

Date: August 7, 2017

Date Minutes Approved: August 28, 2017

TOWN CLERK

2017 AUG 31 AM 11:42

DUXBURY, MASS.

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

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.

I CALL TO ORDER

II OPEN FORUM - nothing was brought forward.

III NEW BUSINESS

Discussion pertaining to update on North Hill Country Club:

1. Overall operations update from Recreation Director Gordon Cushing

Mr. Cushing mentioned the following:

- **Golf Course Conditions:** Overall the conditions are very good and the greens look terrific. He mentioned some of the expenditures that had to be made during the past two years due to system failures (i.e. \$200,000 Satellite computers and pump and \$10,000 re-seeding fairways due to drought and irrigation failures), but the investment has paid off.
- **Revenue Comparison** – last year to this year for May, June, and July is about a 15% increase. He noted:
 - This is not typical for local golf courses today.
 - Weather has been good and that does impact the revenue.
 - Increases in food and beverage sales, but this is more ancillary to golf rounds.

2016 REVENUES		2017 REVENUES	
MAY	\$49,511.	MAY	\$53,163.
JUNE	\$85,719	JUNE	\$89,028
JULY	\$76,654.	JULY	\$100,925
TOTAL:	\$211,875	TOTAL:	\$243,116.

- **Parking and other Issues Regarding Events:** There is a DEF fundraiser scheduled in September.
- **Scheduled Maintenance Work:**
 - three fairways to be overseeded this fall
 - Aeration and overseeding of greens and tees to be done in the next few months

2. Amendment to Management and Concession agreement

Town Manager René Read provided a memorandum to the Board explaining that the NHCC contract only requires the management company to have one Class A golf professional to give lessons at the North Hill golf course. Johnson Golf currently employs two Class A PGA pros, but asked to replace one by a PGA-trainee. Town Counsel reviewed this matter and opined that the change would not violate the terms of the Contract, but to be clear about it Town Counsel drafted an Amendment to the Contract which was subsequently signed by the Town and Johnson Golf.

Two additional items by Mr. Cushing

- **Fuel Depot Repairs:** This was a capital project approved last year. Repairs to the fuel depot are 95% complete and should be finished shortly. In the process of doing the work the contractor discovered a bad diesel fuel clock gauge that needed replacement. That work has been authorized and should be completed soon.
- **Upgrading of Electrical Service to cart barn by Johnson Golf Management:** He mentioned that Johnson Golf Management paid for the upgrades to the electrical service, which has allowed for greater use of electrical carts.

Discussion pertaining to Town Counsel Search Committee Recommendation

Town Manager Read provided a memorandum to the Board that gave an overview of the Town Counsel Search Committee's process and recommendation. The following is a summary:

- Thursday, July 27th: Initial meeting consisted of a swearing in of the membership, organization of the Committee (Brian Glennon, Chair; René Read, Vice-Chair; and Susan Kelley, Clerk), review of the responses to the RFQ (Request for Qualifications) received from 3 firms, and discussion of proposed interview questions. Copies of the responses of the 3 firms were provided to the Selectmen.
- Monday, July 31st: Committee met in open session to finalize the proposed interview questions and then to interview representatives of the following law firms:
 - Anderson & Kreiger, LLC
 - KP Law, P.C.
 - Louison, Costello, Condon & Pfaff, LLP
- Interview Process: Each interview began with a brief presentation by the firm and then a question and answer interview of approximately 20 pre-selected questions covering a range of topics. Each interview was about an hour. After all the interviews the Committee discussed the presentations and the firm's responses to the questions.
- Overview of discussion: While each of the firms provided suitable, well-thought answers, the Committee was in agreement that KP Law, P.C. would serve the Town well. The decision was based on: (a) the years of experience found at KP Law, P.C. as a whole and that of the team assigned to Duxbury specifically; (b) the depth and breadth of the attorneys assembled throughout the firm and their wide-range of municipal experiences; (c) Their hourly rates are in-line with the rates of many of our neighboring communities; (d) their program for training sessions (2 of which would be provided annually at no charge); (e) that several of the attorneys within the

firm are known to both the Committee and staff alike (through previous employment experiences, training sessions, etc. were all viewed as highly beneficial and desirable.

- He thanked the members of the Committee, who in addition to himself, were the following individuals:
Scott Lambiase, Director of Municipal Services
Valarie Massard, Planning Director
John Madden, Finance Director
Susan Kelley, Town Clerk
Joe Grady, Conservation Agent
Peter Buttkus, DPW Director
Jeannie Horne, Human Resources Director
Brian Glennon, Planning Board Member
- RECOMMENDATION: The Committee unanimously is strongly recommending for the Board of Selectmen's consideration that KP Law, P.C. be voted by the Board to represent the Town of Duxbury as our general legal counsel.

Mr. Flynn mentioned that after reading all three proposals he welcomes hearing more of the insights of the Committee.

Mr. Brian Glennon, who served as the Chair of the Town Counsel Search Committee, added his comments. He mentioned the following:

- He stressed that this is not a referendum on Anderson & Kreiger, but rather the Town looking forward to determine which firm might best serve the Town in a creative and cost-effective manner.
- Three firms responded to the Request for Qualifications (RFQ), which was quite extensive in the information requested.
- All of the firms were interviewed and afterwards the Committee discussed
- One firm, KP Law P.C., was far better prepared than the others with respect to knowing about the Town. It was clear that they had come well-prepared with knowledge of the Town's issues and had some ideas of some of the things they could do for the Town.
- KP Law is cost competitive with other local firms. Our current firm is capable, but the fees are high.
- Taking everything into consideration, such as fees, and depth and breadth of experience –they have 50 Attorneys and while 3 are specifically assigned there would be access to others --, etc., KP Law, PC was the unanimous choice.
- As a full disclosure, Mr. Glennon mentioned that many years ago he did work for Kopelman and Page, PC; which is now known as KP Law, PC, so he has personal knowledge of some of their attorneys.
- One of the attorneys who has been assigned to work with Duxbury is Atty. Barbara Saint André, who is recognized as one of the foremost land use attorneys in the Commonwealth of Massachusetts. That was particular important as Duxbury has several zoning and planning initiatives that are being worked on during the next few years. So Atty. Saint André being on the Duxbury team was a big selling point for KP Law, P.C. Atty. Jeff Blake will be the managing Attorney assigned to Duxbury. The third attorney assigned to the Duxbury team is Atty. Amy E. Kwesell, who is a well-known wetlands attorney. She lives in Marshfield, and they will not be billing for her travel time.

- Fee Discussion: KP Law, PC fees are \$195 per hour for the first year and \$200 per hour the second year. Anderson & Kreiger, LLC's fees ranged from \$240-\$295 per hour. \$144 per hour or \$109 flat fee; Louison, Costello, Condon, & Pfaff, LLP \$175 per hour with no flat fee proposal. They would have provided a flat fee if asked. Mr. Glennon said that there are different schools of thought whether you pay a flat fee or work on an hourly fee.
- Mr. Glennon said that Louison, Costello, Condon, & Pfaff, LLP is a very competent firm, but they just didn't come with the same amount of preparation or interest as the other firms.

Mr. Dahlen asked if other Towns were called for references? Mr. Read said that was not done only because he had experience in dealing with KP Law in 3 other communities, Lancaster, Harwich and Hanson. He said that he would check reference if the Board felt that needed to be done.

Ms. Jeannie Horne, Human Resources Director, mentioned that she does a fair amount of work with the Town's Labor Counsel and some with Town Counsel. Her involvement was more focused on the process and the constancies. She concurred with everything that both Mr. Glennon and Mr. Read said. What stood out to her was KP Law's philosophy. As an outsider, she learned throughout the process she was looking for a firm to bring us into the future in a preventative, compliance-minded, educational way so they would be proactive in interactions with board and committee members and employees to educate us. She mentioned that she appreciated the balance that takes because the more you educate and act proactively the greater the impact to a firm's bottom line. They offer two training sessions annually for employees or board and committee members. She noted their proactive and timely response to current workplace issues, e.g., marijuana in the workplace. She mentioned being impressed with KP Law's state-of-the-art database for tracking work responses and questions.

Hourly vs Flat Fee discussion: Mr. Read suggested that for the first year he recommends using any hourly rate billing system. We have used the flat fee in the past, but he mentioned that since all legal requests will go through him, he feels that will help to keep better track of the costs. There will be an initial meeting with the legal team to go over the process and how it will be managed. After the first year with KP Law, then we might assess the costs and consider a flat fee billing arrangement. He also mentioned that the demands on Town Counsel tend to be seasonal. The months leading up to Town Meeting are the busiest while all the warrant articles are under review, and then the remaining months are less busy.

Mr. Glennon supported going the hourly fee initially until legal costs can be better assessed. He pointed out with a flat fee there are times when the scope of something falls outside of it and that ends up added to legal costs.

Mr. Flynn asked how long the commitment to KP Law would be? The answer provided was that the engagement letter is fairly open-ended with a year to year renewal basis and potential fee adjustments to be negotiated.

Mr. Madigan commented that Anderson & Kreiger did do a good job of resolving a number of pending legal cases. While some have complained that they cost too much, given the cases they resolved he disagreed. Both Mr. Dahlen and Mr. Flynn agreed with Mr. Madigan's comments about Anderson and Kreiger. The Board thanked Anderson & Kreiger for their service.

Mr. Read said that he will be working on a transition schedule with a likelihood of the transition being on September 1st. He will have the KP Law, PC team in to introduce them to the Board at an upcoming Selectmen's meeting.

Mr. Flynn moved that the Board of Selectmen hire KP Law, P.C. as the Town of Duxbury's general legal counsel. Second by Mr. Madigan. VOTE: 3:0:0.

Discussion pertaining to Duxbury Rural and Historical Society License

An explanation was provided to the Board in the form of a Memorandum from Town Manager René Read. The gist of the situation is that after a Request for Proposals (RFP) process, the DRHS has leased space in the Wright Building. After Town Meeting, the Town became aware that the 10-year lease was expiring as of August 1, 2017. Given the timeframe, Town management consulted with Town Counsel to find a remedy to allow the DR&HS to remain in the space until such time as a RFP process can be concluded and a new 10-year lease be brought forward for the voters' consideration at the March 2018 Annual Town Meeting. Town Counsel recommended and provide a license, which essentially bridges the gap of time between the expiration of the lease and the 2018 Town Meeting action.

Mr. Read said that he signed the interim license with the DRHS last week, and the procurement process will be done in time for the March 2018 Town Meeting. No action of the Board was required, but Mr. Read wanted the Board to be informed and to have an understanding of an article which will be drafted.

IV TOWN MANAGER'S REPORT

Mr. Read reported the following:

1. Susan Kelley, CMMC designation:

Town Manager Read read a letter he received from the Massachusetts Town Clerks' Association, which notified him that Susan Kelley, Duxbury Town Clerk, recently qualified for the Massachusetts Town Clerks' Association designation of CMMC (Certified Massachusetts Municipal Clerk). The designation is granted to only those Town Clerks who have completed demanding education requirements and have a record of significant contributions to their local government, community and state.

2. MassDOT Roadwork on RTE. 3A (near 1112 Tremont ST)

~~He mentioned that the roadwork that was to have been done last week in "deadman's curve" on Route 3A near 1112 Tremont ST was postponed. It will be done sometime on or about August 9th, weather permitting.~~

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION

Mr. Flynn moved the following appointments / re-appointments as follows: [Move that we (the Board of Selectmen) appoint or re-appoint {Name} to the {Name of Board} for a term to expire on {DATE}.] Each motion was seconded by Mr. Madigan. Votes were as shown.

Committee	Name	Appointment or Re-appt.	Term Expires	Motion	Second	Vote
Constable						
	Alden "Rink" Ringquist	Re-appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
Council on Aging						
	Kevin Mullins	Re-appt.	06-30-20 (T1)	Mr. Flynn	Mr. Madigan	3:0:0
	Ninky Savage	Appt.	06-30-20 (T1)	Mr. Flynn	Mr. Madigan	3:0:0
	John McCluskey	Appt.	06-30-20 (T1)	Mr. Flynn	Mr. Madigan	3:0:0
	John Rutkowski	Appt.	06-30-20 (T1)	Mr. Flynn	Mr. Madigan	3:0:0
Design Review Committee						
	Sarah McCormick	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
	Nancy Johnson	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
	Heidi Pape Laird (ALTERNATE)	Re-Appt.	06-30-18	Mr. Flynn	Mr. Madigan	3:0:0
Duxbury Bay Management Commission						
	Jon McGrath	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
Municipal Commission on Disability						
	Marcia Solberg	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
	Cathy Sjosdet	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
	Emily Zoltowski	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0

Committee	Name	Appointment or Re-appt.	Term Expires	Motion	Second	Vote
Open Space Committee						
	Philip Tuck	Re-Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0
Sidewalk & Bike Path		<i>See Comments.</i>				
Shellfish Advisory Committee						
	John Bradford	Appt.	06-30-20	Mr. Flynn	Mr. Madigan	3:0:0

COMMENTS:

Constable: In accordance with the re-appointment requirements for a Constable, Mr. Ringquist did submit a letter indicating his interest in being re-appointed. Mr. Ringquist's re-appointment was reviewed by the Police Chief, and Chief Clancy is recommending Mr. Ringquist's re-appointment to the Board of Selectmen. The required surety bond is on file with the Town Clerk.

Council on Aging: With the above-referenced appointments the COA Board will be fully staffed. [The COA Board members have a two-term limit; T1 means it is the individual's first term.]

Duxbury Bay MGMT Commission: With the above-referenced appointments the DBMC will be fully staffed.

Design Review Committee: There is an open Alternate seat. Alternates are annual appointments with order of preference given as follows: architect, landscape architect, designee of Planning BD., lawyer, realtor, nominee of local historical societies or a contractor. (See Section 909.1 of the current Zoning Bylaw.) If any Duxbury registered voter is interested, they should fill out a Talent Bank form.

Municipal Commission on Disability: With the above the MCOB will be fully staffed.

Open Space Committee: With the above the Open Space Committee will be fully staffed.

Shellfish Advisory Committee: The Shellfish Advisory Committee Chair is recommending his appointment to the Board of Selectmen. Mr. Bradford is a former Duxbury Commercial Shellfisherman so he is familiar with the area and the regulations.

Sidewalk & Bike Path Committee: The Sidewalk & Bike Path Committee still has two open seats: one seat for a 3-year term and one seat to fill an expired term due to expire on June 30, 2018. Please fill out a Talent Bank form if you are interested.

Duxbury Cultural Council - Correction

Mr. Flynn announced a correction to appointments made to the Duxbury Cultural Council on July 24, 2017: Suzanne Errasti and Thérèse DiMuzio were re-appointed, but the terms might have been incorrectly stated as expiring as of June 30, 2019, but the correct expiration is June 30, 2020. This will be the second term for both.

VI ONE-DAY LIQUOR LICENSE REQUESTS

09-08-17 + 09-09-17 Outstanding in the Field / Island Creek Oysters Dinners

Mr. Flynn moved that the Board of Selectmen grant to Ms. Anna Gelb, as a representative of Outstanding in the Field, is granted a One-Day Wine and Malt License for a dinner event to be held at the property of Charles J. Husk, 160 Marshall Street, Duxbury, MA on Friday, September 8, 2017 from 3:00 PM to 8:00 PM, contingent upon the conditions on the license. Second by Mr. Madigan. VOTE: 3:0:0.

Mr. Flynn moved that the Board of Selectmen grant to Ms. Anna Gelb, as a representative of Outstanding in the Field, is granted a One-Day Wine and Malt License for a dinner event to be held at the property of Charles J. Husk, 160 Marshall Street, Duxbury, MA on Saturday, September 9, 2017 from 3:00 PM to 8:00 PM, contingent upon the conditions on the license. Second by Mr. Madigan. VOTE: 3:0:0.

09-25-17 Friends of the COA Golf Tournament Reception

Mr. Flynn moved that the Board of Selectmen grant to Ms. Maureen Connolly, as a representative of the Friends of the Duxbury Council on Aging, a One-Day Wine & Malt License for a Golf Tournament Reception on Monday, September 25, 2017 (rain date: Monday, October 2, 2017) at the Duxbury Senior Center, 10 Mayflower Street, from 4:30 PM – 9:00 PM, subject to the conditions on the license. Second by Mr. Madigan. VOTE: 3:0:0.

VII EVENT PERMITS

09-23-17 Duxbury Education Foundation Back-To-School Bash

Mr. Flynn moved that the Board of Selectmen grant to Ms. Stephanie Gagnon, as representative of the Duxbury Educational Foundation (DEF), an Event Permit for the DEF Back to School Bash, to be held at the North Hill Country Club on Saturday, September 23, 2017 from 6:00pm to 10:30 pm, subject to the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

VIII MINUTES

Executive Session Minutes: None at this time
Open Session Minutes: 07-24-17 Selectmen's Minutes-Draft

Mr. Flynn move that the Board of Selectmen approve the 07-24-17 Selectmen's Minutes, as presented. Second by Mr. Madigan. VOTE: 3:0:0.

IX ANNOUNCEMENTS

Mr. Flynn read the following announcements:

1. MassDOT Roadwork on RTE. 3A

MassDOT Roadwork scheduled for August 2nd in the vicinity of 1112 Tremont ST (Rte. 3A), i.e., just before the curve between Bow ST and Alden ST, was postponed due to inclement weather the week before. The Town has been notified that the roadwork in this area is now scheduled to occur **on Wednesday, August 9th**.

2. Verizon Email Addresses:

We recently learned that Verizon is getting out of the email business. Upon changing email carriers, you will need to update your information on the Town and /or Duxbury Schools notification systems in order to get Town or school related notifications. If you are on a Town board or committee, please also notify your chair and Anne Murray in the Selectmen's Office of your new email address so you will get meeting notifications.

3. TAKE A CHANCE:

The Duxbury Rughookers are selling raffle tickets to win one of their hooked rug creations. The rug features six panels each with a different sailboat and is on display at the Senior Center. It is 100% wool on unbleached linen. The proceeds of the raffle are being donated to the Duxbury Senior Center for its programs and events. The suggested raffle donation is \$5. per ticket or \$10. for 3 tickets. Tickets may be purchased at the Duxbury Senior Center Front Desk.

4. Next Board of Selectmen's meeting: August 21, 2017

X ADJOURNMENT

At approximately 7:45 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

LIST OF DOCUMENTS FOR 08-07-17 SELECTMEN'S MEETING

1. *Agenda for: 08-07-17 Selectmen's Meeting*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
 - A. *Amendment to Management and Concession agreement:*
 - 1) *Memorandum from René J. Read dated August 2, 2017 RE: NHCC –Amendment to Management and Concession Agreement and*

- 2) 08-03-17 Email from Gordon Cushing "Recap of Meeting 8/2 (with Jason Laramee of Johnson Golf)"
 - B. Discussion pertaining to Town Counsel Search Committee Recommendation: 08-02-17 Memorandum from René J. Read RE: Town Counsel Search Committee Recommendations; Responses to the RFQ from the three legal firms (Anderson & Kreiger LLP; KP Law, P.C.; and Louison, Costello, Condon & Pfaff, LLP)
 - C. Discussion pertaining to Duxbury Rural and Historical Society License: 08-03-17 Memorandum from René J. Read RE: Duxbury Rural and Historical Society License and Copy of the executed Revocable License
 4. Town Manager's Report: no documents.
 5. APPTS./Re-APPTS/RESIGNATIONS: 08-07-17 Appointments/ Re-appointments sheet
 6. ODLLs: Packets with draft permits, Dept. Head Feedback and application materials for: 09-08-17 + 09-09-17 Outstanding in the Field / Island Creek Oysters Dinners and 09-25-17 Friends of the COA Golf Tournament Reception
 7. EVENT PERMITS: packets with draft permit, Dept. Head Feedback, and the application materials for 09-23-17 Duxbury Education Foundation Back-To-School Bash
 8. MINUTES: EXECUTIVE SESSION Minutes-none; OPEN SESSION: 07-24-17 Selectmen's Minutes- Draft
 9. ANNOUNCEMENTS: Suggested Announcements for 08-07-17
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