

Date: January 20, 2009

Date Minutes Approved: February 2, 2009

BOARD OF SELECTMEN MINUTES

Present: Jon Witten, Chair (arrived at 7:30 PM), Elizabeth Sullivan, Vice-Chair, and Andre Martecchini, Clerk.

Staff: Richard MacDonald, Town Manager; John Madden, Finance Director; and C. Anne Murray, Department Secretary.

The meeting was called to order at 7:05 PM. Ms. Sullivan assumed the Chair as due to a work commitment Mr. Witten arrived late.

OPEN FORUM

No items were discussed.

DISCUSSION REGARDING VERIZON FIOS

Present were:

Mr. Rick Colon, Regional Director, Verizon External Affairs and members of the Cable TV Advisory Committee: Mr. Bill Kearney, Interim Chair, Mr. Dick Sigrist, Mr. Richard Miller, Mr. Peter Frame, and Ms. Mary Beth MacQuarrie, IT Director (*ex officio*).

Mr. MacDonald initiated the discussion by mentioning that his office had received numerous calls during the past few years asking when Verizon FIOS would be available in Duxbury. As he mentioned last week, Verizon has just let him know that they are ready to move forward in Duxbury with the negotiation of the franchise process and installation of Verizon FIOS. Mr. MacDonald then introduced Mr. Rick Colon, the Regional Director, Verizon External Affairs to explain the process and timeframes to the Board.

Mr. Colon said that Verizon has now committed the capital investment to bring Verizon FIOS to Duxbury. Tonight he is asking the Board to sign two letters to the Department of Telecommunications and Cable (DTC). The first letter is simply a notification to the DTC that Duxbury is under taking a cable television licensing procedure. The second letter requests two waivers of a 60-day waiting period and the need to advertise and accept bids which are statutory requirements. Mr. Colon said the DTC has typically been granting the waivers as the advertising is an expensive and time-consuming process, and the DTC has recognized that it has not been in the public interest. Mr. Colon explained that this expedites the process.

Mr. Colon provided the Board an overview of the process and the standard time-frames. Once notification is received from the DTC that the waivers are granted, a 4100 Application will be sent to the Town by Verizon for completion. When the Form 4100 Application is received it starts a 90-day period during which the Town is required by law to complete an Issuing Authority Report (IAR) or the Town's "wish list" of what the Town would like to see in the franchise agreement with Verizon. Then Verizon has a 30-day period to respond to the IAR with an amended Application. The negotiation timeframe is typically about 6-7 months. Negotiations for Verizon are handled by a Washington DC law firm and a representative from a local telecommunications consulting group, Telecommunications Integrity.

In response to a request from Mr. Martecchini, Mr. Colon agreed to provide a sample of another community's IAR for Duxbury's review.

There was a brief discussion of how FIOS is brought to a community. Mr. Colon explained that it is usually an additional fiber connection that is added to the existing wiring or fiber optic cable. Typically the copper wires of the existing network are not removed, unless the customer specifically requests the removal.

The Board also briefly discussed with Mr. Colon the Public, Education and Government (PEG) Channels. As part of this discussion the number and location of origination locations were discussed, and the possibility of the Town contracting with PAC-TV for one or more of the PEG channels. Mr. Colon indicated that Verizon does not run studios, but rather provides franchise fees for operational support and funding for capital items. Further details would be needed and then it would be a negotiation depending on costs and number of origination locations, but Verizon is committed to working with a community for PEG channels.

Mr. MacDonald mentioned to Mr. Colon that one of his goals is for a system that will provide reliable operation of communication and internet connections at the Town Halls and other municipal buildings.

Mr. Witten arrived at 7:30 PM, which was part way into this discussion. He had reviewed the letters the Board was being asked to sign and the opinion of the Town's consulting attorney, and therefore was comfortable proceeding.

Mr. Martecchini moved that the Board execute a letter to the Department of Telecommunications and Cable (DTC) to notify the DTC that the Board of Selectmen in the Town of Duxbury, as the Issuing Authority for the Town, has decided to initiate the cable licensing process, pursuant to 207 CMR 3.02 (1) (a) with Verizon. Second by Ms. Sullivan. Vote: 3:0:0.

Mr. Martecchini moved that the Board execute a letter to the Department of Telecommunications and Cable (DTC) requesting two waivers; one to waive the 60-day filing deadline [207 CMR 3031(1) (b) and 3.30 (2)] and the second to waive the requirement to solicit applications for a cable license [207 CMR 3.03 (1) (a) and 3.03 (2)]. Second by Ms. Sullivan. Vote: 3:0:0.

Mr. MacDonald and the Board thanked Mr. Colon for making time to attend this evening. Mr. Colon said that if a license is issued, and he expects it will be, then Verizon's plan is to begin the build out of Verizon FIOS in Duxbury during the second quarter of 2009.

DPW BUDGET PRESENTATION

Mr. Peter Buttkus, DPW Director, was present to review the FY10 DPW Budget requests with the Board of Selectmen.

The Board had received budget sheets for each of the departments Mr. Buttkus oversees. The sheets outlined the major expense categories; reflecting the past fiscal year budgeted amounts and expenditures, the current fiscal year budgeted amounts, and the FY10 Request, FY10 Finance Director Recommendation, and FY10 Town Manager's Recommendation.

Mr. Buttkus gave a PowerPoint presentation showing the salaries and expense totals for the current fiscal year (FY09), the FY10 Request, FY10 Finance Director Recommendation, FY10 Town Manager's Recommendation, and the percentage change the dollar figures represent.

Mr. Buttkus went through the figures for each department he oversees. In doing so, he pointed out where the budget had increased or decreased. Both Mr. Buttkus and Mr. Madden, the Finance Director, provided explanations and responded to any questions the Board posed. In most cases increases were contractual with respect to salaries and due to higher fuel, energy or material costs.

During the discussion of the Lands and Natural Resources (LNR) Department, there was some discussion regarding the shared budgetary aspects between the LNR Dept.'s budget, the School Dept.'s budget and the Conservation Dept.'s budget, and the need to make it a priority to discuss it with the schools to consolidate the process so that the athletic fields are overseen by one department.

A request was also made by the Selectmen to review the street lighting expenses to see if some accommodations could be made, especially in areas where safety is concerned.

The DPW budget presented represents a 3.4% reduction overall. The Selectmen appreciated the effort Mr. Buttkus put in to present the information and to contain the costs in the DPW budgets. Mr. Buttkus, in turn, thanked Mr. Madden for all his assistance.

DISCUSSION OF TOWN MEETING ARTICLES

[Note: ATM refers to Annual Town Meeting. STM refers to Special Town Meeting. Please also note that is not the final numbering of the articles, but as they are numbered in the draft.]

Ms. Ripley, Executive Assistant to the Town Manager, was present to answer questions and to clarify some of the articles.

- State Highway Fund (STM) [Article D]

During discussion of this article Ms. Ripley explained that there is not a need for it in this year's STM, but since it is often required her recommendation would be to leave it in the STM warrant as a placeholder. It was suggested the Board consider making a motion for Indefinite Postponement (IP).

Mr. Witten moved that the Board of Selectmen recommend Indefinite Postponement (IP) regarding STM Article D (State Highway Fund). Second by Ms. Sullivan. Vote: 3:0:0.

- State Highway Fund (ATM) [Article IV]

This is a standard ATM article in which the Town Meeting has to vote to accept the State Highway Funds, commonly called "Chapter 90" funds. At this time the actual dollar amount is not known because the figure has not been provided by the State.

Mr. Witten moved that the Board of Selectmen vote to support Article IV regarding Chapter 90 (State Highway Fund) with the dollar amount to be supplied by the Finance Director when it is known. Second by Mr. Martecchini. Vote: 3:0:0.

- Verizon Easement---Damon Wells (ATM)

Ms. Ripley explained that at last year's ATM an easement was approved for NStar to be able to service the poles in the Damon Wells area. At that time it was not known that Verizon needed a similar easement. In order not to hold up the work Verizon was granted a temporary right to service poles in the area. This article is needed to formalize that arrangement. In response to questions it was pointed out that this would be to operate and maintain existing poles. There was not a need or a plan for additional poles.

To make it clear that the Selectmen support only the operation and maintenance of existing poles the motion was made to delete language referring to "erect and construct" poles.

Mr. Martecchini moved that the Board of Selectmen support ATM Article XLVII (Verizon Easement for Damon Wells) with the following amendments to the language in the draft article: delete the words "erect, construct" in the third line and change the word "erected" to "maintained" in the fourth line. Second by Mr. Witten. Vote: 3:0:0.

- **Inflow & Infiltration Study---Gurnet Road Sewer (STM) [Article F]**

Mr. Buttkus explained that there are continuing issues in this area, need to have the line examined by video and then cleaned. As additional information was needed regarding the costs a vote on this article was postponed to a future agenda.

VOTE TO RE-OPEN ANNUAL TOWN MEETING WARRANT

Mr. Witten and Ms. Ripley explained that a meeting was held this week with Mr. Allen Bornheimer, the Moderator. The Moderator oversees the Town Meeting, and Mr. Bornheimer prefers that only articles that require funding during this fiscal year (i.e., prior to July 1, 2009) be included in the STM within the ATM. So it is requested that a few changes be made to the ATM and STM warrants to accommodate the Moderator's request.

Mr. Martecchini moved that the 2009 Annual Town Meeting warrant be re-opened in order to insert articles. Second by Ms. Sullivan. Vote: 3:0:0.

- **Move Percy Walker Pool article from STM to ATM**

It was explained that the Percy Walker Pool Committee had several scenarios they were presenting. In some funding would have been required before July 1, 2009, which would have required a STM article. After discussion it was determined that an article seeking funding on or after July 1, 2009 was reasonable, and therefore, this article should appropriately be moved to the ATM warrant.

All the Selectmen were in favor of supporting the renovations to the Percy Walker Pool. Each spent a few minutes expounding on why, with the consensus being that only with the renovations could the Town consider making this facility self-sustaining as an enterprise fund or through another financial mechanism.

Mr. Martecchini moved that an article for the renovation of the Percy Walker Pool be removed from the Special Town Meeting warrant, and inserted in the Annual Town Meeting warrant (as ATM article 54). Second by Ms. Sullivan. Vote: 3:0:0.

Mr. Martecchini moved that the Board of Selectmen support ATM Article 54 for the Percy Walker Pool renovation in the amount of \$2.2 million. Second by Ms. Sullivan. Vote: 3:0:0

- **Move Home-Rule Petition for Artificial Turf from STM to ATM**

After discussion it was determined that moving this to be an ATM article would not negatively impact any potential construction timeframes. The Board was not prepared to take a vote concerning their support for this article as an opinion from Town Counsel is still pending as to the content of the article. The Board did vote on the question of moving it from the STM warrant to the ATM warrant.

Mr. Martecchini moved that an article for a Home-Rule Petition for the use of Community Preservation Act Funds for construction of Artificial Turf Fields be removed from the Special Town Meeting warrant, and inserted in the Annual Town Meeting warrant. Second by Ms. Sullivan. Vote: 3:0:0.

- **VOTE TO ADD SPECIAL TOWN MEETING ARTICLE: An article to Prohibit Public Use of Marijuana**

Ms. Ripley indicated that the Police Chief requested that an article to prohibit the public use of marijuana be added to the ATM warrant, but add she has not yet received the language of the article.

The Board briefly discussed this, but decided not to add an article until the language of the article could be reviewed. If necessary, the Board could vote to re-open the warrant to add the article at a future meeting.

- **VOTE TO ADD SPECIAL TOWN MEETING ARTICLE: Amend FY09 Housing Allocation Plan**

Ms. Ripley explained that adding this article to the STM would be necessary due to the recent change in language in the Housing Allocation Plan in which the reference to “loans” was replaced it with “gifts, grants, or subsidies.” Ms. Sullivan concurred that this article was necessary so that funds that were approved at last year’s Town Meeting could be spent in FY’09.

Mr. Martecchini moved that an article to amend the FY09 Housing Allocation Plan be inserted in the Special Town Meeting warrant. Second by Ms. Sullivan. Vote: 3:0:0.

Mr. Martecchini moved that the Board of Selectmen close the 2009 Annual Town Meeting warrant. Second by Ms. Sullivan. Vote: 3:0:0.

SITE ELIGIBILITY COMMENTS: MILLBROOK CROSSING

Mr. Witten mentioned that the Board has now received comments from the Development Review Team (DRT) and the Planning Board. He asked if the date of the site visit was changed? Mr. MacDonald said it was not, but that he would be attending. It was agreed that Mr. Witten would draft a letter for the Board’s consideration, which incorporates the feedback they have received. The draft will be discussed at the next meeting as the deadline for Project Eligibility comments is January 28, 2009.

Mr. MacDonald was asked for the status of the selection of a Planning Director. Mr. MacDonald replied that the deadline for resumes was yesterday, and a good candidate pool has been received. He also mentioned he will be naming a selection committee shortly, and noted that Mr. Witten had volunteered to represent the Board of Selectmen on it. Mr. Martecchini requested that someone representing affordable housing (LHP) be included on the committee as the affordable housing committee does work closely with the Planning Director.

EVENT PERMIT

Mr. Witten said that a request from the Duxbury Art Association had been submitted for a One-Day Wine & Malt License for their 35th Annual Winter Juried Show Benefit Opening Reception to be held on Saturday, February 7, 2009. This annual event is a fundraising event and tickets are \$25.00. The request was circulated to the appropriate departments. Feedback from the departments is supportive and any conditions have been noted on the license.

Ms. Sullivan moved that the Board grant to Ms. Mary Beth Browne, as a representative of the Duxbury Art Association, a One-Day Wine & Malt License to hold a fundraising event on February 7, 2009 from 6:00 PM to 9:00 PM at the Art Complex Museum (189 Alden Street), under the conditions listed on the license. Second by Mr. Martecchini. Vote: 3:0:0.

ANNOUNCEMENTS

Mr. Witten announced that Ms. Joanne LaFerrara from GATRA (i.e., the new bus service) will be at the Senior Center on: **Wednesday, January 28, from 1:00 PM to 2:00 PM**
Wednesday, February 11, from 10:00 AM to 11:00 AM

to take pictures for a GATRA ID, and Charlie Cards to use on the MBTA. The photo ids enable riders to pay ½ fares. It would appear that this is for Senior Citizens.

TOWN MANAGER'S BRIEF:

Mr. MacDonald mentioned that most of Duxbury lost power on Monday due to weather conditions. He extended thanks to Dep. Chief Carrico, who did send out a reverse 911 notification and opened the Senior Center as an emergency shelter. Several people did take advantage of the shelter as they were without heat. Mr. MacDonald also thanked Mr. Ken Shine, a member of the Duxbury Community Response Team, who manned the shelter to assist people.

MINUTES

Ms. Sullivan moved that the Board accept the Minutes of January 12, 2009 as written. Second by Mr. Martecchini. Vote: 2:0:1. (Mr. Witten abstained as he was not present at that meeting.)

Ms. Sullivan moved that the Board accept the Executive Session Minutes of January 12, 2009 as written with the Minutes to remain sealed until the business has been concluded. Second by Mr. Martecchini. Vote: 2:0:1. (Mr. Witten abstained as he was not present at that meeting.)

APPOINTMENTS

Ms. Sullivan announced that the Moderator, recently appointed Mr. Robert F. Hayes to fill an open seat on the Board of Cemetery Trustees for a term to expire on June 30, 2011.

NEXT MEETING

The next Board of Selectmen meeting will be held on Monday, January 26, 2009, at 7:00 PM.

ADJOURNMENT

At 9:06 PM, Mr. Martecchini moved to adjourn the meeting. Second by Ms. Sullivan. Vote: 3:0:0.