

**Date: February 1, 2010**

*Date Minutes Approved: February 8, 2010*

## **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.

### **VOTE TO ENTER EXECUTIVE SESSION**

At 6:31 PM, Mr. Witten moved that the Board enter Executive Session to consider the purchase, exchange, taking, lease, or value of real property since such a discussion may have a detrimental effect on the negotiating position of the Town and to discuss strategy with respect to litigation since an open meeting may have a detrimental effect on the Town's litigating position. Second by Mr. Donato. Roll Call Vote: Mr. Witten---aye; Mr. Donato---aye; Ms. Sullivan---aye.

### **END OF EXECUTIVE SESSION**

At 7:12 PM, Mr. Witten moved that the Board close the Executive Session, and re-convene in Open Session. Second by Mr. Donato. Roll Call Vote: Mr. Witten---aye; Mr. Donato---aye; Ms. Sullivan---aye.

### **OPEN FORUM**

Ms. Sullivan took the opportunity to praise the Finance Director and Town Manager for the production of the FY09 Comprehensive Annual Financial Report (CAFR). This report goes beyond the normal State requirements for financial reporting. Only two percent of Massachusetts communities provide this level of financial detail to their constituents and the State.

Also under Open Forum, Mr. Steve Peterson said that he heard that the Selectmen might have been discussing North Hill Country Club at the last meeting. He asked what action the Selectmen might have taken. Mr. Donato said that he has reviewed the Superior Court's decision on North Hill. He said that the decision cited a lack of credible performance by the Town's reviewers of the bids to run the North Hill Country Club. He suggested that the Selectmen refer the case to the Inspector General in order to investigate potential procurement fraud.

Ms. Sullivan and Mr. Witten said that this discussion should only occur in Executive Session since the matter is in litigation. Mr. Donato responded that the Superior Court's decision is public. Mr. Witten countered that the Board's deliberations about the decision are protected as confidential matters.

## **BUDGET PRESENTATION: COUNCIL-ON-AGING (COA)**

Ms. Joanne Moore (COA Director) and Ms. Linda Hayes (COA Assistant Director) were present to make a departmental budget presentation. Ms. Moore explained that the population of seniors in Duxbury is growing rapidly. The Town is very fortunate to have an accredited and beautiful senior center to provide opportunities for seniors. She explained that current budget constraints are taxing the department, but that services continue to be provided. The Finance Director's recommended FY11 budget represents a 2.6% increase over FY10, but does not meet rising costs. To help ends meet, there has been a loss of an administrative assistant position.

The COA benefits from additional support from the Friends of the COA, from transportation support provided by GATRA, from various grants, and from over 24,739 hours of volunteer service.

Five-year goals for the department include retaining national accreditation and expanding programs such as: Health and Wellness, Education, Outreach, Transportation, Food Service, and Life Long Learning.

Selectmen thanked Ms. Moore and Ms. Hayes for their presentation and for their service to the Town.

## **DISCUSSION OF TOWN MEETING ARTICLES**

**Article XXXII: Wetlands Violation Penalty Increase (Sponsored by the Conservation Commission)**

Mr. Joe Grady, Conservation Administrator, explained that this article would increase the fine for wetlands violations to \$300 per offense. An example of a violation would be working in a wetland area without a permit.

Mr. Witten moved that the Board support ATM Article XXXII, which increases the penalties for wetlands violations. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

## **COMMUNITY PRESERVATION COMMITTEE (CPC) ARTICLES**

Present for the discussion on CPC Articles were:

Holly Morris, Chair  
John Bear  
Brendan Keohan  
Lynne Devnew  
Pat Loring  
George Wadsworth  
Joe Grady, Staff Liaison

**Article XXXIII: CPC Operating Budget**

Ms. Morris explained that the Town is expecting a 28% match from the State. The Operating Fund is limited to five percent of total receipts. The money is used for staffing, appraisals, and legal fees.

Mr. Witten moved that the Selectmen support Town Meeting Article XXXIII, pertaining to the CPC Operating Budget, in the amount of \$76,405. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**Article XXXIV: CPC Allocations**

Ms. Morris explained that the Community Preservation Act requires the Town to allocate ten percent of receipts to each of the following purposes: Open Space, Community Housing, and Historic Preservation. This year, \$152,430 will be allocated to each of these purposes.

Mr. Witten moved that the Board support Article XXXIV, pertaining to CPC allocations, in the amount of \$152,430 for each purpose. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**Article XXXV: CPC—Isaac Keene Barn**

Ms. Morris explained that this funding request came from Crossroads for Kids, Inc., and is for the restoration of the oldest and largest barn in Duxbury. It is on the Camp Wing property, and could be used for Camp activities. In addition, it is expected that the barn will be of benefit to the community at large. Ms. Deb Samuels and Mr. Powell Robinson, Jr., from Crossroads for Kids, Inc., were available to answer questions about the project. They said that Crossroads is requesting \$85,000 for the entire cost of developing plans and specifications for the project, and for stabilizing the foundation.

Mr. Witten moved that the Board support Town Meeting Article XXXV, pertaining to the restoration of the Isaac Keene Barn, in the amount of \$85,000. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**Article XXXVI: CPC—Survey of Historic Properties**

Ms. Morris explained that the Historical Commission has requested CPC money for a survey of historic properties for the last several years. This year, they were encouraged to seek enough money for multiple years. The current request is for a three-year survey. Mr. Norman Tucker, from the Duxbury Historical Commission, provided details of the proposed survey. He said that structures, cemeteries, landscapes, and seascapes would be included.

Mr. Witten moved that the Board support Town Meeting Article XXXVI, pertaining to a survey of historic properties, in the amount of \$55,000. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**Article XXXVII: CPC-First Parish Church Window Restoration**

Ms. Morris introduced Mr. Doug Friesen, who described the project. He explained that the windows are double-hung and contain 36-over-36 panes each. They are among the outstanding architectural features of the building. Over the years, the wooden parts of the windows have deteriorated to the point that there is concern that the windows may be blown in by a severe storm, with resultant damage to the interior of the sanctuary, and possible human injury. Also, the operating mechanisms no longer work. Mr. Friesen explained that the full cost of the window restoration is \$106,000. \$50,000 is being requested from the CPC Fund. He said that there is ample precedent for CPC funds being spent on churches, so long as there is a community benefit.

Ms. Sullivan commented that the history of Duxbury is tied up with the history of the First Parish Church, since the church was essentially the first Duxbury Town Hall.

Ms. Barbara Kiley, Chairman of the Historical Commission, asked whether the Town will have control over the materials that are used in the restoration. Mr. Friesen said that it will be a historic restoration. No vinyl will be used, only wood.

Mr. Witten moved that the Board support Town Meeting Article XXXVII, pertaining to the restoration of the windows at the First Parish Church, because of the historic relationship between the Town and the Church, in the amount of \$50,000. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**Article XL: CPC—Local Housing Partnership/ Affordable Housing on Franklin Street**  
Ms. Morris explained that they had been working with Habitat for Humanity to develop affordable housing on two parcels on Franklin Street. However, Habitat for Humanity was unable to continue the project. This article is necessary in order to develop affordable housing on the land. The draft language has been amended to include the fact that the exterior of the Grange building will undergo historic preservation.

Mr. Witten moved that the Board support Town Meeting Article XL, pertaining to developing affordable housing on Franklin Street, in the amount of \$150,000. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

#### **PLACEMENT OF POLITICAL SIGNS ON PRIVATE PROPERTY**

Ms. Nancy Landgren, Ms. Patricia Garrity, Ms. Mary Lynn Carson, and Ms. Mary Jane Noel requested to be on the agenda in order to clarify the Town's policy on political signs on private property. Ms. Carson and Ms. Garrity have had the experience of having signs removed from their property. The Selectmen confirmed that political signs are allowed in Duxbury, as a matter of First Amendment rights protection. However, the size of the signs is limited by the Duxbury Protective Bylaw.

At the request of the presenters, Mr. Witten moved that the Board state that Duxbury is a community where individuals are entitled to exercise their right to free speech by displaying signs advertising their chosen candidate or cause on their private property, in accordance with the Duxbury Protective Bylaw. Second by Mr. Donato. Vote: 3:0:0. Motion carries.

Mr. John Bear commented that there is a cultural tradition against political signs in Duxbury. They are often an eyesore. Mr. Witten and Ms. Sullivan agreed that they do not wish to advocate for an increase in the use of political signs. However, they want to affirm the right of citizens to exercise their First Amendment rights.

#### **FINALIZATION OF SPECIAL TOWN MEETING WARRANT**

The Board decided on a final order of presentation of Special Town Meeting articles.

Mr. Witten moved that the Board remove Draft Article D, pertaining to Chapter 90 Highway Funds, from the March 2010 Special Town Meeting Warrant, and further moved to close the March 2010 Special Town Meeting Warrant, consisting of ten articles, numbered in the order discussed this evening. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

#### **FINALIZATION OF ANNUAL TOWN MEETING WARRANT**

The Board decided on a final order of presentation of Annual Town Meeting articles.

Mr. Witten moved that the Board of Selectmen open the 2010 Annual Town Meeting warrant in order to remove the following articles:

- 1) Draft Article VII: Repair/Replacement of buildings, equipment (per request of Finance Director)
- 2) Draft Article XVIII: Prohibition of Solicitations by Town Personnel
- 3) Draft Article XX: Bicycle Helmet Bylaw (by request of petitioner)
- 4) Draft Article XXX: FIRM Maps (maps not produced by FEMA yet)
- 5) Draft Article XLI: Speed Bumps on Powder Point Avenue (by request of petitioner)
- 6) Draft Article XLII: Add to Unemployment Trust Fund (per request of Finance Director)

and further to close the 2010 Annual Town Meeting warrant which consists of 35 articles, numbered in the order discussed this evening. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**EDWARD DEVNEW FOR DUXBURY YACHT CLUB: MEMBERS TENNIS TOURNAMENT DINNER ON 2-6-10**

Mr. Witten moved that the Board grant a One-Day All-Alcoholic Beverage License to Mr. Edward P. Devnew, as a representative of the Duxbury Yacht Club, to hold a "Paddle Tennis Dinner" at the Golf Clubhouse on February 6, 2010 from 6:00 to 11:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0. Motion carries.

**EDWARD DEVNEW FOR DUXBURY YACHT CLUB: MEMBERS "CRUISE" DINNER ON 3-20-10**

Mr. Witten moved that the Board grant a One-Day All-Alcoholic Beverage License to Mr. Edward P. Devnew, as a representative of the Duxbury Yacht Club, to hold a "Cruise Dinner" at the Golf Clubhouse on March 20, 2010 from 6:00 to 11:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**TOWN MANAGER BRIEF**

- 1) Construction costs in the month of January were \$2.2 million dollars. This number was boosted by the construction of two large single family homes.
- 2) Fire Department Grant: Firefighter Rob Reardon led a team that successfully applied for a grant from the Federal Emergency Management Agency, in the amount of \$63,000. This money will largely be used to replace old equipment.
- 3) The Board of Health managed a vaccination program which resulted in the distribution of over 1,300 H1N1 vaccines. Kudos to the Health Agent, Tracy Mayo, and the Medical Reserve Corps.

**MINUTES**

Mr. Witten moved that the Board approve the Executive Session minutes of January 25, 2010, with the contents to remain forever sealed since they deal with the King Caesar Fund for those in financial and medical need. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

Mr. Witten moved that the Board approve the minutes of the Open Session of January 25, 2010. Second by Mr. Donato. Vote: 3:0:0. Motion carried.

**ANNOUNCEMENTS**

The next meeting of the Duxbury Board of Selectmen will be on Monday, February 8, 2010. The Selectmen will not meet during the week of February 15, 2010, unless a special need arises. (If so, the meeting will be posted at least 48 hours in advance.)

**BONUS SHELLFISH SEASONS**

OYSTERS: Mr. Donato moved that, because of abundant Oyster resources, the Selectmen declare a temporary Bonus Shellfish Season for the recreational harvesting of oysters in the Duxbury Shores and Duxbury Beach harvest areas described in a memorandum dated

**January 26, 2010 from the Duxbury Harbormaster, for the month of February on Wednesdays “only” (i.e., February 3rd ,10th, 17th, 24<sup>th</sup>, 2010) with a bag limit as prescribed in the Shellfish Rules and Regulations at six (6) quarts per week per family permit . All amended Shellfish Rules and Regulations, law, terms and conditions shall apply. Second by Mr. Witten. Vote: 3:0:0. Motion carried.**

**SOFTSHELLED CLAMS & QUAHOG CLAMS: Mr. Donato moved that, because of abundant shellfish resources, the Selectmen:**

- 1) Declare a temporary Bonus Shellfish Season for the commercial harvesting of softshell clams for the month of **February**. Regulations as attached. (Please see Attachment B & C)\*
- 2) Declare a temporary Bonus Shellfish Season for the commercial harvesting of quahog clams for the month of **February**. Regulations as attached. (Please see Attachment A & C)\*
- 3) Declare a temporary Bonus Shellfish Season for the recreational harvesting of Soft Shelled Clams for the month of **February**. Regulations as attached. (Please see Attachment D)\*

**\*per the Harbormaster’s memorandum of January 26, 2010. Second by Mr. Witten. Vote: 3:0:0. Motion carried.**

#### **ADJOURNMENT**

**At 9:36 PM, Mr. Witten moved for adjournment of the meeting. Second by Mr. Donato. Vote: 3:0:0. Motion carried.**