

Date: December 15, 2008

Date Minutes Approved: December 22, 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 C. Anne Murray, Department Secretary.

The meeting was called to order at 7:30 PM.

OPEN FORUM – No items brought forward.

7:31 P.M. FEE HEARING: BEACH STICKER FEES

Present for this item of business were: Mr. Don Beers, Duxbury Harbormaster, Mr. Michael Pforr, Harbormaster Operations Officer, and Ms. Beth Conway, Treasurer.

Mr. Witten opened the public hearing by indicating it was advertised to be held at 7:31 PM on Monday, December 15, 2008 in the Mural Room to consider beach sticker fees and a copy was filed with the Town Clerk and placed on file at the Duxbury Free Library.

Ms. Conway mentioned that the beach sticker fees were last reviewed for adjustments in 2004. She mentioned that in setting the fees all the associated costs of the services provided were taken into consideration. She noted that the Duxbury Beach Committee was informed of the proposed increases to the beach sticker fees. Ms. Conway said the Committee did not meet to vote on them, but several individual members on the Committee did indicate that they felt the adjustments were reasonable.

Ms. Conway then went over the Proposed Beach Sticker Fees (per the 11/20/08 Memorandum), which were as follows:

	<i>Current Prices</i>		<i>Proposed</i>
NON RESIDENT STICKERS			
Discounted Oversand	\$ 240.00		\$255.00
Oversand	\$260.00		\$275.00
Off Season Non-Resident	\$130.00		\$140.00
RESIDENT OVERSAND STICKERS			
Discounted Oversand	\$120.00		\$130.00
Oversand	\$140.00		\$150.00
Senior Oversand	\$ 70.00		\$ 80.00
Off Season Oversand	\$ 70.00		\$ 80.00
Upgrade Oversand	\$ 80.00		\$ 80.00
Upgrade Senior Oversand	\$ 55.00		\$ 55.00

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RESIDENT PARKING STICKERS			
Discounted Parking Lot	\$ 40.00		\$ 50.00
Parking Lot	\$ 60.00		\$ 70.00
Senior Parking Lot	\$ 15.00		\$ 35.00

Ms. Conway did acknowledge that the increase to the Senior Parking Lot stickers was higher than some of the other increases. She offered the following explanations:

1. In 2004, during the last beach sticker review, the Senior Parking Lot stickers were not increased.
2. The increase also reflects the past intent to keep the Senior rate at 50% of the Resident rate.

In calling for public comment, the Chair recognized Mrs. Ruth Rowley.

Mrs. Rowley of Washington ST referred to an article that was passed at the time that Prop. 2 ½ was introduced and cited the three criteria fees should meet. Her point was that user fees should only be assessed to cover the costs of the particular service, and not for revenue collection to cover unrelated items or services. She further questioned the cost associated with parking.

Mr. Witten did ask where the Beach Sticker Fees were deposited and the answer provided by Ms. Conway was that the monies received are deposited into the General Fund. She added that a number of departments do service the beach for protection and maintenance. Mr. Witten opined that he felt the Beach Sticker Fees should go into an account specifically for the beach. Ms. Conway pointed out that when the fees are reviewed they do take into consideration all the incidental costs that some people might not be aware of, such as line painting, sweeping and cleaning up, etc.

Mr. Frank Mangione, Chair of the Fiscal Advisory Committee, stated that the proposed fees were reviewed by the Fiscal Advisory Committee and the Committee voted to support the fees as proposed. He said in doing so the Committee does consider it in terms of reasonable adjustments to cover anticipated costs over the next 4 years so that an annual review is not necessary.

At the suggestion that a decision be delayed, Ms. Sullivan said there is a need to move on the proposed fees tonight as materials have to be printed for distribution.

Ms. Sullivan moved that the Board of Selectmen approve the revised Beach Sticker Fees as presented in the Memorandum dated November 20, 2008. Second by Mr. Martecchini.
VOTE: 2:1:0. (Mr. Witten was the dissenting vote.)

Mr. Witten explained his vote by stating he was opposed because he felt the money should be deposited into a specific account for the beach, but he recognized the need to move the issue given the aforementioned time constraints.

TOWN MANAGER BUDGET PRESENTATION

Mr. MacDonald presented a preliminary overview of a balanced FY'10 Budget. Citing the difficult financial times and a \$1.7 million gap between the departmental budgets and projected revenues, Mr. MacDonald stated it was necessary to make significant cuts, and those cuts have been done across all Town departments. He stated that the cuts will mean there will be reductions in services. Mr. MacDonald acknowledged that the FY'10 Budget was prepared with the input of a Budget Task Force which has met for several months and provided invaluable guidance. Mr. MacDonald's PowerPoint presentation can be viewed on the Town website

www.town.duxbury.ma.us) under the "Town News" column and on the Town Manager's webpage under the "budget" link.

The Board of Selectmen thanked Mr. MacDonald for his presentation, and acknowledged that they understand that this was a preliminary look at the budget and much remains to be known. Mr. MacDonald said he would keep the Board informed.

CONTINUED DISCUSSION OF DUXBURY AFFORDABLE HOUSING ASSISTANCE (DAHT) PURCHASE PROGRAM

Ms. Sullivan said that the document had been reviewed by Town Counsel. Atty. Troy pointed out one correction and that will be incorporated where appropriate. He also recommended inclusion of a statement that "the DAHT does not discriminate on the basis of race, creed, color, sex, handicap, marital status, sexual preference, national origin, or any other basis prohibited by law." Ms. Sullivan agreed that the correction should be made and that the discrimination statement be included.

After a brief discussion the Board agreed that the document should be amended to:

1. include the correction mentioned by Town Counsel; and
2. include language indicating that the Trust will be the monitoring and screening agent; and
3. include language indicating that the Deed Rider shall be recorded; and
4. include minor grammatical corrections.

Mr. Martecchini moved that the Board of Selectmen approve the Duxbury Affordable Housing Purchase Assistance Program with the revisions discussed and grammatical modifications, as necessary. Second by Ms. Sullivan. VOTE: 3:0:0.

RESIGNATION & RECOMMENDATION FOR APPOINTMENT TO BOARD OF TRUSTEES OF THE HISTORIC O'NEIL FARM

Mr. Witten said that Mr. Martecchini, who has been sitting as the Town's representative on the Board of Directors of the Historic O'Neil Farm has resigned due to other commitments. Mr. Sam Butcher, who is on the Conservation Commission, has indicated his willingness to serve, if appointed. The Board of Selectmen can make a recommendation, but the actual appointments are made by The Wildlands Trust of Southeastern Massachusetts.

Ms. Sullivan moved that the Board of Selectmen recommend to The Wildlands Trust of Southeastern Massachusetts that Mr. Sam Butcher be named to the Board of Directors of the Historic O'Neil Farm as the Town of Duxbury representative. Second by Mr. Martecchini. VOTE: 3:0:0.

REVIEW LIST OF ATM & STM WARRANT ARTICLES

Mr. Witten said that it appears there are 54 Annual Town Meeting (ATM) articles and 8 Special Town Meeting (STM) articles. The warrant is closed by the timeframes in the Town bylaws. While Citizen Petitions could still be included they are not encouraged. It was explained that the main difference between the ATM articles and STM articles is that STM articles can be funded immediately (within the current fiscal year), whereas ATM articles must wait until July 1st, the start of the next fiscal year, for funding.

Mr. Madden mentioned one of the articles will be to establish a new revolving account for the GATRA reimbursements.

Before giving an overview of the lists of articles Ms. Sullivan discussed with the Board the possibility of including an additional STM article regarding having the State Representatives file a home rule petition to allow the utilization of the CPC funds which were voted at last year's

ATM for the artificial turf fields. It was explained that 5 days before the bid was awarded the Supreme Judicial Court ruled that CPC funds could not be used for improving existing fields, but only for the purchase of new fields. In Duxbury's case, however, a significant amount of fundraising has been done, but the only way the project could be completed would be by being able to use the CPC funds, which were approved and voted at last year's ATM. Apparently, the only way to do so would be through a home rule petition to the State Legislature.

Mr. Martecchini commented that if the proponents of the turf field were just starting the process he would have a different opinion, but in this particular case because of the timing and the amount of fundraising done, he was inclined to support adding the suggested article.

Mr. Martecchini moved to add an article (as discussed) to the STM warrant. Second by Ms. Sullivan. VOTE: 3:0:0.

Ms. Sullivan then read through the list of articles and brief explanations were given and a few modifications discussed.

BUSINESS

REQUEST FOR ONE-DAY LIQUOR LICENSE - *Diane Grant for Duxbury Student Union Association/ Parents' Party on 1-24-09*

Mr. Witten indicated that a one-day liquor licenses was being requested for a fundraising event by the Duxbury Student Union Association on January 24, 2008 at the Wright Building. The request was circulated to the appropriate departments with no objections but some conditions noted.

Ms. Sullivan questioned the hours of the event and noted that approval would be amended to make sure they conform to coincide with the hours allowed on the Wright Building lease.

Ms. Sullivan moved that the Board of Selectmen grant to Ms. Diane Grant, as a representative of the Duxbury Student Union Association, a One-Day All-Alcohol License to hold a fundraising event on January 24, 2009 from 7:30 PM to Midnight (contingent that the hours coincide with the hours allowed on the lease) at the Wright Building (DSU section only), subject to the conditions listed on the license. Second by Mr. Martecchini. VOTE: 3:0:0.

TOWN MANAGER'S BRIEF

1. **Fire Dept. Grants:** Mr. MacDonald announced that the Fire Department received two grants both through the Executive Office of Public Safety and Security. The FY 2009 Firefighting Equipment grant was awarded in the amount of \$5,296.00 and the FY 2009 Student Awareness of Fire Education or S.A.F.E. in the amount of \$3,664.62.
2. **Bayramshian vs. Town of Duxbury Decision:** Mr. and Mrs. Bayramshian filed a motion for Summary Judgment regarding Medicare Part B contending that the Town should be responsible for paying 50% of the premiums for the town's retirees. The Town's motion that it was not obligated to pay the Medicare Part B premiums was upheld by the Court.
3. **Town Hall Holiday Schedule:**

Wednesday, Dec. 24: Christmas Eve, the Town Hall and the Transfer Station will close at noon.

Thursday, Dec. 25: Christmas, the Town Hall and Transfer station will be closed.

Friday, Dec. 26: The Town Hall will be closed. The Transfer Station will be open.

**Wednesday, Dec. 31: New Year's Eve, the Town Hall will be open 8 AM to 4 PM.
Thursday, January 1: New Year's Day, the Town Hall and the Transfer Station will be closed.
Friday, January 2: Day after New Year's, The Town Hall will be closed.
Other than New Year's Day, the Transfer Station will follow its regular schedule during the New Year's week.**

ANNOUNCEMENTS

Mr. Witten mentioned that the Board is trying to schedule another Land Boards' Summit, tentatively in late January or early February.

MINUTES

December 8, 2008 Open Session

Mr. Martecchini moved to approve the December 8, 2008 Open Session Minutes. Second by Ms. Sullivan. Vote: 3:0:0.

December 8, 2008 Executive Session (A) and Executive Session (B)

Mr. Martecchini moved to approve the December 8, 2008 Executive Session (A) Minutes and Executive Session (B) Minutes, which are to remain sealed until the reason for doing so has passed. Second by Ms. Sullivan. VOTE: 3:0:0.

COMMITTEE RESIGNATION(S)

The resignation of Mr. Jack Kent from the Duxbury Beach Management Commission was announced by Mr. Witten. The Selectmen extended their thanks to him for serving.

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS

Mr. Witten mentioned that a recommendation had been received requesting Mr. JR (Jackson R.) Kent, Jr. be appointed to the Duxbury Beach Management Commission to fill the seat.

Ms. Sullivan moved that the Board of Selectmen appoint Mr. JR (Jackson R.) Kent, Jr. to the Duxbury Beach Management Commission to fill the unexpired term due to expire on June 30, 2010. Second by Mr. Martecchini. VOTE: 3:0:0.

Mr. Witten moved that Mr. Steve McCarthy be appointed as an At-Large member of the Local Housing Partnership for a term to expire on June 30, 2010. Second by Mr. Martecchini. VOTE: 3:0:0.

EXECUTIVE SESSION

At 9:40 PM, Ms. Sullivan moved that the Board enter Executive Session in order to discuss strategy with respect to collective bargaining, since an open meeting may have a detrimental effect on the town's bargaining position, and to re-convene in Open Session in accordance with Mass. General Laws Chapter 39, Section 23b., for the purposes of adjournment only. Second by Mr. Martecchini. Roll Call Vote: Ms. Sullivan—aye; Mr. Martecchini—aye; Mr. Witten—aye.

Having completed the business of Executive Session, the Board reconvened in Open Session for adjournment.

ADJOURNMENT

At 10:30 PM, Mr. Martecchini moved to adjourn the Selectmen's meeting. Second by Ms. Sullivan. Vote: 3:0:0.