

Date: March 1, 2010

Date Minutes Approved: March 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 C. Anne Murray, Admin. Assistant

At approximately 7:00 PM, the Board of Selectmen convened in Open Session, and Ms. Sullivan moved that the Board of Selectmen vote to move into Executive Session pursuant to Mass. General Laws Chapter 39, Section 23B (5) and also to discuss strategy with respect to collective bargaining since an open meeting may have a detrimental effect on the town's bargaining position, and then to return to Open Session thereafter. Second by Mr. Witten.
Roll Call Vote: Mr. Witten – Aye; Mr. Donato –Aye; Ms. Sullivan –Aye.

RE-CONVENED IN OPEN SESSION

Having completed the Executive Session business the meeting re-convened in Open Session at 8:02 PM.

OPEN FORUM

Ms. Sullivan began the meeting by extending condolences to the family of long-time Duxbury resident and Duxbury Clipper publisher, David Cutler, who passed away on Sunday. A moment of silence was offered out of respect for him.

No other business was brought forward.

CONSERVATION ADMINISTRATOR: HISTORICAL RESTRICTION FOR ALDEN HOUSE

Mr. Joe Grady, Conservation Administrator, said that the CPC funding was approved at the 2006 Annual Town Meeting for preservation work done on the Alden House and Museum. The funds were used to restore the windows. He explained that when funding is authorized for private property then the Town makes it contingent upon restrictions that are recorded with the Plymouth County Registry of Deeds, and he is before the Board tonight to ask them to execute the Historical Restriction. Mr. Grady explained that in effect the Historical Restriction would require repayment of the CPC funding were the property to be sold within 15 years.

The Board executed the Restriction so that it could be recorded at the Registry of Deeds.

ONE-DAY LIQUOR LICENSE REQUEST: ROBERT JEWELL FOR DUXBURY STUDENT UNION / Fundraiser on March 20, 2010

Ms. Sue Bradford, Executive Director at the Duxbury Student Union (DSU), represented the group and asked the Board to approve a one-day liquor license for their annual fundraiser, "Parents Night Out." The event is planned for Saturday, March 20th from 7:30 PM – Midnight at the Student Union in the Wright Building. There will be music and food, and any adult is welcome to come enjoy some of the activities the students' have access to.

It was noted that the request was circulated, and there were no objections. However, one item to be clarified and worked out between the DSU, the Fire Chief, and the Director of Inspectional Services was the maximum number of people, who could attend given the room capacities.

Mr. Witten moved that Board of Selectmen vote to grant to Mr. Robert Jewell, as a representative of the Duxbury Student Union Association, a One-Day Wine & Malt License to hold a fundraising event on Saturday, March 20 from 7:30 PM to Midnight at the Wright Building (DSU section only), contingent upon the eight conditions listed, and to execute the license this evening with the understanding the maximum capacity allowed would be worked out between the DSU, the Fire Chief, and the Director of Inspectional Services. Second by Mr. Donato. VOTE: 3:0:0.

DISCUSSION REGARDING TOWN MEETING PLANNING & ZONING ARTICLES

[NOTE: Abbreviations used are STM for Special Town Meeting and ATM for Annual Town Meeting. STM articles are for items requiring funding or action during the current fiscal year. ATM articles are for items requiring funding or action during the next fiscal year which begins July 1st.]

- Discussion RE: Citizens' Petition Pertaining To Water (ATM Art. 31)

Ms. Nancy Landren, the primary proponent explained that the Citizens' Petition is being presented as a Resolution, which is a non-binding sense of the Community, to support the idea that Town should not privatize its water system.

Mr. Witten moved that the Board of Selectmen support ATM Article 31, as presented. Second by Mr. Donato. VOTE: 3:0:0.

- Citizens' Petition Regarding Lot Coverage (ATM Art. 16)

Dr. R. Scott Oliver and Ms. Ann Marie Oliver were present as the main proponents of the Citizens' Petition. They provided the Board with an Information Sheet, which presented the proponents' overview. Ms. Oliver explained the article would increase maximum site coverage (buildings and parking areas) in neighborhood business zones from:

- 50% to 80% for lots of 3 acres or less; and
 - 35% to 65% for lots from 3 - 5 acres; and
- Would keep
- lots of 5 acres or more at 50%

Although similar to an article in last year's Warrant, the proponents state that this article provides for graduated percentages based on the acreage. The proponents also gave some of the reasons they believe the article should be supported.

Ms. Amy MacNab, Chair of the Planning Board, was present to share with the Selectmen the Town Planner's comments and the result of the Planning Board hearing on this article. At their hearing on January 11, 2010, the Planning Board voted unanimously not to support the article. She indicated at the time of their hearing, the Planning Board felt that the proposed citizens' petition was not substantially different from the Warrant article proposed in 2009, and therefore felt it was ineligible* Ms. MacNab cited M.G.L. Chapter 40, sect. 5, paragraph 5. Furthermore, the Planning Board felt that review and changes to the Parking Bylaw should be made concurrently with review and changes to the Lot Coverage Bylaw. The rationale for this was two-fold: (a) If only making changes to one section of the bylaws, then it could result in inconsistencies with other sections, and the treatment of runoff, mentioned by the proponents, is actually within the parking bylaws.

*Ms. Sullivan said that the Moderator has the authority for making the determination regarding eligibility. The Moderator has ruled that the ATM Article 16 is substantially different, and therefore is eligible to be included on the 2010 ATM Warrant. Ms. MacNab said the Planning Board did not have the Moderator's opinion at the time of their meeting.

There was some additional discussion during which it was noted that the Oliver's have a personal interest in the article this year, which is that their medical building may be currently in violation of the zoning bylaw because of excess parking. It was also noted that the Oliver's have been granted a Special Permit and could resolve their issues under it.

Mr. Witten indicated he was opposed to last year's article, and remains opposed to this year's. He respectfully disagreed with the proponents regarding the arguments made for supporting it. Mr. Donato questioned whether lot coverage issues couldn't be resolved under other means, such as a Special Permit. Ms. Sullivan did agree that reasonable attempts should be made to control existing commercial zones, but also cited her personal experience in paved versus gravel parking areas.

Mr. Will Zachman said, that in order make an informed decision, he would like to know exactly what are the other properties that could change and what would be the impact of those changes.

Mr. Donato moved that the Board of Selectmen support the Citizens' Petition Regarding Lot Coverage (ATM Art. 16). Second by Mr. Witten. VOTE: 1:2:0. (*Mr. Donato and Mr. Witten were the "nay" votes.*)

- **Administrative Site Plan Review**

Ms. MacNab indicated that at a Planning Board hearing on January 11, 2010, the Board voted unanimously to support the article with the amendment to add as the last sentence of the first paragraph of Section 615.1: "Religious and educational facilities shall be exempt from the provisions of this section of the bylaw."

Mr. Witten moved that the Board of Selectmen support ATM Article 19 with the Planning Board amendment. Second by Mr. Donato. VOTE: 3:0:0.

- **Housing Allocation Plan**

Mr. George Wadsworth, who is a member of the Local Housing Partnership (LHP), indicated that this is an annual boilerplate article.

Mr. Witten suggested that it might be worth the Selectmen and LHP having a discussion about where the focus of the priorities regarding the categories should be. Ms. Sullivan suggested that after Town Meeting, when more focus could be given to it, it might be possible to have another joint meeting of the land boards to have that discussion.

Mr. Witten moved that the Board of Selectmen support ATM Article 13, as presented. Second by Mr. Donato. VOTE: 3:0:0.

DISCUSSION REGARDING OTHER TOWN MEETING ARTICLES

Ms. Ripley, Executive Assistant to the Town Manager, explained that some of the STM and ATM articles had previously been discussed by the Selectmen, but the Board had held off on taking a vote whether to support the articles or not. There are also some cases where a vote had previously been taken, but due to changes in the funding amounts a re-vote was recommended.

STM Art. 4 – Intermunicipal Agreement for the Ambulance

Mr. Witten moved that the Board of Selectmen support STM Article 4, as presented. Second by Mr. Donato. VOTE: 3:0:0.

Ms. Sullivan explained that this Intermunicipal Agreement was with the Town of Marshfield and would basically provide an extra ambulance as a backup so that a private provider would not have to be called in to cover.

STM Art. 8 – Seawalls (re-vote of 2007 STM #5)

Mr. MacDonald explained that in the 2007 STM Article #5 passed authorizing the Board of Selectmen to petition the General Court for authority to impose betterments with respect to repairs to the seawalls in the Gurnet Road area. That was done, but as it was not accomplished within the Legislative session, and due to a technicality, it has to be re-authorized by a Town Meeting vote.

Mr. Witten moved that the Board of Selectmen support STM Article 8, which is a re-vote of Article 5 of the 2007 ATM regarding betterments of the seawalls (Gurnet Road area). Second by Mr. Donato. VOTE: 3:0:0.

Ms. Sullivan explained that ATM Articles 1 and 2 are standard housekeeping articles.

ATM Art. 1 – Appointment of Officers

Mr. Witten moved that the Board of Selectmen support ATM Article 1, as presented. Second by Mr. Donato. VOTE: 3:0:0.

ATM Art. 2 – Reports of Officers & Committees

Mr. Witten moved that the Board of Selectmen support ATM Article 2, as presented. Second by Mr. Donato. VOTE: 3:0:0.

Ms. Sullivan mentioned that this housekeeping article just allows for the presentation of any reports by Boards or Committees to be made at the Town Meeting.

ATM Art. 8 – Collective Bargaining Agreements

The Board decided to hold off on voting on this article until next week.

ATM Art. 9 – Rescind Debt

There is no debt to be rescinded and therefore the Finance Director recommended it be Indefinitely Postponed (IP).

Mr. Witten moved that the Board of Selectmen Indefinitely Postpone ATM Article 9, as presented. Second by Mr. Donato. VOTE: 3:0:0.

ATM Art. 23 – CPC: First Parish Church Restoration

It was noted that this article was previously voted by the Selectmen (3:0:0), but since the funding amount has changed from \$50,000 to \$55,000 it was recommended a re-vote be made. The Board just received an written opinion from Atty. Troy, Town Counsel, this evening so it was decided to delay a re-vote until next week to give the Selectmen a chance to review it.

ATM Art. 24 – CPC: Isaac Keene Barn

This article was previously voted by the Selectmen (3:0:0), but since the funding amount has changed from \$85,000 to \$90,000 the Board re-voted it.

Mr. Witten moved that the Board of Selectmen support ATM Article 23, as presented. Second by Mr. Donato. VOTE: 3:0:0.

ATM Art. 26 – CPC: Land Purchase (3 parcels)

It was noted that this article was previously voted by the Selectmen (3:0:0), but since then the funding amount has changed from \$162,000 to \$185,000, with recommendations to be made by the Finance Committee at Town Meeting. The change in the funding amount is to include administrative costs. As the status of the Purchase and Sale Agreements was not known, the Board decided to hold off on a re-vote as that might affect the funding amount.

ATM Art. 30 – Add recall procedure to General Bylaws

Ms. Sullivan indicated that this was originally brought forward by Mr. David Lowry, but he has requested that the Board of Selectmen be the sponsor. Ms. Sullivan said she had a telephone discussion with Mr. Lowry, and she has agreed to present it at Town Meeting for informational purposes, but not necessarily to take a position as the proponent.

Mr. Witten moved that the Board of Selectmen support ATM Article 30, as presented. Second by Mr. Donato. VOTE: 3:0:0.

ATM Art. 34 – Stabilization Fund

The Finance Director recommended that this article be Indefinitely Postponed (IP).

Mr. Witten moved that the Board of Selectmen vote to Indefinitely Postponed (IP) ATM Article 30, as presented. Second by Mr. Donato. VOTE: 3:0:0.

ATM Art. 35 – Free Cash

It was suggested by the Finance Director that the Board hold off on a vote on this article.

The Board then discussed which Selectman would be responsible for each article should they be called to address questions or comments at Town Meeting.

BUSINESS

TOWN MANAGER'S BRIEF

Mr. MacDonald mentioned the following items:

1. **Construction Costs for February 2010:** Mr. MacDonald reported that the construction cost estimates for February, 2010 were \$2,457,298. Two single-family houses accounted for \$1.7 mil. of that total.
2. **Common Cause Municipal Website Award:** Mr. MacDonald said he was proud to report that Duxbury has been recognized by Common Cause* for a 2010 e-Government Award with Distinction. He said that receiving the e-Government Award with Distinction is a real honor as not many communities achieve this. The awards will be made at a luncheon on Tuesday, March 16, 2010 at the State House. Mr. MacDonald credited and thanked Mary Beth MacQuarrie, the Duxbury IT Director, for her efforts to make this happen. He also gave thanks to the members of Board and Committees and the Town Hall staff, who do a great job on posting information on the municipal website. (**Common Cause Massachusetts is a nonpartisan, nonprofit, government watchdog, dedicated to citizen participation in an open, honest, and accountable government.*)

3. **Duxbury's Bond Rating:** Mr. MacDonald reported that he, Finance Director John Madden, and Treasurer Tom Connolly participated in conference call meeting with Standard and Poor's and Moody's recently. He proudly announced that Standard and Poor's is continuing the Town of Duxbury's AAA rating. The Town has also retained its' bond rating with Moody's. Mr. Madden mentioned that Moody's actually recommended that the Town have more debt, even though the Town is within the Dept. of Revenue's recommended debt percentages.

Mr. Shawn Dahlen asked if the bond rating companies ask about the Town's future debt and how it affects the Town's bond rating status. Mr. Madden indicated it is discussed but does not seem to play a big factor. The rating agencies seem to be more interested in voter authorized debt.

Mr. Will Zachman commented that the AAA bond rating is a tremendous achievement, and just wanted to acknowledge the efforts of the Town Manager, Finance Director, Treasurer, and the financial team. He pointed out that what this means is that Duxbury will be spending significantly less on interest when borrowing money.

ANNOUNCEMENTS- No announcements were made.

MINUTES

Mr. Witten moved that the Board approve the Executive Session Minutes of February 22, 2010 as presented. Second by Mr. Donato. Vote: 3:0:0.

Mr. Witten moved that the Board approve the Open Session Minutes of February 22, 2010 as presented. Second by Mr. Donato. Vote: 3:0:1.

BONUS SHELLFISH SEASON (for March)

Mr. Witten moved that the Board of Selectmen declare a temporary Bonus Shellfish Season:

1. for the commercial harvesting of softshell clams for the month of March, in accordance with Attachment B & C of the posted regulations;
2. for the commercial harvesting of quahog clams for the month of March, in accordance with Attachment A & C of the posted regulations;
3. for the recreational harvesting of Soft Shelled Clams for the month of March, in accordance with Attachment D of the posted regulations.

And further to declare a temporary Bonus Shellfish Season for the recreational harvesting of oysters during March, 2010 on Wednesdays only (i.e., March 3rd, 10th, 17th, 24th and 31st, 2010) with a bag limit as prescribed in the Shellfish Rules and Regulations at six (6) quarts per week per family permit. All the Shellfish Rules and Regulations, laws, terms and conditions shall apply. Second by Mr. Donato. VOTE: 3:0:0.

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS -- none

ADJOURNMENT

At approximately 9:45 PM Mr. Witten moved to adjourn the meeting of the Board of Selectmen. Second by Mr. Donato. VOTE: 3:0:0.