

Date: August 25, 2008

Date Minutes Approved: September 8, 2008

BOARD OF SELECTMEN MINUTES

Present: Jon Witten, Chair; Elizabeth Sullivan, Vice-Chair, and Andre Martecchini, Clerk.

Absent: No members were absent.

Staff: Richard MacDonald, Town Manager; John Madden, Finance Director; and Barbara Ripley, Executive Assistant.

JOINT MEETING WITH THE PLANNING BOARD: POTENTIAL EXPANSION OF THE ISLAND CREEK DEVELOPMENT

(Present from the Planning Board were: Ms. Amy MacNab (Chairman), Mr. George Wadsworth (Vice-Chairman, arrived near the end), Mr. John Bear, Mr. Brendan Halligan, Mr. James Kimball, Mr. Harold Moody, Ms. Cynthia Ladd Fiorini, and Planning Director Ms. Christine Stickney.)

The meeting was called to order at 7:00 PM in the Small Conference Room, Lower Level, Duxbury Town Hall. Mr. Martecchini had asked to have an informal discussion with the Planning Board about a potential re-zoning of land within the Island Creek development. The Planning Board was agreeable to meeting with Mr. Martecchini, and extended the invitation to all the Selectmen to join in the discussion.

Mr. Martecchini explained that the developer of Island Creek, Keith Properties, has been trying to expand the development for several years. A formal application with the Zoning Board of Appeals for a comprehensive permit is expected soon. Mr. Martecchini favors this development, since it would bring affordable housing to Duxbury in an area where residents are already accustomed to having affordable housing. Mr. Martecchini has learned that part of the proposal will include some commercial space. One reason he thinks this is a good idea is because it would allow Island Creek residents to get some of their shopping/service needs met without having to leave the complex. However, the entire parcel is currently zoned as Residential Compatibility (RC).

Mr. Martecchini noted that the 2003 Annual Town Meeting voted to re-zone a portion of the subject property from "Neighborhood Business District 4 (NB4)" to "Residential Compatibility (RC)." This was a recommendation of the Comprehensive Plan/Zoning Bylaw Implementation Committee, of which Mr. Martecchini was a member. He said that this had been considered a "housekeeping" article at the time. All of the property was developed for residential use, so there did not appear to be a purpose for having it zoned NB4. However, it appears that Mr. Keith would like to include a commercial component to the potential expansion of Island Creek.

Mr. Martecchini further noted that he is aware of one instance where a commercial component was included in an approved comprehensive permit. This was not overturned by the State. However, the area in question did have commercial zoning.

Mr. Martecchini said that the purpose of his request to meet with the Planning Board was to discuss the best way of bringing a re-zoning petition forward. Should it be sponsored by the Planning Board, the Local Housing Partnership, or perhaps the Board of Selectmen? Ms. MacNab and Mr. Bear responded that, since the Planning Board is responsible for holding the hearings and making recommendation on such a proposal, that the petition should probably best come from a different board.

Mr. Witten suggested that the Town should carefully consider the mechanism for a zoning change. Should there be a study first? Do we have a need for additional commercial space? He noted that there is vacant commercial space now.

Ms. Sullivan commented that, whatever direction this proposal takes, the Town of Duxbury should not become a test-case for the expansion of the Comprehensive Permit Law. The Town should not break new ground in terms of granting rights to developers of these types of projects.

Mr. Martecchini agreed to consider the comments of the Planning Board and the other Selectmen with regard to the potential for commercial space within the Island Creek expansion.

MEETING OF THE BOARD OF SELECTMEN

At 7:30 PM, the Selectmen moved to the Mural Room, Lower Level of Town Hall.

OPEN FORUM

No items were discussed.

DISCUSSION WITH THE CABLE ADVISORY COMMITTEE (CAC) REGARDING LOCAL PROGRAMMING

Mr. William Kearney, interim Chairman of the CAC, spoke for the Committee. He explained that the Town previously contracted with Adelphia Cable Communications for cable television service. This contract expired in 2004. However, the Town and Adelphia continued under the former terms while new contract negotiations took place. When Comcast took over Adelphia's Duxbury customers, the service was also provided under the terms of the former contract.

Recently, Comcast has invoked a procedure, allowed under current communication law, of providing us with a draft version of a contract, and giving us a 120-day ultimatum for agreement. The 120 days expires on October 18, 2008.

One of the major sticking points of negotiations has always been the provision of local programming. Formerly, this service was "built into" Adelphia's service. Now, Comcast plans to charge up to 5% of each cable television bill for local programming. In addition, some capital improvements will be necessary to provide local programming. These will also be added to the customer's bills, and amortized over a five-year period.

Mr. Kearney explained that there are three components to "PEG", or local programming: P: Public Access Channel, E: Education Channel and G: Government Channel. Initially, the CAC voted to support all three channels. The committee has not re-voted since it became known that there would also be additional capital costs. Some members have suggested the elimination of the P channel to save money.

Mr. Dick Sigrist, member of the CAC, said that he is in favor of keeping the P channel. He said that the future is in interactive/visual media. The next two generations will be moving further and further away from print media. The P channel will become more and more important for making local information available.

Mr. MacDonald noted that the Duxbury Clipper ran an informal survey about local programming. The majority of the respondents (58%) said that the Town should do away with community cable access entirely. 19.5% said that Duxbury should pay \$60K per year to the Plymouth Area Community Television collaborative so that resources could be pooled with other towns. 13% said that the Town should have an independent cable studio, funded and staffed as part of the Town's annual budget. 1.7% said that the Town should negotiate for cable access to be run by Comcast with added costs paid by cable subscribers. Mr. MacDonald acknowledged that only 77 people responded to the survey and that it was not a scientific poll.

Mr. Martecchini said that he was not too impressed with the P channel when it was in operation in Duxbury. Most of the programming held very little interest for him. Also, he suggested that young people may turn more and more toward the internet, and away from television. Mr. Sigrist responded that television channels will interact with the internet in the future.

Mr. MacDonald said that, when the ultimatum arrived, he checked with other Towns for how they dealt with cable television contract issues. It was recommended that he consult with Attorney William Hewig of Kopelman & Paige, P.C. Mr. MacDonald requested the Selectmen's permission to enter into an agreement with Mr. Hewig for legal services, to be paid from the Town's legal services budget.

Ms. Sullivan moved that the Board authorize the Town Manager to enter into an agreement with Mr. William Hewig of Kopelman & Paige, P.C. for the purposes of negotiating a cable television contract with Comcast communications, in an amount not to exceed \$17,000.00. Second by Mr. Martecchini. Vote: 3:0:0.

Mr. MacDonald said that this item will be on the agenda again in September and October for further discussion.

FEE HEARING: NORTH HILL COUNTRY CLUB

Mr. Witten noted that this public hearing was advertised in the Duxbury Clipper. The hearing was scheduled for 7:45 PM, but began at 8:00 PM due to discussion of other agenda items.

Mr. Gordon Cushing, Recreation Director, was present to explain the purpose of the hearing. He said that a ten-year management contract for the North Hill Country Club will be expiring at the end of 2008. A Request for Proposals (RFP) will be issued for a new management contract, such contract to have a term of five years. The RFP will list the maximum fees that the Town will allow for use of the golf course. This will create an even playing field for all bidders. They will know how much they can charge in all fee categories, and therefore have some idea of revenues they may realize from said fees. The Town then receives a flat fee from the management company each year. Mr. Cushing commented that the manager could always charge lower fees. Indeed, charging lower than maximum allowable fees is the practice at several local municipal golf courses, as a way of attracting more players.

Mr. Cushing explained that the proposed fee schedule was devised by comparing prices in every category with other area courses. In some categories, recommended fee increases were higher than in others. He noted that there was one typographical error on the fee schedule. The Senior Weekday Non-Resident Membership fee should be \$1,250.00, not \$1,000.00 as listed on the material provided for the hearing. He said that the Fiscal Advisory Committee supports the proposed fee schedule (as corrected). (Mr. Frank Mangione, Chairman of the Fiscal Advisory Committee was present, and agreed with this statement.)

Mr. Martecchini mentioned the current volatility of energy prices. He said that a drastic shift in these costs could render the proposed pricing schedule irrelevant. He suggested a "hardship" clause in the contract, which could be linked to some kind of benchmark, to address this possibility.

Mr. Michael Doolin, Chairman of the North Hill Advisory Committee (NHAC), said that the NHAC does not quarrel with the specifics of the proposed fee schedule. However, he said that the NHAC would like to see a greater focus on service over price. He said that more revenue would be realized if there were services to attract more golfers.

Ms. Sullivan asked whether a driving range is still being proposed. Mr. Cushing said that this idea has been tabled for the time being. He said that the construction and outfitting of a driving range would cost over \$300,000.00. He said that a five-year contract would not allow for the management company to re-coup their investment and still make a payment to the Town comparable with prior years. Ms. Sullivan suggested that more thought be given to this idea. These types of value-added services could be very important to the future success of the Club.

Mr. Bob Doyle, member of the North Hill Country Club, had several complaints. First, he said that the coupon books have been eliminated. Second, he said that there is no discount for non-member juniors, who come to use the course on a pay-as-you-go basis. Third, he said that the terms of the current contract have not been followed. He said that the current manager has raised prices more than was allowed. Finally, he said that the current management is running the club in such a manner as to discourage play. He said that better management would inspire more use of the course, and more revenue.

Mr. Joe Lamothe, Duxbury resident, said that North Hill is expensive relative to other area clubs. He listed the prices for several other golf courses. He said that North Hill does not do enough to attract players, with specials and discounts. Other clubs are more likely to do this, and it definitely draws players.

At 8:57 PM, Mr. Martecchini moved to close the public hearing. Second by Ms. Sullivan. Vote: 3:0:0. This ended the opportunity for public comment. The Board offered their individual impressions of the fee proposals. Ms. Sullivan said that the proposed fee structure is fine, but she repeated her request that a driving range be re-considered. Mr. Martecchini emphasized that the proposed fees are maximum fees. Actual fees could be lower. Mr. Witten commented that the purpose of the fee hearing is to discuss proposed fees, and not to comment on the current management of the facility.

Ms. Sullivan moved that the Board approve the schedule of fees for the North Hill Country Club, as proposed by the Recreation Director, and approved by the Fiscal Advisory Committee, for the period of January 1, 2009 to December 31, 2013. Second by Mr. Martecchini. Vote: 3:0:0.

POSSIBLE LOCAL INITIATIVE PROJECT OFF TEMPLE STREET (CHURCHILL CROSSING)

Present were:

**Attorney Robert Galvin, Jr.: Counsel for developer
Merrill Diamond: Developer, Principal of Diamond/Sinacori
Stephen E. Tise: Architect**

Attorney Galvin introduced his clients, and described the location of the potential project. He said that attempts to develop this parcel had failed in the past, largely due to frontage and sight-distance issues. He said that, assuming these hurdles could be overcome, the developer is trying to gauge whether the Selectmen would be at all receptive to the proposal. If it is "dead in the water", the developer will not spend the many thousands of dollars required to advance the proposal.

Mr. Galvin said that the property may be ideal for affordable housing. It is located next to the highway, and has very few abutters who would be directly impacted by the development.

Mr. Merrill Diamond described his background, history of projects, and philosophy of development. His original training was in architecture. One current project includes the revitalization of the Marshfield town center. He has also developed the Dreamwold property in Scituate, and the Waterworks in Chestnut Hill. He has a strong interest in historic preservation and conservation. His philosophy of development involves working closely with neighborhood and municipal groups in the development process. He said that this project is attractive to him because he likes the challenge of overcoming resistance to comprehensive permit projects.

Mr. Steven Tise described some specific features of the proposed development. One of the major goals is to keep garage entrances away from the street, so as to present a more attractive view of the homes. The project would include 26 duplexes (or 52 units). Each home is projected to have two bedrooms. The developers are open to rental housing, but would prefer ownership.

Mr. Witten commented that he appreciated that the developer came to the Selectmen first, rather than directly to the Board of Appeals.

Mr. Martecchini asked whether the current downturn in the housing market makes this a prudent project. Mr. Diamond responded that, by the time all of the permits are in place and the units are constructed, the housing market could easily be in an upswing again.

Ms. Sullivan asked about the projected pricing of the units. Mr. Diamond indicated that they would be priced between \$500K and \$700K.

Mr. Martecchini remembered that another developer attempted to obtain a comprehensive permit for this property in 1997. However, the sight-distance issue proved to be insurmountable at that time. The property access is directly adjacent to the highway overpass abutment. Mr. Diamond responded that he has some information leading him to believe that the issue can be overcome. This is one of the first issues he will try to address.

Another issue involves the property access. The planned access is from an easement over a residential lot. This easement was established during the construction of Route 3. Mr. MacDonald said that more research is needed to determine whether this could be used for access.

Mr. Witten urged the developer to meet with the Local Housing Partnership as soon as possible.

Mr. Martecchini noted that the developer should consider providing a benefit to the Town in return for a Local Initiative Program endorsement. One possibility could be reduced project density.

Ms. Amy MacNab, Planning Board chairman, was present at the meeting. She commented that the resistance to comprehensive permit projects is not only attributable to resistance to affordable housing. Much of the resistance, she said, comes from resentment over the way the process circumvents the zoning bylaws of municipalities.

ECONOMIC ADVISORY COMMITTEE

Ms. Sullivan reported that several more people have applied to be on the Economic Advisory Committee. She anticipates that the Board of Selectmen will make the appointments soon, and that meetings will begin in September. Ms. Stickney, Duxbury Town Planner, had suggested four areas of concentration for the committee: Retention of businesses; cultural and business collaboration; governmental liaison activities; and provision of regional resource services. Ms. Sullivan said that these areas of concentration will be a focus for the committee.

POLICY FOR APPOINTMENTS

Mr. Witten said that he would like to propose a policy for making appointments to the following decision-making boards: Board of Appeals, Conservation Commission, and Board of Health. He would like to have a policy that all three Selectmen be present when these appointments are made.

Neither Mr. Martecchini nor Ms. Sullivan were in favor of setting this as a policy. However, both acknowledged Mr. Witten's concern and stated that they would take this into consideration for future appointments.

ONE-DAY LIQUOR LICENSE: MR. CHARLES LEONARD FOR THE DUXBURY BAY MARITIME SCHOOL

Mr. Martecchini moved that the Board grant a one-day liquor license to Mr. Charles Leonard as a representative of the Duxbury Bay Maritime School for a reception on September 13, 2008, subject to the conditions listed on the license. Second by Ms. Sullivan. Vote: 3:0:0.

ONE-DAY LIQUOR LICENSE: MR. JACK HAMILTON FOR THE COUNCIL ON AGING/JAZZ CONCERT

Mr. Martecchini moved that the Board grant a one-day liquor license to Mr. Jack Hamilton as a representative of the Duxbury Council on Aging for a Jazz Concert on September 4, 2008, subject to the conditions listed on the license. Second by Ms. Sullivan. Vote: 3:0:0.

ONE-DAY LIQUOR LICENSE: MR. JACK HAMILTON FOR THE COUNCIL ON AGING/LIFE-LONG LEARNING RECEPTION

Mr. Martecchini moved that the Board grant a one-day liquor license to Mr. Jack Hamilton as a representative of the Duxbury Council on Aging for a Life-Long Learning reception on September 16, 2008, subject to the conditions listed on the license. Second by Ms. Sullivan. Vote: 3:0:0.

BLOCK PARTY REQUEST: MR. TOM O'REGAN FOR THE POWDER POINT NEIGHBORHOOD ASSOCIATION

Ms. Sullivan moved that the Board grant permission to Mr. Tom O'Regan, as a representative of the Powder Point Neighborhood Association to hold a block party on September 7, 2008 (rain-date of September 14, 2008), subject to the conditions listed on the permit. Second by Mr. Martecchini. Vote: 3:0:0.

TOWN MANAGER BRIEF

Composters: There are still 10 small and 38 large composters available through the DPW department, for Duxbury residents who would like to use them.

Cemetery: Mr. MacDonald requested that the Selectmen vote to allow the use of \$4,000.00 from the Mayflower Care and Improvement Fund for treatment of grubs on the cemetery grounds. There are more than sufficient dollars in the Fund to cover this expense. Ms. Sullivan moved that the Board approve an expenditure of \$4,000.00 from the Mayflower Care and Improvement fund for the treatment of grubs on the cemetery grounds. Second by Mr. Martecchini. Vote: 3:0:0.

Mosquitoes: The Health Agent is working with State officials to closely monitor mosquito activity in the area. No evening field closings are necessary at this point.

Street Paving: The following streets are scheduled for paving in the fall: Surplus Street, Congress Street (#411 to Chandler Street), Union Bridge (Chandler Street to #77), Lincoln Street (Temple Street to Acorn Street—town line), Pond Road, Upland Road, Old Pasture Road, Shipyard Parking Lot.

GATRA (Greater Attleboro Transportation Regional Authority): Currently, GATRA is proposing one loop for the future bus service, which will go through Duxbury and Marshfield. The Greenbush train station is no longer planned to be part of the route.

AAA Bond Rating: The Town of Duxbury is one of only 108 towns in the USA that has a AAA rating with Standard and Poor's bond rating agency.

Water Ban: Residents have been very cooperative with the voluntary outside watering ban. Stress on our water facilities has been reduced. There is not a need at this time to move to a mandatory outside watering ban.

ANNOUNCEMENTS

Mr. Martecchini mentioned, as a Trustee of the O'Neil Farm, that the second annual Farm Day will be held on Saturday, September 20, 2008.

MINUTES

Ms. Sullivan moved that the Board approve the minutes of August 11, 2008 as written. Second by Mr. Martecchini. Vote: 3:0:0.

BONUS SHELLFISH SEASON

Mr. Martecchini moved that the Board declare a Bonus Shellfish Season for the commercial harvesting of soft shell clams, and for the commercial harvesting of quahog clams for the month of September, per the regulations contained in a memorandum from the Harbormaster dated August 13, 2008. Second by Ms. Sullivan. Vote: 3:0:0.

APPOINTMENTS

Mr. Martecchini moved that the Board appoint Ms. Elizabeth Sullivan to a one-year term on the Plymouth County Advisory Board, such term to expire on 6/30/09. Second by Mr. Witten. Vote: 3:0:0.

Ms. Sullivan moved that the Board appoint Ms. Linda K. Brodie for a three-year term on the Shellfish Advisory Committee, such term to expire on 6/30/11. Second by Mr. Martecchini. Vote: 3:0:0.

Mr. Martecchini moved that the Board appoint Mr. Peter Buttkus as the Duxbury delegate to the South Shore Recycling Cooperative. Second by Ms. Sullivan. Vote: 3:0:0.

ADJOURNMENT

Mr. Martecchini moved to adjourn the meeting at 10:15 PM. Second by Ms. Sullivan. Vote: 3:0:0.