

Date: November 30, 2009

Date Minutes Approved: December 7, 2009

BOARD OF SELECTMEN MINUTES

Present: Elizabeth H. Sullivan, Chair; Christopher Donato, Vice-Chair; and Jon Witten, Clerk.

Absent: No members were absent.

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

The meeting was called to order at 6:35 PM.

VOTE TO ENTER EXECUTIVE SESSION

At 6:35 PM Mr. Witten moved that the Board of Selectmen go into Executive Session to: consider two step-three grievances by members of a collective bargaining unit, and to reconvene in Open Session in accordance with Mass. General Laws chapter 39, section 23b. Second by Mr. Donato. Roll Call Vote: Mr. Witten – Aye; Mr. Donato – Aye; Ms. Sullivan – Aye.

Having completed the business of the Executive Session the Board re-convened in Open Session at approximately 7:20 PM.

OPEN FORUM –No items brought forward for discussion.

FEE HEARING: TRANSFER STATION

Present for this item of business were:

Mr. Peter Buttkus, Director of the DPW,
Ms. Christine Smythe, DPW Office Manager,
Ms. Sue Mangione, Transfer Station Advisory Committee, and
Mr. Frank Mangione, Chair of the Fiscal Advisory Committee

Ms. Sullivan announced that the first item of business is an advertised public hearing to consider new fees and /or fee changes for the Tranfer Station. She introduced Mr. Peter Buttkus, Director of the DPW, to explain.

Mr. Buttkus began by explaining that the current charges for Construction and Demolition or what is commonly referred to as “C&D” are not covering the costs. Currently the C&D charges are as follows:

First (30 gal. or smaller) barrel free; subsequent barrels charged \$5.00	
Small trucks (level-load)	\$25.00 per truckload.
Small trucks (heaping load)	\$45.00 per truckload.
Large trucks (level-load)	\$50.00 per truckload.
Large trucks (heaping load)	\$70.00 per truckload.

Note: C&D is a misnomer as it really refers to anything that does not get recycled or fit in a standard Pay-As-You-Throw bag.

Mr. Buttkus further indicated that the average price charged by most area stations was based on \$.08 per pound.

After discussion with the Fiscal Advisory Committee and the Finance Director, the recommendation being made is to change the way the Transfer Station charges for C&D.

The proposed changes are as follows:

Elimination of the first barrel free, and charging \$7.50 per barrel. Instead of charging a flat rate depending on the truck and size of the load the proposal is to weigh vehicles as they come in and charge \$.10 per pound.

Mr. Frank Mangione gave an overview of the rationale for the decision that came out of their previous discussions. While it is difficult to predict what effect those changes will make on the amount of materials disposed of, it is believed that under recommended changes the revenue generated will more closely cover the expenses.

The Board then asked a number of questions. The most salient point was that the revenues are not covering the expenses when it comes to the C&D materials being disposed of at the Transfer Station. The C&D costs subsidize The Mall as there is staff time to manage it plus the cost of disposing of items that are not taken.

After an extensive discussion of the proposed fee changes, the Board chose to continue the hearing until next week's Selectmen's meeting. While the Board agreed with the changes in principle, they asked the DPW Director, Finance Director, and the Fiscal Advisory Board Chair to present them with a memo which addresses how the recommendation takes into consideration that C & D revenue also subsidizes the Mall costs. The memo should reflect that the revenues are projected to meet the expenditures.

FIRE DEPARTMENT BUDGET / Fire Chief Kevin Nord

Fire Chief Kevin Nord was recognized. Chief Nord presented the Board with a handout, which gave an overview of the Fire Department budget. He then gave a PowerPoint presentation and explained and/or answered questions as each slide was shown. He explained the cuts the Fire Department will be making given the budget constraints and the Fire Department Administration's thought process on arriving at where the reductions would be made in their budget. He expressed his concerns for the areas in which the cuts were starting to have effects: Reduction in training, reduction in public fire safety education, reduction in fire prevention resulting in longer timeframes in code enforcement, plan review and inspections, and a weakening of emergency planning.

Chief Nord gave an overview of the increases in revenue generated through the Dept's Emergency Medical Services (EMS). He also explained some increasing expenses and why those items are increasing. The capital needs of the Fire Department were also addressed. Chief Nord summed up with the continuing vision for the Fire Department.

PROPOSED TOWN MEETING ARTICLE: Recall of Elected Officials / Mr. David Lowry

Ms. Sullivan indicated Mr. Lowry contacted her and due to the time constraint of submitting articles for inclusion on the Town Warrant by December 8th this item was added to tonight's agenda.

Mr. David Lowry, of 125 Standish ST, asked the Board of Selectmen to consider sponsoring an article which would add language to the Town bylaws to incorporate a mechanism for the recall of elected officials. He mentioned an article had been drafted by a law firm which specializes in municipal law in the Commonwealth and the draft has been reviewed by Duxbury Town Counsel and approved as to form. An electronic version was sent to the Town Manager for distribution. Mr. Lowry felt that it would be more appropriate for the article to be sponsored by the Board of Selectmen, which is why he asked to discuss it with them.

Mr. Lowry spoke briefly of some of the pros and cons of such an article.

He cited the following as pros:

- **The ability to recall elected officials would provide for accountability on the part of the elected officials during their term in office and not base accountability on a bid for re-election.**
- **Individuals who are convicted of a felony are currently allowed to continue to serve as elected officials of the town. This would give the registered voters some ability to prevent that from happening.**

He cited the following as cons:

- **Individuals who make decisions on controversial issues might be looking over their shoulders, and be afraid to take an unpopular stand.**
- **Special interest groups, who are not in agreement with elected officials, could potentially use the recall as a form of intimidation.**
- **Elected officials might shy away from taking controversial positions, and quality citizens might not run for elected office.**

Mr. Lowry added, however, that he believes in the collective wisdom of the electorate. The language as drafted requires 5% of the registered voters of Duxbury or what would currently be 547 registered voters to sign a petition to move for a recall vote. Mr. Lowry suggested that it would be up to the Board whether they felt the actual numbers needed to be adjusted. He suggested the Board might consider a larger percentage to reduce the chance of frivolous recalls, but still make them realistic so a recall would be attainable for situations where it seemed to be warranted.

In order to give the Board a chance to review the draft article and perhaps similar language instituted by other communities, the Board deferred a vote until further discussion at their next meeting.

BUSINESS

ONE-DAY LIQUOR LICENSE REQUESTS

The Board took up three requests for one-day liquor licenses for events sponsored by the Duxbury Rural & Historical Society (DR & HS).

Private Wedding 12-31-09

Mr. Donato moved that the Board of Selectmen vote that Mr. Patrick Browne, as a representative of the Duxbury Rural & Historical Society, is granted a One-Day All-Alcohol License to hold a wedding at the Nathaniel Winsor, Jr. House on December 31, 2009 from 6:00 PM to 10:00 PM, subject to the conditions on the license. Second by Mr. Witten. Vote: 3:0:0.

Members Party 12-11-09

Mr. Donato moved that the Board of Selectmen vote that Mr. Patrick Browne, as a representative of the Duxbury Rural & Historical Society, is granted a One-Day Wine & Malt License to hold a members party at the King Caesar House (120 King Caesar Road) on December 12, 2008 from 6:00 to 8:00 PM subject to the conditions on the license. Second by Mr. Witten. Vote: 3:0:0.

Mr. Witten subsequently noticed that the liability insurance had lapsed and asked that the Board's motion be amended to include that a copy of their updated liability insurance be provided prior to the event. Second by Mr. Donato. Vote: 3:0:0.

Private Wedding 12-26-09

Mr. Donato moved that the Board of Selectmen vote that Mr. Patrick Browne, as a representative of the Duxbury Rural & Historical Society, is granted a One-Day All-Alcohol License to hold a wedding at the Nathaniel Winsor, Jr. House on December 26, 2009 from 6:00 PM to 10:00 PM, subject to the conditions on the license. Second by Mr. Witten. Vote: 3:0:0.

TOWN MANAGER'S BRIEF

Mr. MacDonald indicated that tonight he would be naming the Police Chief Search Committee, which will work with him and with BadgeQuest to find the best candidate possible to fill the Police Chief's position. Before naming the Committee Mr. MacDonald expressed that this was a difficult task as 23 extremely-qualified individuals had come forward to volunteer to serve on the Committee. He appreciated all of them taking the time to come in and talk with him about the process.

Mr. MacDonald named the following individuals as members of the Police Chief Search Committee:

**Reverend Catherine Cullen
Ms. Sue Skeiber, Superintendent of Schools
Mr. Sandy Salmela, Personnel Board Rep.
Mr. Chris Barlow
Mr. James Borghesani
Ms. Paula Harris
Ms. Sunny Steadman
Mr. Jerry Steinke
Mr. Phillip Tortorella**

Mr. MacDonald indicated he will be speaking with Chief Stephen Unsworth (Ret.) of BadgeQuest tomorrow, and then will be setting up a meeting with the committee.

Ms. Sullivan inquired about the status of the Police Chief search. Mr. MacDonald let the Board know that the position has been advertised and to date 29 resumes have been submitted. The deadline for resumes is December 15th, and as the process progresses he will have Chief Unsworth of BadgeQuest in to update the Board and the community.

ANNOUNCEMENTS

Mr. Witten stated that given that the Annual Election is just a few months away and papers are due before then, he is announcing that he will not be a candidate for re-election.

Ms. Sullivan mentioned that this past weekend was another successful Holly Days event.

Ms. Sullivan also mentioned that this weekend Christmas trees would be sold at the town-owned Jaycox Farm.

MINUTES

Mr. Witten moved that the Board approve the Minutes of November 23, 2009 as presented. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board approve the Executive Session Minutes of November 23, 2009 to be kept under seal until the matter is resolved. Second by Mr. Donato. Vote: 3:0:0.

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS - None

BONUS SHELLFISH SEASON

For the month of December there are 2 bonus seasons to be declared regarding the taking of shellfish.

Mr. Witten moved that the Board of Selectmen declare a recreational bonus shellfish season for oysters on December 2nd, 9th, 16th, 23rd, and 30th 2009 (on Wednesdays only) with a bag limit as prescribed in the Shellfish Rules and Regulations at six (6) quarts per week per family permit. All the Shellfish Rules and Regulations, law, terms and conditions shall apply. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board of Selectmen declare temporary bonus shellfish season for:

- 1) the commercial harvesting of softshell clams for the month of December. Regulations as posted. (Please see Attachment B & C)
- 2) the commercial harvesting of quahog clams for the month of December. Regulations as posted. (Please see Attachment A & C)
- 3) for the recreational harvesting of Soft Shelled Clams for the month of December. Regulations as posted. (Please see Attachment D)

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

ADJOURNMENT

At approximately 8:30 PM Mr. Witten moved that the Selectmen's meeting be adjourned. Second by Mr. Donato. Vote: 3:0:0.