6, 2017 at the First Parish Unitarian Universalist Church, 842 Tremont Street, Duxbury from 11:30 AM to 2:00 PM, contingent upon the conditions on the license. Second by Mr. Madigan. VOTE: 3:0:0

VII EVENT PERMITS

DEF 4th of July Road Race

Mr. Flynn moved that the Board of Selectmen grant permission to Ms. Amanda Cleary, as a representative of the Duxbury Education Foundation, to hold a road race on Tuesday, July 4, 2017, beginning at 7:00 AM (registration) with the race to be from 8:00 AM to 12:00 PM as described in the application materials, and contingent upon the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

VIII MINUTES

Mr. Flynn moved the Board of Selectmen accept the 04-10-17 Selectmen's Minutes, as drafted. Second by Mr. Madigan. VOTE: 3:0:0.

IX ANNOUNCEMENTS

Mr. Flynn read the following announcements:

1) Commercial Shellfish Applications:

LAST CALL... Commercial Shellfish Applications can be submitted during the month of APRIL ONLY. So if you are planning to apply you need to get your application in by 12:30 PM on Friday.

2) Beach Stickers:

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

3) Public Meeting to Discuss the Battelle Property -CANCELLED:

A public meeting with a number of the Town Boards and Committees was going to be held on Wednesday, April 26, 2017 at 6:00 PM at the Duxbury Senior Center, Ellison RM, 10 Mayflower ST, but it has been CANCELLED. The purpose of the meeting was to have a discussion on the Battelle property, brainstorm, rank ideas, and pick five or six priority options, etc. The Town has been notified that an agreement has been reached between Battelle, Inc. and Diamond/Sincori, and it is expected that a standard sub-division plan will be filed with the Town within the next 30 days.

4) 04-29-17 is National Prescription Drug Take Back Day:

Just a reminder, in Duxbury there is a prescription drug drop box available 24 hours a day 7 days a week located in the main lobby of the Duxbury Police Station. So while you do your spring cleaning, don't forget to clean out your medicine cabinet and dispose of unneeded medications safely.

5) Next Scheduled Selectmen's Meeting is on: Monday, May 1, 2017.

X BONUS SHELLFISH SEASON (FOR MAY, 2017)

Mr. Flynn moved that the Board of Selectmen declare a temporary Bonus Shellfish Season for:

- 1) the **commercial** harvesting of **softshell clams** for the month of **May, 2017** in accordance with posted Attachments B & C.
- 2) the **commercial** harvesting of **quahog clams** for the month of **May, 2017** in accordance with posted Attachments A & C.

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

OPEN FORUM –revisited:

Mr. Keith Alongi, a Scituate resident, raised a concern with the Board regarding a letter he sent to the former Harbormaster regarding the recreational shellfish license. A copy of the letter was provided to the Board. He explained that when he inquired about a senior-citizen discount rate, he was told only residents are entitled to a senior discount. Mr. Alongi questioned that and has been waiting for an answer since he was told the former Harbormaster would take it under advisement, but he has not heard anything further.

Mr Alongi said that he understands the resident / non-resident differential, but is upset that as a senior citizen and a disabled veteran he is being discriminated against. He feels that the senior

discount should apply to all seniors; not just be for residents. He said whether he lives in Duxbury or not, he is a senior and the discount should be applied across the board.

It was explained to Mr. Alongi that the former Harbormaster retired last fall, which probably explains the lack of a response. In addition, it was mentioned that the Board of Selectmen sets the fees. Since this is the first the Board was aware of the concern, they need to review "Is it allowed under the current regulations and what is the language of it?" They told Mr. Alongi that they would be looking into this matter and assured him they should have an answer later this spring when the Town has its fee hearings.

XI ADJOURNMENT

Mr. Flynn moved to adjourn at approximately 8:42 pm. Second by Mr. Madigan. VOTE: 3:0:0

For Future Agenda: Request to discuss the Audit Report and Plymouth County Proposed FY18 Budget.

Minutes respectfully submitted by: C. Anne Murray

LIST OF DOCUMENTS FOR 04-24-17 SELECTMEN'S MEETING

1. *Agenda for 04-24-17 Selectmen's Meeting -Revised*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
 - a. *7:00 PM Water & Sewer Commissioners-Outdoor Water Ban (continued); Coversheet with Suggested Motions; DEP Final Water Withdrawal Permit Renewal for Town of Duxbury: Mr. Mackin's responses to questions asked by the BOS; Data statistics of usage by month 2014, 2015, 2016; Draft Press Release for Proposed Water Ban May 1, 2017 to Sept. 30, 2017;a couple of data sheets; Static Well Levels 2014-2016 May-Sept. plus 4 handouts provided by Mr. George Wadsworth at the meeting.*
 - b. *Acceptance of Donation-fencing at Keene ST baseball field: Coversheet with suggested motion and 04-24-17 DYB Donation email as background;*
 - c. *Acceptance of Donation-flagpole: Coversheet with suggested motion and letter from Susanna and Emmett Sheehan explaining the donation of the flagpole.*
 - d. *Ellison Fund: Coversheet with brief background regarding the Ellison Fund and this year's recommendation with suggested motion; 04-14-17 Memorandum from Ellison Trustees approving the recommendation; Financial Sheet for Ellison Fund FY17;*
 - e. *Animal Control Issues – Dogs on Public Lands: Coversheet; ACO Bylaws (as of 06-30-16) extracted from General Bylaws for reference; Comments from the Public: 04-09-17 Selden Tearse email with signage examples and 04-23-17 email from Susan Curtis;*
 - f. *Quitclaim Deed –O Lake Shore DR and 0 Summer ST (DAHT): Coversheet with suggested motion and copies of 2009 ATM Art. 24 – Affordable Housing Lots article and motion; and copy of the Quitclaim Deed to be signed.*
4. *TOWN MANAGER'S REPORT: none.*
5. *APPTS./Re-APPTS/RESIGNATIONS: none;*

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6. *ODLLs : Packet with CVRSHT – suggested motions; One-Day Liq. License with conditions; Dept. Head Feedback; and ODLL request application for 05-06-17 Memorial Service for Carlisle Smith / Faith Fleming*
7. *EVENT PERMITS: DEF 4th of July Road Race*
8. *MINUTES: April 10, 2017 Selectmen's Minutes -DRAFT*
9. *ANNOUNCEMENTS: Suggested Announcements for 04-24-17*
10. *Bonus Shellfish Season for May, 2017*