

Date: February 9, 2009

Date Minutes Approved: February 23, 2009

BOARD OF SELECTMEN MINUTES

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

Absent: No members were absent.

Staff: John Madden, Finance Director; and Barbara Ripley, Executive Assistant. (Mr. MacDonald, Town Manager, was absent due to illness.)

The meeting was called to order at 7:03 PM.

OPEN FORUM---No items were discussed.

KAREN WONG: CONFLICT OF INTEREST ISSUE

Ms. Karen Wong, School Committee member, was present. She would like to be hired as a photographer by the Duxbury High School Yearbook Committee. Town Counsel provided an opinion which stated that members of the School Committee are designated as Special Municipal Employees. Therefore, in order to accept the position of yearbook photographer, Ms. Wong must file a written statement with the Town Clerk that sets forth the full disclosure of her interests and circumstances that give rise to the potential conflict. She must also obtain approval to accept the position as the yearbook photographer from the Board of Selectmen, in accordance with M.G.L. c. 268A, Section 20. Finally, in the event that matters relating to the yearbook are presented to the School Committee, Ms. Wong must recuse herself and leave the room until the matter has been discussed and voted by the remaining School Committee members. Additionally, Ms. Wong may not sign any warrant for payments that include any payments with respect to the yearbook.

Mr. Martecchini thanked Ms. Wong for following the correct procedure with regard to this matter. Mr. Martecchini moved that the Board of Selectmen acknowledge Ms. Wong's disclosure in accordance with M.G.L. c. 268A, and approve her acceptance of the position as the yearbook photographer. Second by Ms. Sullivan. Vote: 3:0:0.

DISCUSSION REGARDING SYNTHETIC ATHLETIC FIELDS PROJECT

Mr. Kevin Mullins, representing the core committee of P.R.I.D.E. (Promoting Recreational Investment to Develop Excellence) explained that there have been several meetings over the past two months to develop a plan for moving forward with the synthetic fields project. Town Counsel has agreed that Community Preservation money may be used for the portion of the project that involves site work and drainage for the field.

P.R.I.D.E. is prepared to make gift to the Town of Duxbury in the amount of \$837,682.00. The breakdown of that gift is as follows:

Engineering/other expenses paid directly to vendors by P.R.I.D.E.	\$205,100
Paid directly to installer for turf and installation.	\$379,471
Cash payment from PRIDE to Town of Duxbury for balance of project	\$253,111
TOTAL	\$837,682

Per the vote of the 2007 Annual Town Meeting (Article 16), up to one-third of the project may be paid for through Community Preservation Act (CPA) funds. Therefore, the P.R.I.D.E. committee is requesting a contribution of \$404,089.00 from CPA funds.

Mr. Witten said that Town Counsel's opinion on the matter requires that the Town Manager determine that the expenditure meets the standards required by the Supreme Judicial Court and the Department of Revenue for preservation of municipal recreational property not originally acquired with Community Preservation Funds. Since the Town Manager is absent from the meeting, Mr. Witten questioned the wisdom of moving forward. Both Mr. Martecchini and Ms. Sullivan said that they had discussed the issue thoroughly with Town Counsel and with Mr. MacDonald and felt comfortable moving forward.

Mr. Martecchini moved that the Board accept \$837,682.00 from Duxbury P.R.I.D.E (\$253,111.00 in cash) to be used for the preservation of the High School field, and the construction of an artificial turf field; and furthermore that the Board authorize the expenditure of \$404,089 from Community Preservation Funds, to be expended if the Town Manager makes the determination that the expenditure meets the standards required by the Supreme Judicial Court and the Department of Revenue for preservation of municipal recreational property not originally acquired with Community Preservation Funds. Second by Ms. Sullivan. Vote: 2:1:0. (Mr. Witten voted against.)

DISCUSSION OF ANNUAL TOWN MEETING (ATM) AND SPECIAL TOWN MEETING (STM) ARTICLES

ATM 13--- Citizens' Petition to Reduce Community Preservation Act (CPA) Surcharge

Mr. Jim Sullivan, Tremont Street, one of the originators of the petition, was present. He noted that this article was originally presented to the Selectmen on January 5, so he would not take the Board's time to review the matter in its entirety. He did note that it has been seven years since Duxbury adopted the Community Preservation Act. He feels that it is time to review it. He noted that if taxpayers can reduce the amount of money they pay for the CPC surcharge, there will be more money available for projects such as the Chandler School Roof and the Police and Fire Stations. Mr. Ben Murphy, Priscilla Lane, said that this petition is the only light in the tunnel for reducing living costs to residents.

Mr. Martecchini said that he has spent a great deal of time thinking about this petition. He said that people are really struggling with the current economic situation, including himself. He said that the Town has done many good things with the CPA program. However, at this point, there are some other very important projects that need funding.

Ms. Sullivan said that the extreme drop from a 3% surcharge to a 0.25% surcharge effectively eliminates what the Town can accomplish with CPA. She said that the record of accomplishments with the CPA is impressive. If we did not have programs to help seniors and citizens with limited income, the argument for a surcharge reduction would be more convincing. Also, she noted that, since the reduction would also have to be passed by a ballot question, the effect of the change would not occur until August 2010.

Mr. Witten agreed with Ms. Sullivan. He said that the statutory exemptions for low income and elderly status make the surcharge a more acceptable burden for taxpayers. He said that a 0.25% surcharge would nullify the positive effects of the CPA. He fears that once it is reduced, we would never get it back to an acceptable level.

Mr. William Campbell, Humphrey's Lane, said that the citizens' petition is not a referendum on the CPA. It is an attempt to help people with their taxes. The citizens could have proposed a 0% surcharge, but they did not want to wipe the CPA off the books.

Mr. Jim Sullivan said that we have expended fourteen million dollars through the CPA program on very worthy projects. However, it is time to take a break and to re-direct the money toward other critical projects.

Holly Morris, Abrams Hill, Community Preservation Committee Chair, commented that the reason citizens love Duxbury is that long ago, people had the foresight to protect the Town's open space and historic resources. Although the economy is bad right now, it is important to take the long-term view, and to continue to protect our resources. Also, we do not want to lose hundreds of thousands of dollars in State matching funds that are part of the CPA program.

Mr. Martecchini moved that the Board endorse ATM Article 13. Second by **Ms. Sullivan**.
Vote: 1:2:0 (Ms. Sullivan and Mr. Witten voting against.).

ATM 36—Study for Middle and High Schools

Present were:

Ms. Susan Skeiber, School Superintendent
Mr. Peter Etzel, School Business Manager
Ms. Elizabeth Lewis, School Building Committee Chair
Ms. Karen Wong, School Committee Member

Ms. Skeiber explained that this article requests \$200,000 for a study to determine the best course of action for the future of our middle and high schools. The study will: 1) Evaluate existing physical conditions; 2) Evaluate programmatic needs and their concurring physical needs; 3) Recommend options for renovation and/or replacement; and 4) Consider any potential benefits to swapping school populations between the schools. **Ms. Lewis** said that the \$200,000 cost of the article was determined by interviewing architects who do this type of study.

Mr. Martecchini said that he sees the need for this article. It is very difficult to make decisions on big projects without information. **Ms. Sullivan** disagreed, saying that these studies often become obsolete before they can be acted upon.

Mr. Martecchini moved that the Board support ATM Article 36. Second by **Ms. Sullivan**.
Vote: 2:1:0. (Ms. Sullivan voted against.)

ATM 37—Chandler School Roof

Ms. Skeiber explained that the Chandler School was renovated a few years ago. At that time, the roof was not in need of replacement. However, now it is. We have been approved for 40% reimbursement of the project costs from the Massachusetts School Building Authority.

When discussing the article, **Ms. Kay Foster, Surplus Street**, asked whether solar panels would be put on the new Chandler Roof. Solar panels were awarded to the Town through its participation in the Solar Challenge. **Ms. Skeiber** explained that the Chandler School Courtyard has been determined to be a better spot for these panels, due to accessibility for students and optimum sun exposure.

Ms. Sullivan moved that the Board of Selectmen support ATM Article 37. Second by **Mr. Martecchini**. Vote: 3:0:0.

ATM 5: Operating Budget

Mr. Madden explained that the Town Manager and Finance Director cut \$1.7 million from departmental requests when developing a budget. Then, however, it was learned that the State would be cutting local aid further than expected. The State has abandoned its promise to rectify an inequity in the Chapter 70 School Aid formula. This will cost the Town over \$400,000 in unexpected reductions. It has been very difficult to develop a budget with all these moving targets.

Mr. Martecchini suggested that the Town should consider moving the consideration of financial articles to a later date than the March Town Meeting. Later in the spring, there might be more definitive information available from the State.

Under specifics about the budget, Mr. Witten questioned the decision to eliminate street lights. He feels that this will pose a safety hazard. With regard to the School Budget, both Ms. Skeiber and Ms. Wong stated how painful it has been to make the necessary cuts. They explained that reductions were made from categories determined to be the most removed from students and academic learning. Athletic and co-curricular fee caps have been raised as a partial revenue-enhancing measure.

Mr. Martecchini moved that the Board support the FY10 Town Manager Operating Budget in the amount of \$53,774,422.00. Second by Ms. Sullivan. Vote: 3:0:0.

Mr. Martecchini moved that the Board support the FY10 Town Manager Water Operating Budget in the amount of \$2,681,660.00. Second by Ms. Sullivan. Vote: 3:0:0.

ATM 6 – Capital Budget

Mr. Madden presented the FY10 Capital Budget, including Department Requests and Town Manager Recommendations. Ms. Sullivan moved that the Board support the Town Manager recommended FY10 Capital Budget in the amount of \$728,740.00. Second by Mr. Martecchini. Vote: 3:0:0.

Mr. Martecchini moved that the Board support the FY10 Water Capital Budget in the amount of \$600,000.00.

STM 1 – Departmental Transfers

Ms. Sullivan moved that the Board vote to endorse the following Departmental Transfers:

SOURCE	USE	AMOUNT
Free Cash	Central Fuel Depot	\$ 60,000
Free Cash	Cemetery Personnel	\$ 10,000
Free Cash	Cemetery Expenses	\$ 8,000
Free Cash	DPW Admin.--Personnel	\$ 28,000
Free Cash	DPW Admin. -- Expenses	\$ 15,000
Free Cash	Snow & Ice Removal	\$100,000
Free Cash (\$5K) Fire Personnel Services (\$20K)	Fire Dept. Expenses	\$ 25,000
Free Cash	Veterans' Services Expenses	\$ 12,000
Free Cash	Legal Services	\$ 35,000

Second by Mr. Martecchini. Vote: 3:0:0.

STM 2 – Unpaid Bills

Ms. Sullivan moved that the Board vote to pay the following unpaid bills from Free Cash:

DPW Central Buildings, \$2,992.66
 DPW Building Maintenance, \$56.67
 Council on Aging Expenses, \$1,491.13
 Veterans' Services Expenses, \$77.47

Second by Mr. Martecchini. Vote: 3:0:0.

STM 3 – Collective Bargaining Agreements

By consensus, it was decided to postpone the vote on this article.

ATM 8 – Collective Bargaining Agreements

By consensus, it was decided to postpone the vote on this article.

STM 5 – Gurnet Road Sewer Study

This article had been discussed at a previous meeting. However, the amount was unknown at that time. Ms. Sullivan moved that the Board endorse STM Article 5 in the amount of \$55,000.00. Second by Mr. Martecchini. Vote: 3:0:0.

STM 6 – Transfer to Stabilization Fund

Ms. Sullivan moved to support STM Article 6 in the amount of \$50,000.00. Second by Mr. Martecchini. Vote: 3:0:0.

STM 7 - CPC Borrowing Authorization Reduction

Mr. Madden explained that the 2008 Annual Town Meeting authorized borrowing money for the Crossroads for Kids Community Preservation Act purchase. The CPC would like to propose paying for this out of the CPC Undesignated Fund Balance. Ms. Sullivan moved to support STM Article 6 in the amount of \$486,682.22. Second by Mr. Martecchini. Vote: 3:0:0.

ATM 9 – Rescind Debt

Ms. Conway, Town Treasurer was present to explain this article. She explained the borrowing authorizations that must be rescinded. Ms. Sullivan moved that the following debt be rescinded:

SOURCE	USE	AMOUNT TO BE RESCINDED
2007 ATM	Seawall Construction	\$ 13,000.00

Second by Mr. Martecchini. Vote: 3:0:0.

ATM 10 – Revolving Funds

Mr. Madden explained that we want to keep the same amounts in the COA and Jaycox Tree Farm Revolving Accounts as we have had in the past. However, we would like to reduce the GIS revolving fund to \$6,000.00 since there has been little utilization of this revolving fund to date. Ms. Sullivan voted to endorse the following revolving funds: 1) Council on Aging -- \$70,000.00; Geographic Information Services -- \$6,000.00; and 3) Jaycox Tree Farm -- \$15,000.00. Second by Mr. Martecchini. Vote: 3:0:0.

ATM 27 - Fee for Demand Notice

Ms. Conway explained that Massachusetts General Laws Chapter 60, Section 15 allow Town Meeting to vote a fee of up to \$30.00 for demand notices. Ms. Sullivan moved to support ATM Article 27. Second by Mr. Martecchini. Vote: 3:0:0.

ATM 28 – Municipal Charges Lien

Ms. Conway explained that Massachusetts General Laws Chapter 40, Section 58 allow towns to impose a lien on real property located within the town for any local charge or fee that has not been paid by the due date. Mr. Martecchini moved to support ATM Article 28. Second by Ms. Sullivan. Vote: 3:0:0.

ATM 29 – Crematory & Cemetery Stabilization Fund

Ms. Conway explained how this special purpose fund would work. Certain crematory and cemetery revenues would be dedicated to future capital expenditures. Ms. Sullivan noted that there is an argument to be made that all revenues should go to the General Fund, to make sure they are available for the highest and best use. However, the other side to this argument, she agreed, is that it is difficult to come up with the money for large capital expenditures all at once.

Mr. Martecchini moved that the Board support Annual Town Meeting Article 29. Second by Ms. Sullivan. Vote: 3:0:0.

ATM 50 - Stabilization Fund

By consensus, it was decided to take no action at this time.

TOWN ELECTION BALLOT QUESTIONS

It was voted that the following six ballot questions be placed on the March 28, 2009 Town Election Ballot. The placement of each ballot question on the ballot was moved by Ms. Sullivan, and seconded by Mr. Martecchini. The votes for placing each question on the ballot were unanimous (3:0:0).

**QUESTION 1
DEBT EXCLUSION
PERCY WALKER POOL RENOVATION**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund the construction, furnishings, and associated services for the renovation and improvement of the Percy Walker Pool?

**QUESTION 2
DEBT EXCLUSION
COMBINED POLICE & FIRE STATION**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund the architectural, engineering, and design services to prepare contract bid documents and to construct and furnish a new combined police and fire station complex on Parcel No. 140-501-019, located on Tremont Street?

**QUESTION 3
DEBT EXCLUSION
NEW POLICE STATION**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund the architectural, engineering, and design services to prepare contract bid documents and to construct and furnish a new police station on Parcel No. 150-500-039, located on Mayflower Street?

**QUESTION 4
DEBT EXCLUSION
REHABILITATE FIRE HEADQUARTERS**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund the architectural, engineering, and design services to prepare contract bid documents and to construct and furnish the rehabilitation of the Fire Department Headquarters Building on Tremont Street?

**QUESTION 5
DEBT EXCLUSION
PLANNING STUDY FOR MIDDLE & HIGH SCHOOLS**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund a planning study including architectural, engineering, and design services for the purpose of determining the replacement, renovation, or modernization needs and budgetary costs of the structure and systems of the Duxbury Middle School and Duxbury High School, including but not limited to boilers, mechanical, electrical, HVAC, flooring, walls, windows, roof, plumbing and temperature control systems?

**QUESTION 6
DEBT EXCLUSION
ROOF FOR CHANDLER SCHOOL**

Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so called, the amounts required to pay for the bond issued in order to fund the architectural, engineering, design services, bid documents, and construction work for the purpose of replacing the roof of the original portions of Chandler School?

FINALIZE ATM & STM WARRANTS

ATM:

Ms. Sullivan moved that the warrant for the 2009 Annual Town Meeting be opened to include 51 articles as shown in the Draft Annual Town Meeting warrant dated February 9, 2009. Second by Mr. Martecchini. Vote: 3:0:0.

Ms. Sullivan moved that the warrant for the 2009 Annual Town Meeting be closed. Second by Mr. Martecchini. Vote: 3:0:0.

STM:

Ms. Sullivan moved that the warrant for the March 2009 Special Town Meeting be opened to include 8 articles, as shown in the Draft Special Town Meeting warrant, dated February 9, 2009. Second by Mr. Martecchini. Vote: 3:0:0.

Ms. Sullivan moved that the warrant for the March 2009 Special Town Meeting be closed. Second by Mr. Martecchini. Vote: 3:0:0.

ENVIRONMENTAL NOTIFICATION FORM: ISLAND CREEK EXPANSION

Mr. Martecchini noted that the Zoning Board of Appeals and the Planning Board have sent comments to the Executive Office of Environmental Affairs about the proposed project. Both boards requested that an Environmental Impact Review be conducted. He said that he would rather not see this project go through an EIR, because it could create unnecessary delays. Ms. Sullivan agreed. Mr. Witten thinks that the Town would benefit from an EIR for this project. However, the Board of Selectmen will not send a comment letter in response to the Environmental Notification Form.

ANNOUNCEMENTS

- 1) **Island Creek Oysters:** A segment regarding Island Creek Oysters (harvested in Duxbury Bay, through the Town's aquaculture grant program) will be shown on the CHRONICLE television program (ABC) on Wednesday, February 11th, at 7:30 PM.
- 2) **Emergency Numbers:** There are two emergency numbers available for citizens: 1) Mass 2-1-1 for information on assistance for paying heating and utility bills, and for finding emergency social services assistance ([website is www.mass211help.org](http://www.mass211help.org)); and 2) 1-866-527-7283 for finding simple, low-cost ways to save energy at home, and to learn about rebates from utility companies when you make energy-saving home improvements ([website is www.MassSAVE.com](http://www.MassSAVE.com)).
- 3) **GATRA Bus Service:** This service will be free to students during the February school vacation.

MINUTES

The minutes of February 2, 2009 were approved as written.

ADJOURNMENT

Mr. Martecchini moved to adjourn the meeting at 9:45 PM. Second by Ms. Sullivan. Vote: 3:0:0.