

Date: April 6, 2009

Date Minutes Approved: April 13, 2009

BOARD OF SELECTMEN MINUTES

Present: Elizabeth 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 Barbara Ripley, Executive Assistant.

The meeting was called to order at 7:00 PM.

OPEN FORUM

No items were discussed.

FARMERS' MARKET (DUX FARM)

Ms. Laura Doherty, 90 Stoney Brook Circle, one of the organizers of the proposed farmers' market was present. She announced that the Duxbury Farmers and Artisans' Regional Market (DUX FARM) has been registered as a non-profit organization with the Commonwealth of Massachusetts. She asked for permission for supporters of the market to speak to the Board. First, she introduced Mr. Paul Taberner, 245 Church Street, who volunteered his legal services for obtaining non-profit status. Mr. Taberner said that it would be a credit to the Board of Selectmen to approve the activity. Margaret Pelletier, 39 Delorenzo Drive, said that she favors the market in order to have access to healthy foods. Ms. Gina Thayer, 424 Tremont Street, said that she believes that farmers' markets bring the community together. Ms. Laura Taberner, 245 Church Street, commented that Duxbury previously had a farmers' market and that it would be a good idea to bring it back. Mr. Aiden Taberner, also of 245 Church Street, said that he looked forward to the availability of good food and activities. Mr. Douglas Hart, 251 Standish Street, said that a farmers' market promotes open space. Land that is used for farming is not used for development, he said. Also, the food stays local, so fuel is not used to transport the items. Ms. Ashley Stehn, 347 Summer Street, said that a farmers' market would highlight Duxbury's agricultural roots. In addition, she noted that the Tarkiln site formerly hosted farmers' markets. Now that Town Meeting has voted to renovate the Tarkiln Building, it seems fitting to bring a farmers' market back. Ms. Linda Collari, 7 Summer Street, also one of the organizers of the farmers' market, said that the group has obtained insurance through the Massachusetts Farmers' Markets, and could name the Town on the policy. She also noted that the Massachusetts Farmers' Markets have never had any claims arising from a farmers' market.

Mr. MacDonald said that Town staff had been asked to investigate legal and insurance issues with the market. He asked Ms. Ripley to give a report. Ms. Ripley said that the Town has insurance for any events that occur on Town property. However, the insurance only covers the Town, not the vendors or customers. Also, any paid claims have the effect of raising insurance premiums for the Town. Therefore, it is in the Town's interest to transfer risk, through contractual "hold harmless" agreements and/or through being named as additional insured on the farmers' market insurance policy. However, Ms. Ripley also noted that Town Counsel commented that the Town's exposure on a farmers' market is very low. One of the most important things that the Town can do is to make sure that the traffic and

parking plan for the market meets the approval of the police and fire departments. It is possible, she noted, that the police chief may recommend a police detail.

Mr. Tag Carpenter, Chairman of the Tarkiln Study Committee, commented that his committee is unanimously in favor of the farmers' market. However, the one caveat he mentioned is that the farmers' market cannot be held when the septic system is being replaced.

Mr. Witten moved that the Board of Selectmen grant permission for the Duxbury Farmers' and Artisans' Regional Market to use the Tarkiln parking area on Wednesdays from July 1, 2009 through October 14, 2009, from 12:30 PM to 4:30 PM, subject to site plan and parking approval through the Town Manager's office, and with the condition that the Town Manager can suspend operation if Tarkiln construction activity becomes problematic. Second by Mr. Donato. Vote: 3:0:0.

TARKILN STUDY COMMITTEE

Mr. Tag Carpenter, Chairman of the Tarkiln Study Committee, said that the charge of the Committee was to identify preservation options for the building. This has been accomplished, and Town Meeting has voted to support a partial renovation of the building. There are five members of the committee who would like to continue working on the project, even though the original charge has been completed. Ms. Sullivan asked Mr. Carpenter to submit names of interested committee members to the Town Manager this week. At the next Selectmen's meeting, the charge for the committee can be re-done.

HEALTH INSURANCE RATES

Ms. Jeannie Horne, Personnel Administrator, was present to discuss the recommended insurance rates for FY10. There will be no change in health insurance rates, due to a very positive claims experience over the past couple of years. Life insurance rates will also remain the same. There will be an increase in dental rates. However, this will be accompanied by an opportunity for participants to seek doctors in the Dental PPO network, resulting in savings.

Ms. Sullivan commented that many Town employees made the switch to more cost-effective health care plans, which has been a benefit to themselves as well as to the Town. For example, she noted that the total monthly cost for a family Master Health Plus plan is \$2,396.36, while the total monthly cost for a family Blue Cross/Blue Shield HMO plan is \$1,497.38. (The Town pays 75% of the premium for active employees, while the employee pays 25% of the premium.)

Mr. Witten moved that the Board approve the Health, Life, and Dental Insurance Rates as proposed in the memorandum from Jeannie Horne dated April 2, 2009. Second by Mr. Donato. Vote: 3:0:0.

AQUACULTURE PUBLIC HEARINGS (FOUR)

(Note: These hearings were advertised in the Duxbury Clipper on March 25, 2009.)

Present were:

Mr. Al Hoban, Chairman of the Shellfish Advisory Committee (SAC)

Mr. Donald Beers, Harbormaster and Shellfish Constable

Mr. Mark Boutillier, Mr. William Bennett, Mr. Greg Morris, and Mr. John Brawley; applicants

Mr. Hoban explained that, on January 12, 2009, the Selectmen approved recommendations by the Duxbury Bay Management Commission that existing aquaculture grants be allowed to expand to up to three acres, via application. Furthermore, he explained that Section 7.4.1 of the Duxbury Aquaculture Rules and Regulations requires each applicant to present a detailed plan to the SAC. This was accomplished at a public meeting held on April 2, 2009. The SAC voted to recommend that the Selectmen approve all four applications as to location and concept, pending all Federal, State, and local reviews and approvals. Some of the applicants will have to give up existing acreage in order to accept the new acreage, so that their totals will not exceed three acres. The new acreage has been selected to allow for growing on the bay "floor", rather than using racks. This is more favorable to oyster development.

Next, each applicant gave a brief description of their application.

Mr. Donato asked whether the approvals are time-sensitive, because he wanted to see whether a request by the Duxbury Bay Management Commission (DBMC) could be accommodated. The chairman of the DBMC had suggested that his committee be able to comment on the applications. The applicants and Mr. Hoban responded that the applications are time-sensitive. After the Town's approval, there must also be approval from several State and Federal agencies. All of this must be obtained by the Fall in order to plant the oyster seed at the optimal time. After discussion, it was decided that future applications would be forwarded to the DBMC so that the DBMC could attend the public hearing if they wanted to make comments.

Motions:

- 1) Mr. Witten moved that the Board of Selectmen approve the aquaculture application of Mr. Mark Bouthillier as to the proposed location and concept, as approved by the Shellfish Advisory Committee, pending all Federal, State, and Local reviews and approvals. There will be no structures. Second by Mr. Donato. Vote: 3:0:0.

(Note: Mr. Bouthillier will provide a letter including coordinates of previously-approved acreage to be given up so as to comply with Shellfish Aquaculture Rules and Regulations stating that licenses not exceeding (3) acres in size may be issued.)

- 2) Mr. Witten moved that the Board of Selectmen approve the aquaculture application of Mr. William Bennett as to the proposed location and concept, as approved by the Shellfish Advisory Committee, pending all Federal, State, and Local reviews and approvals. There will be no structures. Second by Mr. Donato. Vote: 3:0:0.

(Note: Mr. Bennett will provide a letter including coordinates of previously-approved acreage to be given up so as to comply with Shellfish Aquaculture Rules and Regulations stating that licenses not exceeding (3) acres in size may be issued.)

- 3) Mr. Witten moved that the Board of Selectmen approve the aquaculture application of Mr. Gregory Morris as to the proposed location and concept, as approved by the Shellfish Advisory Committee, pending all Federal, State, and Local reviews and approvals. There will be no structures. Second by Mr. Donato. Vote: 3:0:0.

- 4) Mr. Witten moved that the Board of Selectmen approve the aquaculture application of Mr. John Brawley as to the proposed location and concept, as approved by the Shellfish Advisory Committee, pending all Federal, State, and Local reviews and approvals. There will be no structures. Second by Mr. Donato. Vote: 3:0:0.

**PUBLIC HEARING: LIQUOR LICENSE APPLICATION FOR JOHNSON GOLF MANAGEMENT/
NORTH HILL COUNTRY CLUB**

Present were:

Douglas Johnson, applicant

Stephen Follansbee, attorney for the applicant

Jason Laramee, co-manager for North Hill Country Club

Robert Troy, Duxbury Town Counsel

Mr. Follansbee explained that Johnson Golf Management, Inc. had a liquor license for North Hill Country Club (a town-owned property) for the past thirteen years. However, when it was time for the 2009 renewal, it was unclear who would have control of the facility, and whether it would be open. Therefore, the Town did not renew the license. However, it is now clear that Johnson Golf Management will have control of the facility for the 2009 season. Therefore, Johnson Golf Management has made application for a new liquor license.

Mr. Witten questioned why the public good was not mentioned as a reason for granting the license. Mr. Follansbee and Mr. Laramee explained that golfers would enjoy having alcohol available to them. Mr. Follansbee also asserted that there had not been problems in the thirteen years that Johnson Golf Management had a liquor license at North Hill Country Club.

Mr. Troy commented that the Request for Proposals (to manage the golf course) includes a provision that a liquor license MAY be issued by the Town. The Town is not required to issue a license to the manager.

Ms. Ripley mentioned that there is an issue with server training. The Board of Selectmen Manual lists a requirement that the licensee and bartenders be trained in safe serving techniques. However, Mr. Johnson has not been trained. Mr. Follansbee asserted that Mr. Johnson will be trained by the time the license is issued. Ms. Ripley agreed that this would satisfy the condition.

Mr. MacDonald commented that the management agreement requires a Payment in Lieu of Taxes (PILOT) by the manager. Johnson Golf Management, Inc. is not up-to-date with these payments. Mr. Troy said that the Town should not issue a license if Johnson Golf Management is not up-to-date with the payments. Mr. Follansbee presented a check for \$4,000.00, which he said would make the payments current. Mr. Troy said that the Finance Director and Town Manager should verify that payments are indeed current, even with this check.

Ms. Sullivan said that she has a great deal of difficulty issuing a license to a party that has sued the Town. (The Town had awarded the management contract to another company. Johnson Golf sued the Town, and was granted an injunction by Superior Court, allowing them to manage the course temporarily.) Mr. Witten concurred with Ms. Sullivan's comment. After discussion, however, both agreed that they would vote in favor of granting the license, with reluctance.

Mr. Witten moved that the Board of Selectmen, acting as the Licensing Authority, vote to grant an All-Alcoholic Common Victualler License to Johnson Golf Management, Inc., DBA North Hill Country Club, Douglas Johnson, Manager, for premises located off Merry Avenue, and such license subject to:

- Having legal control of the property (License reverts back to the Town if this condition is no longer met)
- Payment of all outstanding tax payments or Payments in Lieu of Taxes (PILOT)
- Satisfactory completion of a CORI check
- Signed Workers' Compensation affidavit
- Provision of Proof of Workers' Compensation Insurance

- Proof of General Liability and Liquor Liability Coverage
- Payment of Annual Fee (currently \$2,000.00 for Common Victualler All-Alcohol License)
- Adherence to Board of Health and Building Department Regulations
- Server Training Certificate for the Manager of Record and Bartenders
- Receipt of a DBA Certificate from the Town Clerk
- Hours of Operation: Monday through Saturday: 8:00 AM to 11:00 PM and Sundays and Holidays: Noon to 11:00 PM

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

Ms. Ripley said that a Common Victualler's License will also be needed in order to run the restaurant. Mr. Witten moved that the Board of Selectmen grant a Common Victualler's License to Johnson Golf Management, Inc, dba North Hill Country Club, Douglas Johnson, Manager, for premises located off Merry Avenue, contingent upon the following:

- Having legal control of the property (License reverts back to the Town if this condition is no longer met)
- Payment of all outstanding tax payments or Payments in Lieu of Taxes (PILOT)
- Provision of Workers' Compensation Affidavit
- Proof of Workers' Compensation Coverage
- Adherence to all Board of Health and Inspectional Service Department Regulations
- Payment of License Fee (\$25.00)
- R.E.A.P Certification (Payment of State Taxes)

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

TOWN MANAGER'S BRIEF

- 1) Website Award: The Town of Duxbury is one of 118 Massachusetts communities that has been honored by Common Cause for having a website that is useful to the public. This year, we are one of 48 communities singled out for special distinction because of the number and type of public records the Town makes available to the public. (www.duxbury.ma.us)
- 2) Construction: There was an increase in building activity for March. Construction costs exceeded one million dollars.
- 3) Police Department Grant: The Police Department obtained a \$26K grant for improving Town of Duxbury dispatch services.
- 4) Cable Negotiations: Applications by COMCAST and VERIZON to provide cable services in Duxbury are in progress.
- 5) Budget: Mr. MacDonald is concerned about the impact of reduced capital gains tax revenues, and their impact on local budgets. Ms. Sullivan agreed that this is a concern. She commented that the Town will have to exercise extraordinary measures with upcoming budgets. A department by department review will soon begin, to see if there are ways that even greater efficiency can be realized.

MINUTES

Mr. Witten moved that the Board approve the minutes of March 30, 2009 as written. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board approve the Executive Session (A) minutes of March 30, 2009 as written, with the contents to remain sealed permanently because the matters

discussed pertained to the King Caesar Fund for the financially-needy residents of Duxbury, and are of a confidential nature. Second by Mr. Donato. Vote: 3:0:0.

BOARDS AND COMMITTEES

Resignations: Ms. Sullivan announced that Mr. Joe Maher has resigned from the **Board of Appeals** for health reasons. Mr. Jay Curran has resigned from the **Open Space Committee**. Persons interested in filling these positions should fill out a Talent Bank Form, which can be downloaded from the Town's website (www.town.duxbury.ma.us) or picked up at the Selectmen's office.

South Shore Coalition: Ms. Sullivan noted that Mr. Martecchini would be happy to continue serving as the Town's representative to the South Shore Coalition, unless Mr. Donato would like to. Mr. Donato said that he is in agreement with Mr. Martecchini serving in that position.

PUBLIC SAFETY BUILDINGS

Mr. Witten noted that the Town did not approve the debt exclusion ballot questions for public safety buildings at the Town election on March 28. He suggested that the Selectmen discuss strategy for dealing with this issue at a future meeting.

LAND USE FORUM

Ms. Sullivan asked staff to solicit land use boards for agenda items for the upcoming land use summit, which will be held in May.

ADJOURNMENT

Mr. Witten moved to adjourn the meeting at 8:56 PM. Second by Mr. Donato. Vote: 3:0:0.