

Date: September 28, 2009

Date Minutes Approved: October 14, 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 6:30 PM.

ENTER EXECUTIVE SESSION

Ms. Sullivan moved that the Board enter Executive Session in order to discuss collective bargaining, contract negotiations, and litigation, since an open meeting might have a detrimental effect on the Town's collective bargaining and/or litigating position, and to reconvene in Open Session afterward. Second by Mr. Donato. Roll Call Vote: Witten---aye; Donato---aye; Sullivan---aye.

END EXECUTIVE SESSION

At 7:42 PM, Ms. Sullivan moved that the Board exit Executive Session, and re-convene in Open Session. Second by Mr. Donato. Roll Call Vote: Witten---aye; Donato---aye; Sullivan--aye.

OPEN FORUM

Mr. John Canty, resident of Blodgett Avenue, spoke on behalf of a group that favors renewing the Police Chief's employment contract, once it expires in November. He said that his group had collected 500 signatures on a petition in favor of the contract renewal. (Mr. Canty said that he would give the petition to the Selectmen once he had a chance to make a photocopy.) He said that the Chief has given ten good years to the Town, and has a string of accomplishments. He asked the Town Manager directly to state his reasons for not renewing the contract.

Mr. MacDonald stated that it is not the policy of the Town of Duxbury to discuss employee contracts in public. He said that he would not get into the details of his decision not to renew the contract.

Mr. Canty responded that he feels that we should get more from the Town Manager. He spoke in favor of interjecting more transparency into Town government.

Mr. Steve Peterson, resident of Bolas Road, spoke in favor of the Chief. He said that the process has defamed the character of the Chief. He would like to see the Town Manager removed, which he said could be accomplished by a majority vote of the Selectmen.

Ms. Mary Marshall, resident of Ledgewood Drive, repeated a question she had asked Mr. MacDonald at a previous meeting. She requested that the Town Manager explain the “new direction” he would like to take with the Police Department.

Mr. MacDonald repeated that he did not want to discuss these issues in a public forum.

Chief DeLuca stated that he gives his permission for his job performance to be discussed in public.

Ms. Sullivan stated that, although Chief DeLuca has given his permission for a public discussion of his job performance, that other employees have not.

Mr. Donato stated that he has reviewed Chief DeLuca’s personnel file. He said that there is nothing in it that would warrant a non-renewal of his contract. He noted that there has been no performance evaluation in three years. Mr. Donato said that the Board of Selectmen should direct the Town Manager to answer the question as to why the contract is not being renewed.

Mr. Witten also stated that he would like Mr. MacDonald to put the reasons for the non-renewal on the table.

Mr. MacDonald stated that he could not discuss specifics of his decision due, in part, to the possibility of litigation.

Mr. Donato responded that the Town faces litigation because of the Town Manager’s failure to perform evaluations.

Ms. Patricia Mastrangelo, a resident of Harrison Street and an employee of the Police Department, said that she loves working for Chief DeLuca. She said that while the Chief may not always agree with her, that he is a very good listener and extremely fair.

Mr. Jack Shea, a resident of Bay Road, asked whether the Selectmen have encouraged the Town Manager to negotiate a contract with the Police Chief. Mr. Donato responded that the Selectmen’s vote in June 2009 (a vote not to ratify the non-renewal) should have been recognized as a direction to the Town Manager.

Mr. Jerry Steinke, a resident of Bay Road, asked whether it is the policy of the Town of Duxbury to have annual reviews. Mr. MacDonald stated that, due to collective bargaining negotiations, he was advised by Labor Counsel not to do annual reviews during that process.

Mr. Mark DeLuca, son of Chief DeLuca, said that the comments of the Town Manager were “short, sweet, cold, and rude”, and that he is behind his father.

Mr. Bobby Farrelly, resident of Simmons Drive, described this as a lose/lose situation. He said that going in a new direction, when things are going well is a loss. Also, if Chief DeLuca is run out of Town, the Town Manager will be run out behind him. We lose two good men, he said. He alluded to President Obama’s recent “sit down session” over beer with Cambridge Police Sergeant James Crowley and Harvard Professor Henry Louis Gates. Mr. Farrelly offered to buy the beer, so the two men could sit down and talk about their differences.

Ms. Debra Jewell, resident of King Caesar Road, said that she supports the Chief. She also supports the Town Manager Act, but feels that there should be checks and balances. She said that, if this matter goes to litigation, that the tax payers would end up paying for this “personality issue”.

Mr. Richard Brown, 60 Glass Terrace, spoke in favor of the Police Chief.

Mr. Witten said that he still feels that the contract should be re-negotiated. He feels that the window is still open for these negotiations.

Ms. Sullivan said that the Town's Bylaws create a process for managing the Town. The bylaws were voted with careful consideration. She said that they should be followed, even when it seems inconvenient. The Bylaws include a Town Manager Act, which allows the Town Manager to choose his team.

Mr. Bob Kellar, a resident of Pine Lake Road, said that it might be time to change the Town Manager Act.

Mr. John Britten, a resident of Upland Road, said that he has been a fan of the Police Chief for the past ten years. However, he is also a fan of the Town Manager form of government. He disagreed with a previous speaker that there had been a defamation of character. Indeed, the Town Manager had taken great pains NOT to speak against the Chief. Mr. Britten commented that there are ten-thousand registered voters in Town. Only 500 have signed the petition. So, at this point, we have to assume that this is a minority view.

Mr. Stewart Delano, a resident of Surplus Street, said that the Town Manager has to act in the best interest of the Town, and that he has not done so in this case.

Mr. David Sullivan, a resident of Meeting House Road, asked about the nature of Ms. Betsy Sullivan's relationship is with the Town Manager. Ms. Sullivan responded that she is the Chairman of the Board of Selectmen, and Mr. MacDonald is the Town Manager.

Mr. Tom Garafolo, resident of Kingstown Way, said that he is on the opposite side of the issue from most people in the room. He said that he was asked to sign the petition at the Transfer Station. He said that he declined. He reported that the person with the petition took down his license plate number. He noted that his wife formerly worked for the Police Chief, and ended up having a lawsuit against the Town. He said that once, his wife refused to sign a petition that was being circulated at the Police Station. He said that his wife reported that the Chief yelled at her and spat on the floor. Mr. Garafolo was holding a folder which he said had evidence that police reports had been changed improperly. At that point, Chief DeLuca moved quickly toward the speaker, and said that Mr. Garafolo could not have police reports. He stopped when Mr. Garafolo said that he did not have the actual reports, just information from his attorney.

Mr. Steven Mastrangelo, resident of Harrison Street, spoke in favor of Chief DeLuca.

Mr. Roy Martinsen, resident of Blodgett Avenue, said that he wrote down Mr. Garafolo's license plate number because Mr. Garafolo made a lot of negative statements about the Chief, and said that he had information on the Chief.

Mr. Robert Hayden, resident of Hingham and retired police superintendent of the MBTA, said that he worked with Chief DeLuca in New York City in the aftermath of September 11, 2001, and that he has the utmost respect for his ability and integrity.

Mr. Joseph Millis, resident of Chandler Street, said that he is eternally grateful to the Chief for his actions when his children were victims of a violent crime.

Mr. Mike Doyle, resident of Coles Orchard Road, said that he is a FBI Special Agent and is a strong supporter of the Police Chief. He offered to mediate a discussion between Mr. DeLuca and Mr. MacDonald.

Mr. William Keith, a resident of Myles View Drive, spoke in favor of the Police Chief, and asked about the procedure for removing the Town Manager.

Mr. Witten said that he had no intention of doing anything reckless, which he would be doing if he voted to remove the Town Manager without grounds.

Lieutenant Susan James, member of the Duxbury Police Department, stated that she has great respect for Chief DeLuca.

Chief Rick Billings, Police Chief from Hull, said that he has been very grateful to Chief DeLuca for the provision of local aid to his Town.

Mr. Steve Peterson, resident of Bolas Road, said to Mr. Witten that he does not need "grounds" to fire the Town Manager. He said that the Town Manager Act only requires a majority vote, Period.

Mr. Steve Ricciardi, resident of Brick Hill Lane, suggested that there is still an opportunity to settle the matter, with a new contract for the Chief.

Mr. Jack Canty ended the public comment by saying that the group would be back week after week until the matter was resolved favorably. Ms. Sullivan said that the Selectmen may not be able to devote extensive time to this matter at upcoming meetings, given the other matters before them.

EVENT PERMITS

BAY FARM MONTESSORI SCHOOL: FUNDRAISING ROAD RACE ON NOVEMBER 8, 2009

Mr. Witten moved that the Board vote to grant Ms. Sandy Kozlowsky, as a representative of the Bay Farm Montessori Academy, permission to hold a 5K Walk/Run/Fun Road Race on November 8, 2009, from 8:30 AM to Noon, beginning and ending at the Bay Farm Montessori School, contingent upon the conditions listed on the permit. Second by Mr. Donato. Vote: 3:0:0.

LINDA QUINLAN & TRACI NAJARIAN FOR REACH-OUT WALKATHON: OCTOBER 22, 2009

Mr. Witten moved that the Board grant permission for Ms. Linda Quinlan and Ms. Traci Najarian, as representatives of the Alden School Reach-Out Program, to hold a Walk-a-Thon on Thursday, October 22, 2009 (raindate: October 29, 2009) to benefit the Plymouth Area Coalition of the Homeless, contingent on the conditions listed on the permit. Second by Mr. Donato. Vote: 3:0:0.

JOHN HAMILTON FOR DUXBURY COUNCIL-ON-AGING: RECEPTION ON OCTOBER 22, 2009

Mr. Witten moved that the Board grant a One-Day Wine & Malt License to Mr. John Hamilton, as a representative of the Duxbury Council-on-Aging, to hold a reception on October 22, 2009 from 5:30 PM to 7:30 PM, subject to the conditions listed on the permit. Second by Mr. Donato. Vote: 3:0:0.

MINUTES

Mr. Witten moved that the Board approve the Executive Session minutes of August 31, 2009 as written, with the contents to remain sealed until the need for confidentiality has passed. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board approve the Open Session minutes of August 31, 2009, September 14, 2009, and September 21, 2009 as written. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board approve the Executive Session minutes of September 21, 2009 as written, with the contents to remain sealed until the need for confidentiality has passed. Second by Mr. Donato. Vote: 3:0:0.

APPOINTMENTS

Ms. Sullivan moved that the Board appoint Mr. David Grossman to the Duxbury Bay Management Commission, for a term to expire on June 30, 2012. Second by Mr. Donato. Vote: 3:0:0.

Ms. Sullivan moved that the Board re-appoint Mr. Thomas H. Tucker as a Business Representative to the Economic Advisory Committee for a term to expire on June 30, 2012. Second by Mr. Donato. Vote: 3:0:0.

Ms. Sullivan moved that the Board appoint Mr. Clark Hinkley as an At-Large representative to the Economic Advisory Committee to fill an unexpired term ending on June 30, 2011. Second by Mr. Donato. Vote: 3:0:0.

Ms. Sullivan moved that the Board make the following appointments to the Sidewalk & Bikepath Committee:

- Mr. Tod Dillon, term to expire June 30, 2012
- Mr. Bill Slimbaugh, term to expire June 30, 2012
- Mr. Adam Godwin, term to expire on June 30, 2011

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

Ms. Sullivan announced that the Moderator, Mr. Allen Bornheimer, has appointed Mr. Mark Keating to the Fiscal Advisory Committee, to fill an unexpired term ending June 30, 2010. This appointment fills the seat left vacant upon the death of Mr. Paul Arsenian.

BONUS SHELLFISH SEASON

Mr. Donato moved that the Board of Selectmen declare a temporary Bonus shellfish Season for:

- 1) the commercial harvesting of softshell clams for the month of October, in accordance with Attachment B & C of the posted regulations; and
- 2) the commercial harvesting of quahog clams for the month of October, in accordance with Attachment A & C of the posted regulations.

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

TOWN MANAGER BRIEF

Mr. MacDonald announced that the State has made further "9C" cuts, which will have a detrimental effect on our budget.

SCHOOL START TIMES

Ms. Tracy Copp requested that the Board of Selectmen put the School Start Times issue on an upcoming agenda. She feels that the School Committee has violated Open Meeting Law and their own rules and regulations with regard to this issue. She said that the Selectmen have jurisdiction over all Town departments, and should be able to have influence over the

situation. Mr. Witten said that a Selectmen's meeting might be an appropriate forum for airing these issues. However, he cautioned that the Board of Selectmen has no jurisdiction over the School Committee.

GRANGE PROPERTY

Ms. Sullivan reported that abutters to the Duxbury Grange property, recently purchased by the Town for affordable housing purposes, have complained about the physical state of the property. Ms. Sullivan requested that this item be put on a future agenda.

ENTER EXECUTIVE SESSION

At 9:40 PM, Mr. Witten moved that the Board enter Executive Session in order to discuss contract negotiations since an open meeting might have a detrimental effect on the Town's negotiating position, and to reconvene in Open Session afterward for the purposes of adjournment only. Second by Mr. Donato. Roll Call Vote: Witten---aye; Donato---aye; Sullivan---aye.

END EXECUTIVE SESSION

At 10:17 PM, Ms. Sullivan moved that the Board exit Executive Session, and re-convene in Open Session, for the purposes of adjournment only. Second by Mr. Donato. Roll Call Vote: Witten---aye; Donato---aye; Sullivan---aye.

ADJOURNMENT

At 10:18 PM, Mr. Witten moved for adjournment of the meeting. Second by Mr. Donato. Vote: 3:0:0.