

Date: May 9, 2011

Date Minutes Approved: May 23, 2011

BOARD OF SELECTMEN MINUTES

Present: Shawn Dahlen, Chair; Christopher Donato, Vice-Chair; and Theodore Flynn, Clerk.

Absent: No members were absent.

Staff: Richard MacDonald, Town Manager; John Madden, Finance Director; Robert S. Troy, Town Counsel; and Barbara Mello, Executive Assistant.

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

OPEN FORUM

No items were brought forward.

CRAIG HALL RE: SAFE BOATING WEEK

Mr. Craig Hall, member of the United States Coast Guard Auxiliary and National Safe Boating Week Coordinator for the South Shore, was present to promote Safe Boating Week (May 21 – May 27, 2011). Mr. Hall encouraged citizens to take advantage of free vessel examinations that are being offered by the Coast Guard. These examinations are available for kayaks and canoes, as well as for larger boats.

Mr. Donato moved that the Board make the following proclamation pertaining to National Safe Boating Week:

Whereas, on average, 700 people die each year in boating-related accidents in the U.S.; approximately 70% of these are fatalities caused by drowning; and

Whereas, the vast majority of these accidents are caused by human error or poor judgment and not by the boat, equipment, or environmental factors; and

Whereas, a significant number of boaters who lose their lives by drowning each year would be alive today had they worn their life jackets; and

Whereas, today's life jackets are more comfortable, more attractive, and more wearable than styles of years past and deserve a fresh look by today's boating public.

Therefore, the Duxbury Board of Selectmen, do hereby support the goals of the North American Safe Boating Campaign and proclaim May 21-27, 2011, as National Safe Boating Week and the start of the year-round effort to promote safe boating.

In Witness Thereof, we urge all those who boat to "Wear it." and practice safe boating habits.

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

INTRODUCTION OF THE MANAGER OF BUILDINGS AND GROUNDS: JAMES SAVONEN

Mr. MacDonald announced that Mr. James Savonen has been chosen as the Town's new Manager of Buildings and Grounds. He has been serving in this position on an interim basis for several months now. After interviewing a number of candidates, Mr. Savonen was chosen for the permanent position. Mr. MacDonald noted that Mr. Savonen has been an excellent employee of the Town for eleven years.

MEETING OF THE WATER AND SEWER COMMISSIONERS: WATER, SEWER, AND SERVICE COMMITMENT

Mr. Donato moved that the Board of Selectmen adjourn their meeting as Selectmen, and reconvene as Water and Sewer Commissioners. Second by Mr. Flynn. Vote: 3:0:0.

Mr. Madden noted that water bills are sent out twice per year to every water customer. Each billing is sent out in two separate batches, which is why the Selectmen have to vote four times per year. The total amount for collection this time is: \$533,470.32.

Mr. Donato moved that the Water and Sewer Commissioners commit charges for Water, Sewer, and Service as outlined in a memorandum from the Water Department dated May 3, 2011. Second by Mr. Flynn. Vote: 3:0:0.

Mr. Donato moved that the Board adjourn as Water and Sewer Commissioners and reconvene as the Board of Selectmen. Second by Mr. Flynn. Vote: 3:0:0.

PUBLIC HEARING: CLUB LIQUOR LICENSE APPLICATION / DUXBURY BAY MARITIME SCHOOL

Mr. Dahlen recused himself from the discussion and vote on the license application, because he is a Director of the Duxbury Bay Maritime School (DBMS).

Present were: Mr. Charles Leonard and Mr. Ned Lawson, current and former executive directors of DBMS. Mr. Leonard explained that DBMS was founded in 1997. Its' mission is to connect people of all ages, abilities, and means to Duxbury through educational and recreational programs. One of the goals of DBMS is to keep costs down for the classes. Two-thirds of program costs are covered by class fees. The other one-third must be raised through other means. One method of raising money has been to rent the facility for private events. Approximately, 6.2% of DBMS income comes from events where alcohol is served. Over the past two or three years, DBMS has applied for several one-day liquor licenses each year. The process is time-consuming for Town staff and for DBMS staff. A simpler solution appears to be for the school to obtain a Club Liquor License. Mr. Leonard made it a point to say that no liquor events are held when youth programs are in session.

Mr. Jack Kent, Jr., an abutter of DBMS, and also a DBMS Director, said that he hopes that the Town will grant the license. He said it will be good for the school, and also good for the Town.

Mr. MacDonald requested that DBMS notify the Town if the number of staff, volunteers, and participants for an event exceeds 75. He also noted that all of the application materials are in order.

Mr. Flynn made the following motion:

Moved that the Board of Selectmen, acting as the Licensing Authority, approve an All-Alcohol Club License for the Duxbury Bay Maritime School, Inc., Charles R. Leonard, Manager, at 457 Washington Street, subject to the following conditions:

- Satisfactory Completion of a Criminal Background Check (CORI) on applicant--done
- Signed Workers' Compensation Affidavit
- Provision of Proof of Workers' Compensation Insurance (done)
- Proof of Liquor Liability Coverage (done)
- Payment of Annual Fee (currently \$500.00 for All-Alcohol Non-Profit Club License)
- Server Training Certificate for the Manager
- Provision of signed R.E.A.P. form (Payment of State Taxes)
- Hours of Sale of Alcoholic Beverages: Monday through Saturday, 8:00 AM to 1:00 AM; Sundays and Holidays, Noon to 1:00 AM.
- Notification to the Town Manager's Office, no less than one week in advance, of any events where the number of staff, volunteers, and participants will exceed 75, and where alcohol is being served.

Second by Mr. Donato. Vote: 2:0:0. (Mr. Dahlen had recused himself.)

PUBLIC HEARING: LIQUOR LICENSE APPLICATION / NORTH HILL COUNTRY CLUB

Present for the Applicant:

Mr. Emmett Sheehan, Principal of Pilgrim Golf, LLC

Attorney Robert Galvin, Sr.

Mr. Galvin said that he had carefully reviewed his client's application. He said that everything is in order. He noted that his client did not have prior liquor management experience. To address this issue, he has hired a consultant for this portion of the Country Club Management. Mr. Galvin noted that his client would like to see the hours of operation on weekday and Saturday evenings extended until 1:00 am the next morning.

Mr. Donato said that he is grateful to Mr. Sheehan for all of the work he has done for the Town. He also said that he is certainly in favor of the club being open for public use, and for there being a liquor license in place. However, he said that he is very concerned about the Management Agreement that was signed between the Town and Mr. Sheehan. A discussion ensued amongst the Selectmen and Town Counsel about whether the Selectmen should have been signatories on the contract. Mr. Troy and Mr. Flynn maintained that the Town Manager Act gives the Town Manager the responsibility of negotiating and executing contracts.

Mr. Donato noted that the Management Agreement requires that the Manager provide a Performance Bond to the Town. Mr. Galvin explained that this has been difficult to achieve in a short time frame. Currently, Mr. Sheehan has a letter of intention from Rockland Trust to extend a \$300,000 letter of credit. This form of security is being reviewed by Town Counsel. Mr. Donato said that, given the short time frame under which the club management changed hands, he understands why this has not been finalized. However, he indicated that he would not vote in favor of the liquor license until this is satisfied. He expressed his preference for continuing the hearing until the bond is in place. Mr. Flynn asked whether this could be handled by making it a condition of the liquor license. Mr. Dahlen gave his opinion that that is not necessary. If a performance bond is not in place in a reasonable amount of time, Town Counsel will recommend that the entire Management Contract be revoked. If Mr. Sheehan is not in control of the property, he cannot hold the liquor license, so that would be revoked as well.

Mr. Donato asked whether the following items were in order:

- Insurance
- Monthly payment to the Town
- Payment in Lieu of Taxes
- Availability of a Class A Pro

Mr. MacDonald answered affirmatively.

When the discussion ended, Mr. Flynn made the following motion:

Moved that the Board of Selectmen, acting as the Licensing Authority, approve an All-Alcohol Common Victualler License for Pilgrim Golf, LLC, dba North Hill Country Club, Emmett M. Sheehan, Manager at 47 Merry Avenue, subject to the following conditions:

- Satisfactory Completion of a Criminal Background Check (CORI) on applicant--done
- Signed Workers' Compensation Affidavit
- Provision of Proof of Workers' Compensation Insurance
- Proof of Liquor Liability Coverage
- Payment of Annual Fee (currently \$2,000.00 for All-Alcohol Common Victualler License)
- Server Training Certificate for the Manager
- Provision of signed R.E.A.P. form (Payment of State Taxes)
- Hours of Sale of Alcoholic Beverages: Monday through Saturday, 8:00 AM to 1:00 AM; Sundays and Holidays, Noon to 11:00 PM.

Second by Mr. Donato. Vote: 2:1:0 (Mr. Donato voted against.)

Next, it was noted that Mr. Sheehan would need a Common Victualler License for the serving of food. Mr. Flynn made the following motion:

Moved that the Board approve a Common Victualler's License for the North Hill Country Club, Emmett Sheehan, Manager, subject to the following conditions:

- Signed Workers' Compensation Affidavit
- Provision of Proof of Workers' Compensation Insurance
- Payment of Annual Fee (currently \$25.00 for Common Victualler License)
- Food Establishment Permit from the Board of Health
- Inspection by the Board of Health
- Provision of signed R.E.A.P. form (Payment of State Taxes)

Second by Mr. Donato. Vote: 2:1:0 (Mr. Donato voted against.)

PUBLIC HEARING: CANCELLATION OF WINE & MALT RETAIL LIQUOR LICENSE AT 1514 TREMONT STREET

Current License Holder: Eric J. Alwardt. Neither Mr. Alwardt, nor any representative for him, were present.

Ms. Mello reviewed the situation:

- 1) On August 6, 2007 the Board of Selectmen, acting as the Local Licensing Authority (LLA), approved a transfer of the Wine and Malt Retail License held by McNandes Enterprises, Inc., to Eric J. Alwardt. Premises are located at 1514 Tremont Street. In addition, the LLA approved a pledge of the license from Vintages Wine shop, Inc. to McNandes Enterprises, Inc. Robert Fernandes and Nancy McDonough.

- 2) In early February 2011, Vintages Wine Shop ceased to operate. Notice was not given to the LLA. The Selectmen's office received calls from persons who were interested in acquiring the license, and from creditors who were owed money by the licensee. The property has since been leased to Mr. Tom Campanelli, who would like to operate a deli and wine shop at that location. The shop would be named: "BoTes". (Mr. Campanelli and his attorney, Robert Galvin, Sr., were present.)
- 3) Since the license is not being used, and since there is currently no application for a transfer, Barbara Mello contacted the ABCC about the process of making this license available. Attorney William Kelly of the ABCC informed her of the following:
 - A) The Local Licensing Authority (LLA) has no obligation to private creditors, including the prior licensee to whom the license and inventory were pledged.
 - B) The process of revoking a license is regulated by MGL Chapter 138, Section 77. If the LLA revokes the license, it can be appealed to the ABCC by the license holder. On appeal, the ABCC will look for the following: Did the LLA call the license holder into a meeting where they gave the applicant a reasonable time to do the following (prior cases have shown that the ABCC considers six months to be a reasonable time): a) Open and operate; b) transfer the license; or c) indicate that they have no intention of opening.
- 4) Before scheduling such a hearing, this office attempted to contact the licensee via e-mail and certified mail. During the correspondence, Mr. Alwardt indicated that he was reviewing his options, and would like to hold the license for the time being. However, he did not respond to any inquiries about his availability for a hearing with the LLA.
- 5) On April 26, 2011, a certified letter was sent to Mr. Alwardt at two locations: 1) The address given at the last renewal; and 2) The address given at the time of Mr. Alwardt's original license application in 2007. This letter notified Mr. Alwardt of the meeting to discuss the license, and encouraged him to attend. To date, no return receipts have been received.
- 6) The principals of McNandes Enterprises, Inc., to whom the license was pledged, were also informed, via telephone, of the hearing date. (They did not attend.)

Mr. Galvin, attorney for Mr. Campanelli, said that he had spoken to the attorney for Mr. Alwardt (Attorney George Boerger). Mr. Boerger said that Mr. Alwardt is experiencing significant financial problems. Mr. Boerger also said that Mr. Alwardt would not appeal if the license were cancelled.

Duxbury Town Counsel Robert Troy said that he reviewed the hearing materials that had been provided by Ms. Mello. He said that a very important consideration for the Board is the public convenience.

Mr. Dahlen said that this location serves people who are travelling from Duxbury to Marshfield via Route 3A or Route 139, and that it does not serve the public convenience for this license to be unavailable for a long period of time.

Mr. Flynn moved that the Board of Selectmen, acting as the Local Licensing Authority, cancel the Wine and Malt Retail License issued to Vintages Wine Shop, Inc., d/b/a Duxbury General Store and Vintages Wine Shop, Eric J. Alwardt, Manager, effective immediately. Second by Mr. Donato. Vote: 3:0:0.

ALCOHOL POLICY FOR TOWN-OWNED BUILDINGS

Ms. Mello explained that, since the Tarkiln Building re-opened, the Town is receiving a number of requests to rent the facility for private functions with alcohol (birthday parties, graduation parties, etc.). In the past, the Selectmen have expressed a preference for limiting alcohol events in Town buildings to fundraising events only. However, this was never voted as a formal policy.

Mr. Sheehan, who was still present at the meeting, commented that he would like to see Tarkiln open for well-controlled events where alcohol is served. The sponsors should have to have liquor liability insurance, and use a trained bartender. Mr. Dahlen said that he would welcome a presentation by the Friends of Tarkiln, or any other group, of a recommended policy. However, until then, the Selectmen staff must have a workable guideline.

Mr. Flynn moved that the Board of Selectmen enact a policy of restricting the granting of One-Day Liquor Licenses in Town-owned buildings to approved fundraising events by non-profit groups only. Second by Mr. Donato. Vote: 3:0:0.

SHIFF SCHOLARSHIP

Mr. MacDonald reminded the Board that he had previously announced the very generous gifts of the Shiff Family. However, it is necessary for the Board to vote to accept the gift, in order to make the proceeds available for scholarships.

Mr. Flynn moved that the Board of Selectmen accept, from the Richard M. Shiff Restated Trust of June 24, 2009, the gifts of:

- \$350,000 to establish the Jacob S. & Fannie D. Shiff Scholarship;
- \$350,000 to establish the Dr. Richard M. Shiff Scholarship; and
- \$250,000 to establish the Thomas J. Keenan, M.D. and Dr. Richard Shiff Scholarship.

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

ARBOR DAY PROCLAMATION

Mr. Donato moved that:

Whereas, the Town of Duxbury has been named a Tree City USA by the National Arbor Day Foundation, a non-profit educational organization dedicated to tree planting and environmental stewardship; and

Whereas, this is the twenty-first time that the Town of Duxbury has received this national recognition; and

Whereas, trees can reduce erosion of our precious topsoil by wind and water, cut heating and cooling costs, moderate the temperature, clean the air, produce oxygen and provide habitat for wildlife, and are a source of joy and spiritual renewal;

Now therefore, we, the Duxbury Board of Selectmen, do proclaim April 29, 2011 as Arbor Day in the Town of Duxbury to be observed with ceremonies at Chandler School at 2:30 PM. We urge citizens to support efforts to care for our trees and woodlands, and to support the Town's community forestry program.

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

Mr. James Savonen, Manager of Buildings and Grounds, was present. He noted that the Arbor Day activities took place on April 29, 2011 as planned, and that they were very successful. The proclamation by the Selectmen enhances our annual application to be considered a "Tree City USA".

ONE-DAY LIQUOR LICENSE REQUESTS

Ms. Mello reported that most of the paperwork is in order for these licenses. The licenses are granted subject to the filing of the remaining paperwork prior to the event date.

- Mr. Flynn moved that the Board grant a One-Day Wine and Malt License to Mr. Jack Hamilton, as a representative of the Friends of the Duxbury Council on Aging, in order to hold a golf tournament reception on Monday, June 6, 2011 from 5:00 PM to 8:30 PM, at the Duxbury Senior Center, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.
- Mr. Flynn moved that the Board grant a One-Day All-Alcoholic License to Ms. Catherine Rogerson, as a representative of the Duxbury Yacht Club, to hold a Dinner Dance at the Ellison Clubhouse at Mattakesett Court on Saturday, May 28, 2011, from 6:00 PM to 11:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.
- Mr. Flynn moved that the Board grant a One-Day Wine and Malt Liquor License to Ms. Lucy Pilon hold a grand opening event on Friday, May 27, 2011 at 453 Washington Street, from 5:00 PM to 8:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.
- Mr. Donato moved that Mr. Matthew Vigneau, as a representative of the Alden Kindred Society of America, Inc., is granted a One-Day Wine and Malt Liquor License to hold the "Speak for Thyself" awards dinner on Friday, May 20, 2011 from 6:00 PM to 9:00 PM at the Duxbury Senior Center, subject to the conditions listed on the license. Second by Mr. Flynn. Vote: 3:0:0.

TOWN MANAGER BRIEF

- 1) Traffic light at Chestnut Street: There was a notice in the Duxbury Clipper from Senator Hedlund's office that there will soon be a traffic light at Chestnut Street. This press release was sent in error. This traffic light is on the State "TIP list," but we do not have a date at this time.
- 2) Building Permits: There was approximately \$1.4 million in construction in April.
- 3) Performance Evaluations: Performance Evaluations for employees covered by the Personnel Plan have begun.

ANNOUNCEMENTS

GATRA Boston Hospital Bus: This is a new service, which started in mid-April. The Boston Hospital Transportation is medical transportation to Boston and the South Shore Hospital area provided to seniors (age 60 and older) and /or disabled individuals in the towns of Duxbury, Marshfield, Kingston, Pembroke, and North Plymouth. Appointments must be between the hours of 10 AM and 1:30 PM. The fare is \$15.00 for a round trip and reservations can be made through your local Council on Aging. The Duxbury COA can be reached at 781-934-5774. Further details are available at the Duxbury Council on Aging and are posted in a flyer on the town website.

MINUTES

Mr. Flynn moved that the Board approve the minutes of April 25, 2011 as presented. Second by Mr. Donato. Vote: 3:0:0.

APPOINTMENTS

Mr. Donato moved that the Board appoint Mr. Shawn Dahlen as a Trustee of the Duxbury Affordable Housing Trust, to fill an unexpired term due to expire on June 30, 2012. Second by Mr. Flynn. Vote: 3:0:0.

Mr. Donato moved that the Board appoint Mr. Walter Amory as a member of the Duxbury Bay Management Commission, to fill an unexpired term due to expire on June 30, 2012. Second by Mr. Flynn. Vote: 3:0:0.

OLD BUSINESS

Mr. Flynn asked that the office staff schedule a joint meeting of Land Use Boards to discuss potential revisions to the Zoning Bylaw as soon as possible. The date of May 23 was suggested.

ADJOURNMENT

Mr. Flynn moved for adjournment at 8:34 PM. Second by Mr. Donato. Vote: 3:0:0.

LIST OF DOCUMENTS

- 1) *Proclamation re: Safe Boating Week*
- 2) *Resume: James Savonen*
- 3) *Water and Sewer Commitment Information*
- 4) *Memorandum, dated 4-15-11, from Town Counsel to B. Mello re: Duxbury Bay Maritime School (DBMS) Club Liquor License*
- 5) *Memorandum, dated 5-9-11, from S. Lambiase to B. Mello re: DBMS Club Liquor License*
- 6) *DBMS License Application: Department Head Feedback*
- 7) *DBMS Application Materials*
- 8) *North Hill Country Club (NHCC) License Application: Department Head Feedback*
- 9) *NHCC Application Materials*
- 10) *Hearing Materials for Cancellation of Wine/Malt License at 1514 Tremont Street*
- 11) *Memorandum, dated 5-5-11, from B. Mello to Selectmen re: Alcohol Policy in Town Buildings*
- 12) *Information about the Richard M. Shiff Restated Trust Scholarship gifts*
- 13) *Arbor Day Proclamation*
- 14) *Information Packets re: Four One-Day Liquor Licenses*
- 15) *Construction Cost Estimates*
- 16) *GATRA Bus Announcement*
- 17) *Draft Minutes of 4-25-11*
- 18) *Recommended Appointments: Duxbury Affordable Housing Trust/Duxbury Bay Management Commission*