

Date: January 4, 2010

Date Minutes Approved: January 11, 2010

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 and C. Anne Murray, Department Adm. Asst.

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

OPEN FORUM

A group of the School Cafeteria Workers asked to be recognized. Ms. Karen Monterio initiated the discussion on behalf of the group and then the other three ladies added some comments.

Ms. Monterio said they came tonight because they (the Cafeteria Workers) were unfairly singled out. She indicated that they felt that they were unjustly treated and that it seemed unfair that their hours were reduced slightly so they would lose their benefits. The following points were mentioned by the group:

- They indicated that they were hired as full-time employees, i.e., eligible for benefits.
- They are all long-term employees (7 yrs. to 28 yrs.).
- Their hours were cut by ½ hour daily so they now work under the 20 hours required to be eligible for benefits.
- They felt it was unjust to reduce benefits from “the top” versus from new hires.

Mr. MacDonald indicated that he has had discussions with the school officials regarding this matter, and it was his understanding it is under review.

Ms. Sullivan responded to the group’s concern by explaining that the School Committee has authority for the School budget; not the Selectmen. Therefore, any change in the situation would be under the authority of the School Committee. Ms. Sullivan also said that they (Cafeteria Workers) were not singled out, as there were others (Library employees) who also were in a similar situation, and mentioned that in fact they were “the exception; not the rule.”

Mr. Jim Sullivan of Tremont ST also was recognized to speak about this issue. Mr. Sullivan had mentioned this issue at a previous Selectmen’s meeting in December. He opined that:

- If action is being taken, then he has not seen it and no proposals have been communicated to the Cafeteria Workers.
- It is not right that these benefits were removed as a cost-saving measure.
- Making the school lunch program a revolving fund so that the program, including salaries and benefits, has to pay for itself, seemed wrong as other areas are not funded by the same mechanism.
- A grievance was filed and the response made by the school department was that the employees are eligible for COBRA benefits. He did not feel this was an adequate response given the costs involved.

Mr. Shawn Dahlen of Long Point Lane asked for some clarification. He questioned whether it would be under the authority of the School Committee or should be considered a Town

employee health insurance issue and part of the Town budget. He asked who (which budget) was benefiting from the cost savings?

Speaking from her past experience on the School Committee, Ms. Sullivan explained that about ten years ago, after much discussion, it was decided to make the school lunch program a revolving account feeling that it should be a self-supporting program. The salaries and benefits of the Cafeteria Workers are expenses of the school lunch program and therefore the deficit has been in the School budget and is under the School Committee's authority.

Mr. Witten opined that, based on his understanding of the issue, taking action to change the decision is not under the Board of Selectmen's authority. It is under the School Committee's authority.

Mr. Sullivan disagrees, and felt that even if that were the case the Board of Selectmen should express their opinion to the School Committee.

Having entertained this discussion as an Open Forum item, the Chair then call for the Board to turn its attention to the scheduled Agenda items.

SEASONAL POPULATION ESTIMATE (For Seasonal Liquor Licenses) – Moved to after discussion of Nuclear Articles.

DISCUSSION OF TOWN MEETING ARTICLES

[Note: The Roman Numerals are used to temporarily number the articles until the final ordering of the articles is done.]

- **Pilgrim Station Monitoring Program (ATM Article XXVIII)**

Ms. Pixie Lampert, Chair of the Duxbury Nuclear Advisory Committee (DNAC), and Fire Chief Kevin Nord were present to present the nuclear articles to the Selectmen.

Ms. Lampert explained that they are not requesting any funding regarding the nuclear articles. The purpose of this article is to show the Nuclear Regulatory Commission (NRC), appropriate state authorities and the licensee the wishes of the Town of Duxbury to improve the management of the buried components in the hopes of decreasing the risk of radionuclides from migrating offsite and into the Bay unmonitored. She gave several reasons that the DNAC felt that the Selectmen should support the article. Chief Nord indicated that Duxbury Emergency Management Agency supports this article as well.

Mr. Witten moved that the Board of Selectmen vote to support (draft) article # XXVII. Second by Mr. Donato. VOTE: 3:0:0.

- **Financial Compensation from Entergy (ATM Article XXIX)**

Ms. Lampert indicated that the operation of the Pilgrim Nuclear Power Station and the storage of radioactive waste on site have an economic impact on the Town. The DNAC has been tracking compensation to the towns within the Emergency Planning Zone and have noticed the disparities in the amounts awarded. She cited some examples comparing dollar amounts received by Marshfield and Duxbury. Ms. Lampert indicated it is hoped that passage of this article would hopefully encourage a more equitable distribution of funds based on the size of the community geographically and /or its population.

Mr. Witten moved that the Board of Selectmen vote to support (draft) article # XXIX. Second by Mr. Donato. VOTE: 3:0:0.

SEASONAL POPULATION ESTIMATE (For Seasonal Liquor Licenses)

Ms. Barbara Ripley, Exec. Assistant to the Town Manager, was present and explained that the Alcohol Beverage Control Commission (ABCC) technically requires that an estimate of the temporary increased (seasonal) resident population be made prior to March 1st each year for the purpose of establishing a quota of seasonal liquor licenses that a Town may issue. Duxbury has not done so for a number of years, but it has been a moot point as there have been no seasonal liquor licenses. This year an application has been made for a seasonal wine & malt license by Dana Battista for Duxbury Beach Park. In preparation for that and so that the Town may be in compliance we are requesting the Board to certify to the ABCC the estimated resident population as of July 10, 2010. The Town Clerk has indicated the current population of Duxbury is 15,537 and thinks that adding another 1,000 to account for summer residents in the Gurnet area / Green Harbor, for a total of 16,537 would be a reasonable estimate of the resident population as of July 10, 2010.

Mr. Donato moved that the Board certify to the Alcohol Beverage Control Commission (ABCC), based on the information from the Town Clerk, that the estimated resident population as of July 10, 2010 will be 16,637. Second by Mr. Witten. VOTE: 3:0:0.

- **Inter-municipal Agreement for Ambulance (STM Article E)**

Chief Nord indicated that he had requested this article be tabled as the suggested language was too specific. He is waiting for the refined language which would make it more generic so agreements could be entered into more readily as they come up.

- **Duxbury Beach Lease (ATM Article XII)**

Present to discuss this article with the Board were Ms. Maggie Kearney, President of the Duxbury Beach Reservation, Inc. (DBRI) and two of DBRI Directors, Ms. Kay Foster and Mr. Shawn Dahlen.

Mr. Dahlen explained that for a number of years the DBRI has leased Duxbury Beach to the Town of Duxbury for \$400,000. annually. He added that most of that money goes to covering the DBRI's costs for maintaining the Beach, but the lease does include a provision that allows a portion to cover outstanding debt from previous years. Last year \$327,900. was spent on maintaining the beach with the remainder used to pay down the outstanding debt. There is currently an outstanding debt of approximately \$92,000. Mr. Dahlen noted that the private – public partnership between DBRI and the Town enables work to be done on the beach on a more-timely basis while preserving the resource for the enjoyment and protection of the community.

It was also mentioned that after this weekend's storm on Plum Hill most of the dune has eroded away. On Friday a site visit is planned to develop a list of projects they need to address.

Mr. Donato asked if the DBRI has a reserve fund and whether a discount for at least one-year might be possible given the Town's financial situation. The answer was that was not financially feasible, nor good fiscal planning.

Ms. Foster pointed out Duxbury Beach provides revenue to the Town, and stressed the lease fee is only for beach improvements. Mr. Dahlen added that in addition to the

recreational activities, the Duxbury Beach protects the shoreline properties, the moorings, and the aquaculture industry.

Mr. Witten moved that the Board of Selectmen support (draft) ATM article # XII, which is the lease of the Duxbury Beach with the Duxbury Beach Reservation, Inc. Second by Mr. Donato. VOTE: 3:0:0.

- **Fourth of July Parade (ATM Article XIII)**

Ms. Maggie Kearney put on her co-Chair of the Duxbury Fourth of July Committee hat and introduced her co-Chair Mr. Rich Potash and members, Mr. Don Reed and Mr. Jamie MacNab. Ms. Kearney gave the Board a Fourth of July Activities Committee Report, which outlined the 2009 Budget (actual) and the 2010 Budget (estimated). She presented an overview of both budgets. Based on the budget presented the Committee needs to raise approximately \$23,000. in donations to the Margery Parcher Fund over and above the \$10,000. that is being requested from the Town. She opined that without the Town's financial support the task of doing it all plus the added fundraising might undermine their efforts as it almost did in the past. She mentioned that currently they are lucky to have a great committee of many committed individuals, but if the Town funding is removed she is concerned that their membership and enthusiasm will wane.

The other members present also added several thoughts:

Mr. Don Reed said that he believes the parade brings a lot to the town. It draws people to the Town and the businesses benefit from that.

Mr. Jamie MacNab credits Ms. Kearney for her effort to get the Town to contribute the \$10,000. and reminded the Board of some of the difficulties faced before that was done.

Mr. Rich Potash mentioned that the Duxbury Fourth of July Parade is the second longest Fourth of July parade in the country, and urged the Board to continue to support it.

Town Manager Richard MacDonald indicated that in his recent budget presentation he did include \$10,000. in funding for the parade, and it was his intention to continue to fund it at this level.

Mr. Witten moved that the Board of Selectmen endorse (draft) article # XIII (Fourth of July Parade) at the Annual Town Meeting. Second by Mr. Donato. VOTE: 3:0:0.

- **Citizens' Petition to Change Number of Selectmen (ATM Article XVI)**

Mr. Paul McCormack, the main proponent of the Citizens' Petition, which calls for an increase to the number of selectmen from the current three (3) to the allowed maximum of five (5) presented the article to the Board. He presented the Board with a handout which contained the information, but gave an overview for the public's benefit.

Mr. McCormack began by providing some background regarding similar articles from the past. He said that at the March 2003 Annual Town Meeting (ATM) a similar article to increase the number of selectmen did receive the requisite 2/3 vote of Town Meeting in favor of the increase to 5 selectmen, but was disapproved by the Attorney General's Office. In 2004 the Moderator appointed a Government Study Committee. A similar article was indefinitely postponed at the 2005 Annual Town Meeting to allow the Govt. Study Committee to study the issue and make a recommendation. In 2006 the Govt. Study Committee recommendation was not to increase the number of selectmen.

Mr. McCormack then explained the process and the timeline as follows:

March, 2010 – Article presented at ATM.

April 15, 2010 – If passed at ATM, then a petition would be sent from the Town to the General Court to allow for the bylaw change which would be effective as of June 30, 2010.

November, 2010 – The above actions would then require that the bylaw change be approved at the next general election, so it would be on the ballot in November 2010.

January/February, 2011 – If passed by the ballot vote nomination papers would be available for three (3) selectmen seats.

March, 2011 – At the Annual Town Election three (3) selectmen would be elected with the two candidates receiving the most votes being elected for three-year terms and the third-place vote getter being elected for a two-year term. This would set up a staggering of the terms for future elections.

To end his presentation to the Board, Mr. McCormack cited a number of pros and cons.

As reasons to support an increase (pros) to the Board he cited the following:

- It was previously passed at by the Town Meeting vote in 2003.
- It would allow for a spreading of the workload by reducing the number of committees each Selectmen is a liaison to and potentially allow for greater accessibility.
- With a three-member board there are concerns with recusals, i.e. when a Selectmen must excuse himself/herself from participating and voting on a topic due to a potential conflict of interest.
- It would diminish the likelihood of a lack of a quorum.
- It would diminish concerns about Open Meeting Law violations where currently two of the seated selectmen cannot meet to discuss Town business, and allow for some informal discussions which might be beneficial.

As reasons to oppose an increase (cons) to the Board he cited the following:

- With fewer selectmen each individual feels a greater responsibility for attending meetings and keeping up with issues.
- The concern that there may not be enough “good” candidates.
- The potential for increased factions and divisiveness.
- “If it is not broken, don’t fix it.”
- Increased work for staff

Mr. Witten cited his experience as a Town Counsel for several communities and in his experience he has not seen a discernible difference between 3-member and 5-member Boards. While citing he would be inclined to leave it as is, he indicated he would vote in support to “let the voters decide.”

Mr. Donato commented that in his experience there is so much information he gets that others don’t that he would welcome more people, and therefore, supports the article.

Ms. Sullivan indicated that she was on the Govt. Study Committee when this was debated the last time and that they thoroughly discussed the issue before making the recommendation. She stated that while she looked forward to the discussion at Town Meeting, she does not support it.

Mr. Witten moved that the Board of Selectmen vote to support (draft) article # XVI (regarding a Citizens’ Petition to increase the number of selectmen). Second by Mr. Donato. VOTE: 2:1:0. (Ms. Sullivan voted against the motion.)

- Dissolve Youth Commission (ATM Article XXVII)

Ms. Ripley, Exec. Assistant to the Town Manager, explained that at the 2003 ATM Article #19 established the Youth Commission and Article #20 established a committee to study the issue of establishing and appropriating funds for a “Student Union”. The main impetus for the Youth Commission was the establishment of the Student Union. As the Student Union came into existence under the non-profit Student Union group the need for the Youth Commission seems to have passed. The Youth Commission has been inactive for

several years and has not has the membership interest to support a quorum. So this article was suggested for housekeeping purposes.

The Board discussed the issue and decided that they would prefer not to disband the Youth Commission but to allow it to be dormant, as there might be a need for it in the future. It was decided to re-open the warrant to delete this article.

Mr. Witten moved that the Board of Selectmen vote to re-open the warrant for the March 2010 Annual Town Meeting for the sole purpose of deleting (draft) article XXVII (Dissolve Youth Commission). Second by Mr. Donato. VOTE: 3:0:0.

Mr. Witten moved that the Board of Selectmen vote to delete (draft) article XXVII (Dissolve Youth Commission) from the 2010 Annual Town Meeting warrant. Second by Mr. Donato. VOTE: 3:0:0.

BUSINESS

TOWN MANAGER'S BRIEF

Mr. MacDonald mentioned the following three items:

1. **Franklin ST Fire Station**: Mr. MacDonald reported to the Board that the old fire station on Franklin ST has been torn down and the site cleared. He also mentioned that as part of that process the wells were filled.
2. **Verizon FiOS**: Mr. MacDonald mentioned that while he can't give a specific date he did want the community to know that there had been active discussions with Verizon to negotiate a contract. He is hopeful that a contract can be brought to the Board of Selectmen within the next few months. In response to a question about it he indicated that a large portion of Duxbury has been "wired" for FiOS.
3. **Storm Plowing Operations**: The Town Manager acknowledged the efforts of Mr. Buttkus and the entire DPW crew in managing the snow plowing operations during this weekend's snowstorm. Mr. MacDonald did acknowledge that there was a water issue at the Gurnet and Mr. Buttkus will be having an engineer look at the Gurnet seawall, but beyond that there were no complaints.

ANNOUNCEMENTS

There were no formal announcements.

MINUTES

Mr. Witten moved that the Board approve the Executive Session (C) Minutes of December 14, 2009 as presented, 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 December 21, 2009 as presented. Second by Mr. Donato. Vote: 3:0:0.

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS - none

UPCOMING SELECTMEN'S MEETING OVERVIEW

Ms. Sullivan gave an overview of the tentative Selectmen's Meetings and Agenda schedule for upcoming meetings, which was as follows:

Tentative Selectmen's Meeting and Agenda Schedule

- January 11th DPW Budget Presentation plus DPW, Water, and Crematory articles
January 18th - NO MEETING; Martin Luther King holiday
TUESDAY, January 19th – Do not plan to meet unless something time-sensitive needs to be addressed.
January 25th 2 Liquor Licenses: Sun Tavern & Duxbury Beach Park; Possible Pole Hearing; and Citizen's Petition: Bicycle Helmet Law

February 1st CPC and Conservation Commission Articles and COA Budget Presentation
Order of the ATM / STM warrant articles to be assigned by Selectmen.
February 8th Finance Articles
February 15th NO MEETING; Presidents' Day holiday
February 22nd School Budget & Library Budget Presentations
March 1st Planning & Zoning Articles; Citizen's Petition: Lot Coverage
March 8th Date reserved for Snow Cancellations or any remaining business to be reviewed prior to Annual Town Meeting

SATURDAY, MARCH 13th ANNUAL TOWN MEETING

ADJOURNMENT

Mr. Witten moved to adjourn the meeting at 8:30 PM. Second by Mr. Donato. Vote: 3:0:0.