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Date: August 9, 2010

Date Minutes Approved: August 23, 2010

BOARD OF SELECTMEN MINUTES

Present: Shawn Dahlen, Chair; Elizabeth Sullivan, Vice-Chair; and Christopher Donato, Clerk.

Absent: No members were absent.

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

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

Mr. Dahlen mentioned that as part of the new Open Meeting Laws, disclosure should be made by any parties recording a meeting. Accordingly, he disclosed that the staff will be making an audio recording solely for the purpose of assisting with preparation of the Minutes.

SWEARING-IN OF NEW FIREFIGHTER/PARAMEDIC: MICHAEL CARDOZA

Present for the Swearing-in Ceremony were:

Fire Chief Kevin Nord

Probationary Firefighter/Paramedic Dennis Mikkola and his wife, Andrea Mikkola, and their 3 daughters.

**Ms. Nancy Oates, Duxbury Town Clerk, and
Members of the Duxbury Fire Department**

Chief Nord introduced FF/Paramedic Dennis Mikkola as a new hire in the Duxbury Fire Department to fill a vacancy. In introducing Probationary FF/Paramedic Mikkola the Chief gave an overview of his background. He started with the Duxbury Fire Department in 2008 as a call firefighter. He is a 6-year resident of Duxbury. He graduated from S. Shore Vocational Technical and is an electrical journeyman. He also put himself through paramedic school.

Ms. Oates then swore in Probationary Firefighter/Paramedic Mikkola. Mr. MacDonald made some welcoming remarks and then presented the Firefighter badge to Mrs. Andrea Mikkola who pinned it on her husband's uniform. In his welcoming remarks Mr. MacDonald noted that a number of members of the Fire Department were very supportive of this appointment.

OPEN FORUM

Jim Sullivan of Tremont ST was recognized. Several meetings ago he requested that the Selectmen look into the matter of the School Cafeteria Workers' loss of employment and health benefits, and he asked for an update from the Board.

Mr. Sullivan stated:

- According to school officials, as of today, no contract has yet been finalized with the company that was to be brought in to privatize the school food service.
- Nothing negates the possibility of reinstatement of these employees.

Mr. Dahlen responded by indicating the following:

- He had spoken with Mr. Madden and Ms. Susan Nauman, School Business Manager, and Town Counsel to get a better understanding of the matter. It is essentially a school matter and it does include benefits. The benefits are within the Town budget, but are allocated to specific cost centers, i.e. departments. This is the way it is handled for a number of the departments and is not specific to the cafeteria situation.
- He met with School Superintendent today. The School Superintendent told him that the Schools have signed a contract with the food service company and that 23 of the cafeteria workers have signed up to be employed by the company (i.e., have indicated their interest in being interviewed for employment by the company).
- The contract will potentially result in what was a \$160,000 loss in the School budget to a \$100,000. gain in their budget

Mr. Sullivan responded that there appears to be miscommunication:

- **The Contract:** Mr. Sullivan said based statements made to him today by school officials involved in the negotiation, no contract has been signed.
- **Employment of Cafeteria Workers:** Mr. Sullivan stated none have been hired by the company. Mr. Dahlen made it clear that he did not say they had been hired. What he said was the cafeteria workers “were asked if they would like to be hired and they would be interviewed and considered” by the company.
- **Financial gain:** Mr. Sullivan said that the stated gains are as a result of no longer having the expenditures of the workers’ benefits.

Mr. MacDonald said he was in the same meeting as the Chair this morning, and said he too heard the Superintendent say the contract was signed.

Mr. Sullivan cited his displeasure with the handling of this matter, and the discussion ended.

FEE HEARING

Mr. Dahlen indicated that the next item of business was a fee hearing advertised in *The Duxbury Clipper*.

Present for this item of business:

- Mr. Frank Mangione, Fiscal Advisory Committee Chair
- Mr. Eddy Ramos, Animal Control Officer
- Mr. Scott Lambiase, Director of Inspectional Services

Mr. Mangione thanked Mr. Madden, the Finance Director; Mr. Connolly, the Treasurer, and the Department Heads for their work in gathering and assessing the fee information. The proposed fees were reviewed, discussed, and voted on by the Fiscal Advisory Committee. The results were presented to the Board of Selectmen in Mr. Mangione’s memo dated July 27, 2010. The fee review is an annual procedure the Town began several years ago to review and update fees that had not been reviewed for many years.

Each department’s proposed fee changes were presented separately.

SELECTMEN: LICENSE FEES

FEE	CURRENT FEE	PROPOSED FEE
Town Fee for ABCC Application	\$75.00	\$125.00
One-Day Liquor License	\$20.00	\$ 25.00
FEE	CURRENT FEE	PROPOSED FEE
Common Victualler	\$25.00	\$50.00
Innholder	\$25.00	\$50.00
Ice Cream Truck	\$20.00	\$25.00
Hot Dog Cart	\$20.00	\$25.00

The Fiscal Advisory Committee voted to support all of the increases with the exception of the Common Victualler's license.

Mr. Mangione briefly mentioned the following rationale:

- **Town Fee for ABCC Application:** Processing of the Alcoholic Beverage Control Commission (ABCC) applications is extremely time-consuming. It has been estimated to take approximately 16 hours of staff time, and given that the increase was warranted.
- **Common Victualler:** Although the fee has not been raised in many years it was felt given the economic times it was not the appropriate time to raise it.
- **Ice Cream Truck / Hot Dog Cart:** To bring them in line with other fee categories because the same amount of work is involved whether it is a seasonal or an annual license.

Mr. Donato moved that the Board approve new fees for Licenses as shown on the spreadsheet entitled "PROPOSED LICENSE FEES, MAY 14, 2010", with the following change(s): The Common Victualler's fee will remain unchanged; and said new fees to be effective September 1, 2010, with the exception of fees for the Innholders, which must also be approved by Town Meeting. Second by Ms. Sullivan. VOTE: 3:0:0.

TOWN CLERK: Dog Licenses

DOGS	CURRENT	PROPOSED
Male / Female	\$12.00 / \$12.00	\$15.00 / \$15.00
Altered Male / Altered Female	\$7.00 / \$7.00	\$10.00 / \$10.00

The Fiscal Advisory Committee voted to support the proposed increases. The rationale given was that the increases were to offset the costs of printing the license forms and purchasing the tags.

Mr. Donato moved that the Board approve new fees for Dog Licenses as shown on the memorandum from Ms. Nancy Oates dated July 14, 2010, with said new fees to be effective September 1, 2010. Second by Ms. Sullivan. VOTE: 3:0:0.

DPW: ANIMAL CONTROL – Animal Shelter Boarding Fee

The proposal was to raise the current animal shelter boarding fee from \$10.00 per day to \$20.00 per day. The rationale given was that the fee has not been increased in many years, and it is only half of what other towns are charging.

Mr. Donato moved that the Board raise the Animal Shelter Boarding Fee from \$10.00 per day to \$20.00 per day, said new fee to be effective September 1, 2010. Second by Ms. Sullivan. VOTE: 3:0:0.

The Selectmen took this opportunity to acknowledge the diligent work of Animal Control Officer Eddy Ramos and to thank the many Friends of the Animal Shelter, who give generously to assure the operation of the shelter continues.

INSPECTIONAL SERVICES: Building Permit Fees and Plumbing / Gas Fees

Mr. Dahlen recused himself from the discussion and vote on this item of business. He turned the chair over to Ms. Sullivan.

As the list of Inspectional Services fees to be adjusted was fairly extensive it will be on file at the Town Clerk's office. Mr. Lambiase explained that the proposed increases are to more accurately reflect the underlying square foot cost of construction and to bridge the gap between the expenses of operating the Inspectional Services Department and the revenue collected. Mr.

Lambiase also pointed out that under the Plumbing / Gas Fees the fee for the initial fixtures was remaining unchanged and the proposed increases were being made to the additional fixtures. For most, the increase amounted to rounding up the dollar amounts for easier collection.

Mr. Donato moved that the Board approve new Inspectional Services fees as shown on the spreadsheet entitled "PROPOSED INSPECTIONAL SERVICES FEES, JULY 12, 2010", with said new fees to be effective September 1, 2010. Second by Ms. Sullivan. VOTE: 2:0:0. (*Mr. Dahlen recused himself and did not vote.*)

NOTE: All fees will be on file with the Town Clerk by the effective date.

EVENT PERMIT REQUEST: LINDA KEAY FOR PILGRIM CHURCH / HUNGER WALK ON OCTOBER 16, 2010

Mr. Dahlen recused himself because he is on the Board of Directors of the Pilgrim Church and stated while he does not believe there is a financial interest he does have a spiritual one and feels it would be best not to vote on this matter.

Ms. Linda Keay briefly described the event which not only raises funds to fight hunger but attempts to raise awareness of the issue. A quarter of the funds raised are donated to local food pantries and the rest to the Church World Service for hunger relief programs.

Mr. Donato moved that Ms. Linda Keay, as a representative of Pilgrim Church of Duxbury, is granted permission to conduct a Hunger Walk on Saturday, October 16, 2010 from 10:00 AM until Noon, contingent upon the conditions set forth on the permit. Second by Ms. Sullivan. VOTE: 2:0:0. (*Mr. Dahlen recused himself and did not vote.*)

ACCEPT GIFT FOR PERCY WALKER POOL: DUXBURY NEWCOMERS CLUB

Mr. MacDonald said that the Newcomers' Club gave a donation of \$250.00 to be used for the Pool at the Town's discretion. While there is not an immediate project in mind he thanked the Newcomers' Club and asked the Board to accept the donation.

Ms. Sullivan moved that the Board accept with gratitude, the gift of \$250.00 from the Duxbury Newcomers' Club, for the Percy Walker Pool. Second by Mr. Donato. VOTE: 3:0:0.

JOINT MEETING WITH ZONING BOARD OF APPEALS: ISLAND CREEK COMPREHENSIVE PERMIT

Present for the Town, from Robert S. Troy & Associates were:
Attorney Robert Troy and Attorney Craig Jordan

Present from the Zoning Board of Appeals (ZBA) were:
Mr. Dennis Murphy, Chair; Ms. Judi Barrett, & Mr. Michael Gill

The following representatives of the applicant were present:

Mr. John Keith, Property Owner
Mr. Maurice "Skip" Sullivan, Attorney
Mr. Thomas Duggan, Partner of Mr. Keith
Mr. Ed Marchant, Consultant
Mr. Paul Brogna, Project Engineer

Attorney Robert Troy, Town Counsel, initiated the discussion by recommending to the Board that before discussing the matter in Open Session he felt it was necessary to discuss the matter in Executive Session given the pending litigation and then to reconvene in Open Session.

Ms. Sullivan moved to call an Executive Session pursuant to M.G.L. Chapter 30A, Section 21 (a)(3), for the purpose of discussion strategy with respect to pending litigation between the Town of Duxbury and Island Creek Village North, LLC, regarding an appeal to the Housing Appeals

Committee of a Comprehensive Permit issued by the Zoning Board of Appeals, the public discussion of which may have a detrimental effect on the litigation position of the Town. The Board of Selectmen will reconvene in Open Session following the completion of the Executive Session. Second by Mr. Donato.

In accordance with Open Meeting Laws, the Chair declared that the public discussion of the Town's litigation strategy with respect to pending litigation between the Town and Island Creek North, LLC will have a detrimental effect on the litigation of the Town.

ROLL CALL VOTE: Mr. Donato "aye"; Mr. Dahlen "aye"; Ms. Sullivan "aye".

ENTER EXECUTIVE SESSION

At approximately 7:40 PM the public exited the meeting room and the Selectmen entered Executive Session.

RE-CONVENED IN OPEN SESSION

At approximately 8:10 PM, after the public had re-entered the room, the Board re-convened in Open Session for the discussion of ISLAND CREEK COMPREHENSIVE PERMIT.

JOINT MEETING WITH ZONING BOARD OF APPEALS: ISLAND CREEK COMPREHENSIVE PERMIT (CONTINUED)

Atty. Troy explained that at the last meeting the Zoning Board of Appeals (ZBA) took an advisory vote which was 4 to 1 in favor the signing the Comprehensive Permit. Public comment was invited, with a deadline provided, and no comments were received. A few remaining amendments were raised, but they are considered non-substantive. A final document (marked version 10) has been prepared. At the last meeting the Board of Selectmen voted unanimously to rely on the ZBA, but with the recommendation that it was in the best interest of the Town for the matter to be resolved.

As to the process going forward, Atty. Troy suggested that, if voted by the Board, the Permit would be signed as well as an Agreement and Stipulation. Then Town Counsel and the applicant would continue to work with the Housing Commission.

Mr. Dahlen noted that following regarding the last meeting and subsequent actions:

- **The Board felt the ZBA should make another attempt at crafting agreeable final language and to that end directed Town Counsel to assist.**
- **The ZBA members spent an enormous amount of time doing so and are to be applauded for their efforts.**
- **The ZBA did vote its approval in a 4-to-1 vote.**
- **The general feeling is that the remaining issues raised are not non-substantive.**
- **It has been a public process and through the process not one negative comment was made by the public.**
- **Mr. Keith was asked by previous Boards of Selectmen to consider building the project.**
- **Most importantly, it should be noted that the Board of Selectmen never had a single word of input into the final document, which was prepared by Town Counsel, the applicant, and with input by the ZBA members.**

Mr. Dahlen asked if the Board members had any remaining questions or comments.

Mr. Donato, who is the Selectmen's liaison to the ZBA, did want to just re-affirm their positions given the few remaining amendments raised. So he asked the present members of the ZBA for their thoughts. Both Ms. Barrett and Mr. Gill indicated that they felt the remaining issues amendments were non-substantive and would still vote their support.

Mr. Murphy indicated it could be debated whether they are substantive and was interested in making sure the language was sealed tight to avoid future concerns, but he offered no further objections.

Mr. Will Zachmann asked, for the benefit of the public, if an overview could be given.

Mr. Dahlen indicated this is a 32-page document with over 180 conditions, which have been fully vetted. Given that he was hesitant try to summarize it, but the following information was provided:

- There will be a total of 214 units with 314 bedrooms total.
- There will be 108 rental apartments.
- The development will also contain twelve 3-bedroom town houses.
- It will also provide 94 units of assisted living.

Ms. Sullivan added:

- Duxbury currently has 106 affordable units. This will add 214 affordable units.
- The assisted living component was a bonus, which was not even conceived of initially, but is something that the community really needs.
- The Town gains the ability to hold the current 106 units as affordable units.
- The location will allow people to stay the community.
- Mr. Keith was asked to consider the project because he has built decent affordable and well-maintained housing in the community over the past 20 years.

Ms. Sullivan moved that the Board of Selectmen approve the decision on the application for the Comprehensive Permit (Version 10) and execute the settlement document. Second by Mr. Donato. VOTE: 3:0:0.

COMPLETE LIST OF SPECIAL MUNICIPAL EMPLOYEES

Mr. Dahlen mentioned the Board recently updated the list of Special Municipal Employees (See *Minutes of July 12, 2010.*), but the Crematory Building Committee was overlooked at that time.

Ms. Sullivan moved that members of the Crematory Building Committee are hereby designated "Special Municipal Employees" under Mass. General Laws, Chapter 268a, Section 1 (n), also known as "Special Employee" under said law. Second by Mr. Donato. VOTE: 3:0:0.

NOTICE OF STATE PRIMARY ELECTION: SEPTEMBER 14, 2010

Mr. Dahlen moved that the Board direct either of the Constables of the Town of Duxbury to notify and warn the inhabitants of Duxbury who are qualified to vote in Primaries to vote at Precincts One through Six at the T. Waldo Herrick Gymnasium, Duxbury Middle School, 73 Alden Street, Duxbury, Massachusetts on Tuesday, the 14th Day of September, 2010 from 7:00 AM to 8:00 PM. Second by Mr. Donato. VOTE: 3:0:0.

STRATEGIC PLANNING WORKSHOP / Judi Barrett

Tonight's discussion was scheduled to be about a 1 ½ hour discussion to begin the process. Given that it was 8:45 PM, Ms. Barrett suggested that the discussion be delayed until the next Selectmen's Meeting on Monday, August 23, 2010. She respectfully requested that it be scheduled earlier in the meeting when people can give it proper focus. She did provide to the Selectmen 2 items, which did not make it into their packets: (1) The Town of Duxbury Mission Statement and (2) a listing of words often used to describe "core values." She asked the Selectmen to give some thought to the Mission Statement and the core values in preparation for the next meeting. In the interim, she might send out a survey to staff and begin to map out Fall meetings with the Town Manager.

TOWN MANAGER BRIEF

Mr. MacDonald mentioned the following items:

1. **Open Meeting Law requirement:** In keeping with the new Open Meeting Laws a binder with the posted meetings including the agendas will be available to the public 7 days a week and round the clock. The binder was originally going to be kept at the Police Dispatchers office, but after trying that for several weeks it was determined that it would be more convenient for it to be maintained at Town Hall. The binder is located by the rear door at Town Hall.
2. **Aerial Mosquito Spraying:** Mr. MacDonald apologized for the numerous 911 telephone notifications but the whether the spraying could be done was weather dependent. EEE is a serious issue and therefore it was necessary. The public will be kept informed as needed.
3. **Decertification of Supervisory Union:** Mr. MacDonald announced that SEIU Local 888 is no longer representing the Professional Supervisory Unit, and they are now covered under the Personnel Plan. This is a decertification of the Managers' Union in the Town of Duxbury.

ANNOUNCEMENT

Ms. Sullivan mentioned that for a number of year's Bettina Lesieur allowed use of her artwork to grace the cover of the Annual Town Report. Last year the Selectmen's staff had solicited photos from Town Employees for the cover and received a very positive response. This year it was suggested to opening it up to the community at large.

So the Board of Selectmen is soliciting entries for the Fiscal Year 2010 Annual Town Report Cover Photo. The photo may be of any subject related to the Town. The contest is open to all Duxbury residents. The winning photograph will be selected for its quality and for its suitability for the Annual Town Report Cover. Runners-up will be featured inside the report, and/or in other Town promotional materials. The deadline for entries is September 15, 2010. Entry forms are available at www.town.duxbury.ma.us or by calling Barbara Ripley in the Selectmen's office at 781-934-1100 x141.

MINUTES

Ms. Sullivan moved that the Board approve the minutes of July 26, 2010 as written. Second by Mr. Donato. Vote: 3:0:0.

Ms. Sullivan moved that the Board approve the minutes of July 30, 2010 as written. Second by Mr. Dahlen. Vote: 2:0:1. (*Mr. Donato abstained as he was not present at that meeting.*)

COMMITTEE APPOINTMENTS / RE-APPOINTMENTS

The following appointments were made. All votes were unanimous:

Committee	Name	Appt. or Re-Appt.	Term Expires	Motion	Second
Historical Commission	Lois M. McKeown	Appt.	6/30/13	Mr. Donato	Ms. Sullivan
Historical Commission	Leslie Lawrence	Appt. to fill unexpired term	6/30/12	Mr. Donato	Ms. Sullivan

Old Colony Planning Council (OCPC)	Richard M. "Dick" Whitney	Appt. (as Delegate)	6/30/11	Mr. Donato	Ms. Sullivan
Old Colony Planning Council (OCPC)	James Taylor	Appt. (as Alternate)	6/30/11	Mr. Donato	Ms. Sullivan

NEW BUSINESS

For the benefit of the public, Mr. Will Zachmann mentioned that the motorcycles heard Saturday were a fundraiser for a worthy cause. It was in honor of the son of a Plympton Police Officer stricken with cancer and a fundraiser for kids with cancer. And there will be another similar event sponsored by Cops for Kids in a few weeks.

OLD BUSINESS - no discussion

ADOURNMENT

Mr. Donato moved for adjournment of the meeting shortly before 9 PM. Second by Ms. Sullivan. Vote: 3:0:0.