

Date: June 6, 2011

Date Minutes Approved: June 27, 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 and C. Anne Murray, Administrative Assistant.

The meeting was called to order at 6:35 PM.

ENTERED EXECUTIVE SESSION

Upon convening Mr. Dahlen moved that the Board go into Executive Session to discuss strategy with regard to collective bargaining in accordance with Mass. General Laws Chapter 30a, Section 21, and then to reconvene in Open Session. Second by Mr. Flynn. ROLL CALL VOTE: Mr. Donato – Aye; Mr. Flynn – Aye; Mr. Dahlen – Aye;

RECONVENED IN OPEN SESSION

The Board reconvened in Open Session at 6:59 PM.

After the public entered, Mr. Dahlen explained that the Board had been in an Executive Session regarding Collective Bargaining matters. He mentioned that the Board will reconvene in Executive Session at the end of the Open Session to complete the business of Executive Session and then adjourn immediately afterward. The Chair also announced that he would be taking several of the agenda items out of order to accommodate individuals, who indicated that they had other meetings to attend.

NORTH HILL GOLF COURSE UPDATE

Attorney Robert Galvin introduced himself as the legal representative of Pilgrim Golf, LLC, the new management company for the North Hill County Club.

Atty. Galvin mentioned that the last outstanding issue had been the issue of providing surety. He informed the Board that his client was notified that the letter of credit has been approved and a closing will be scheduled shortly. He assured the Town that proper documentation will be provided to the Town as soon as it is available.

Mr. MacDonald informed the Board that he had spoken with Atty. Troy about this matter and he conveyed to the Board that Atty. Troy did advised him that the afore-mentioned letter of credit is acceptable as surety.

Just as Mr. MacDonald finished his comments, Atty. Troy entered and confirmed he is satisfied that the letter of credit will be acceptable as surety. The Board was satisfied with the update.

EXECUTION OF DUXBURY BEACH LEASE FOR FY 2012

Mr. Dahlen recused himself from this discussion and any vote as he is a Director of the Duxbury Beach Reservation, Inc. Mr. Donato assumed the Chair.

Ms. Maggie Kearney was present to represent the Duxbury Beach Reservation, Inc. Tonight the Duxbury Beach Reservation, Inc. is asking the Town to sign the lease for use of the Duxbury Beach for the coming fiscal year (i.e., July 1, 2011 –June 30, 2012). She was pleased to announce that the dollar amount is staying the same (\$400,000.) as the past several years.

She mentioned that recent storms did some damage and affected the plovers nesting. According to Ms. Kearney, the plovers typically lay four eggs. If their nests are destroyed the plovers will re-nest, but each time they do they lay one less egg. She also mentioned that the re-nesting will extend the plover season, which limits some areas of the beach.

Mr. Flynn moved that the Board execute the annual lease between the Duxbury Beach Reservation, Inc. and the Town of Duxbury, as presented. Second by Mr. Donato. VOTE: 2:0:0 (*Mr. Dahlen recused himself.*)

The next two items had to do with liquor license requests planned for events on the Duxbury Beach so Mr. Dahlen recused himself from participating on those items of business as well, as he is a Director of the Duxbury Beach Reservation, Inc. Mr. Donato assumed the Chair.

ONE-DAY LIQUOR LICENSE REQUEST: MARGARET KEARNEY FOR PRESERVATION SOCIETY DANCE ON 8-6-11

Present for this item of business:

Ms. Margaret Kearney, President of the Duxbury Beach Reservation, Inc., who introduced the Co-Chairs for the event. DBPS –Dance Co-Chairs: Steve and Lisa Fitzgibbons and Megan and Bob Cerow.

Ms. Cerow indicated that they are requesting a one-day all-alcohol license for The Duxbury Beach Preservation Society's Annual Beach Dance Event. The Beach Dance will be on Saturday, August 6th from 8 PM to Midnight. This year the entertainment will be provided by a local band, The Barn Dogs, who are donating their services. Substantial hors d'oeuvres and desserts will be served. Attendance will be capped at 500 attendees. Tickets will be available at Farfars on St. George ST and online at www.duxburybeach.com. This event is a major fundraiser for the Duxbury Beach Preservation.

Mr. Flynn moved that the Board of Selectmen grant to Ms. Margaret Kearney, as a representative of the Duxbury Beach Preservation Society, a One-Day All-Alcohol License to hold a beach party on Saturday, August 6, 2011 on the grounds of Duxbury Beach Park, from 8:00 PM to 12:00 AM, contingent upon all the conditions listed on the license being met. Second by Mr. Donato. VOTE: 2:0:0. (*Mr. Dahlen recused himself.*)

EVENT PERMIT: ISLAND CREEK OYSTER FESTIVAL

Present for this item of business was Mr. Shore Gregory, Director of Business Development for Island Creek Oysters.

Mr. Gregory gave an overview of the 2011 Island Creek Oyster Festival plans. He noted that they have added another event, a "Friends of Haiti" fundraiser on Friday, September 9, 2011 from 6:30 PM to 11:00 PM. From 3-5 PM on Saturday, Sept. 10th there will be activities for children. The main Oyster Festival event will be on Saturday, September 10, 2011 from 3:00 PM to 11:00 PM. He assured the Board that Island Creek is working with Town Officials to assure public safety.

Mr. MacDonald mentioned that he had a meeting with Mr. Gregory and the Department Heads, including the Public Safety officials, to review the plans. Mr. Gregory and Island Creek are working with them to address any and all concerns. He indicated they plan to have at least one more meeting before the event to finalize the plans.

Mr. Flynn moved that the Board of Selectmen grant to Mr. Shore Gregory, as a representative of the Island Creek Foundation, Inc., two One-Day Liquor Licenses for the following events at Duxbury Beach Park:

- 1) An All-Alcohol Permit for the "Friends of Haiti" fundraiser on Friday, September 9, 2011 from 6:30 PM to 11:00 PM;
- 2) A Wine & Malt Permit for the "2011 Oyster Festival" on Saturday, September 10, 2011 from 3:00 PM to 11:00 PM;

subject to the conditions listed on the licenses. Second by Mr. Donato. VOTE: 2:0:0.

Mr. Gregory mentioned tickets go on sale July 4th on the Island Creek website: www.islandcreekoysters.com.

Mr. Dahlen returned to Chair the meeting.

EVENT PERMIT: FOURTH OF JULY FESTIVITIES

Present for this item of business were: Mr. Rich Potash, Co-Chair, Ms. Maggie Kearney and Mr. Don Reed, Members, of the 4th of July Committee.

Mr. Reed provided an overview of the Fourth of July plans. He indicated that members of the Committee had met with the Development Review Team (DRT) to go over the plans for this year's 4th of July Celebration and to respond to any concerns.

He specifically mentioned a few items:

- 1) They are expecting horses in this year's parade so asked that people refrain from poppers that might startle the horses.
- 2) Requested there be no silly string as it does make a mess and can damage the antique cars.
- 3) For safety's sake, please keep children on stay on the sidewalk

He then gave an overview of the planned events, which are as follows:

July 2-4, 2011	Duxbury 4th of July Celebration	
Fri., July 2 nd	4 PM - 10 PM	Duxbury Beach Party
Sun., July 3 rd	8:00 AM	Cornerstone Lodge Breakfast
Sun., July 3 rd	Starts at 6 PM	Concert at the Dux. High School field
Mon. July 4 th	8:30 AM	DEF 4th of July Road Race (Starts at Duxbury Middle School)
Mon. July 4 th	2:00 PM	Duxbury 4th of July Parade (Route: Halls Corner down Washington St. to Dux. High School)

Mr. Flynn moved that the Board of Selectmen grant to the Town of Duxbury Fourth of July Committee permission to hold the annual Fourth of July celebration in the Town of Duxbury, subject to the conditions listed. Second by Mr. Donato. VOTE: 3:0:0.

Ms. Kearney added the following regarding the 4th of July Celebration:

1. **DONATIONS:** The majority of the cost of the 4th of July Celebration is funded by donations to the Margery Parcher Fund. Any amount is appreciated. Send donations payable to the Margery Parcher Fund, P.O. Box 1743 Duxbury, MA 02331
2. **WEBSITE:** www.duxbury4thofJuly.com
3. **2011 GRAND MARSHALL:** Betsy Sullivan

CONSERVATION ADMINISTRATOR RE: HISTORICAL RESTRICTION ON THE KEENE BARN

Mr. Joe Grady, Conservation Administrator, asked that the Board of Selectmen execute a historical restriction on the Historic Isaac Keene Barn. This is standard practice when Community Preservation Act funding has funded a project. The CPA funding for the Isaac Keene Barn was authorized at the 2010 Annual Town Meeting. Wording for the document was reviewed by Atty. Troy. It is similar to documents executed in the past when CPC funding was used on projects regarding the King Caesar House and the Alden House projects. As this project was begun and voted prior to Mr. Flynn's election to the Board of Selectmen only Mr. Dahlen and Mr. Donato were asked to sign the document.

Mr. Donato moved the Board of Selectmen execute a Conservation Restriction for the Isaac Keene Barn, located at 742 Keene Street, pursuant to the vote of the 2010 Duxbury Annual Town Meeting. Second by Mr. Dahlen. VOTE: 2:0:1. (*Mr. Flynn abstained.*)

ONE-DAY LIQUOR LICENSE REQUESTS:

Duxbury Rural and Historical Society: Two Events on 6-24-11 / Allison Arnold for DRHS

Mr. Dahlen presented an overview of the request which is for two one-day liquor licenses as described in the motion. Departmental feedback was given with no objections and conditions noted on the licenses.

Mr. Flynn moved that the Board of Selectmen grant to Ms. Alison Arnold, as a representative of the Duxbury Rural & Historical Society, two One-Day Liquor Licenses for the following events to be held on June 24, 2011:

- 1) An All-Alcohol Permit for a private event at the Nathaniel Winsor, Jr. House, from 6:00 PM to 10:00 PM;
- 2) A Wine and Malt Permit for a members' event at the King Caesar House, from 5:00 PM to 7:00 PM;

subject to the conditions on the licenses. Second by Mr. Donato. VOTE: 3:0:0.

Duxbury Yacht Club: 6-15-11, 6-18-11, 7-2-11, 7-8-11 / Catherine Rogerson for DYC

Mr. Dahlen gave an overview of the requests and the details of the events' dates, times and locations. Departmental feedback was given with no objections and conditions noted on the licenses.

Mr. Flynn moved that the Board of Selectmen grant to Ms. Catherine Rogerson, as a representative of the Duxbury Yacht Club, four One-Day Liquor Licenses for the following events:

- 1) All-Alcohol Permit for a Golf Tournament Dinner, on June 15, 2011 from 6:00 PM to 9:00 PM, at the Ellison Clubhouse on Mattakesett Court;
- 2) All-Alcohol Permit for a Golf Tournament Dinner, on June 18, 2011 from 6:30 PM to 11:00 PM, at the Ellison Clubhouse on Mattakesett Court;
- 3) All-Alcohol Permit for a Cocktail Party on July 2, 2011 from 5:30 PM to 7:30 PM, at the Ellison Clubhouse on Mattakesett Court; and
- 4) Wine & Malt Permit for a Golf Tournament Lunch & Dinner on July 8, 2011 from 1:00 PM to 6:00 PM at the Golf Clubhouse on Fairway Lane.

subject to the conditions listed on the licenses. Second by Mr. Donato. VOTE: 3:0:0.

ZONING BYLAW STUDY COMMITTEE DISCUSSION WITH LAND USE BOARDS

Mr. Dahlen said that members of the following Boards or Committees were invited to attend this discussion: Planning Board, Zoning Board of Appeals, Conservation Commission, and Design Review Board. Mr. MacDonald added that there were a number of individuals who indicated their interest in serving on the Zoning Bylaw Review Committee and those individuals were also notified of tonight's discussion.

Mr. Flynn mentioned that in an update by Town Counsel on the pending Town litigation it was clear that a majority of the cases were the result of interpretation issues regarding the Zoning Bylaws. The intention is to begin the process of clarify the Zoning Bylaws to eliminate misinterpretation and to make sure all sections conform when incorporating the amendments and changes made over time.

After some initial discussion Mr. Dahlen read a draft charge, which was later approved as the charge to the Zoning Bylaw Review Committee (see attachment).

A number of individuals participated in the discussion and the following are representative of the discussion points made:

- Consensus was that a Zoning Bylaw Review Committee (ZBRC) is a good idea.
- Concerns were expressed regarding the timeframe to accomplish the overall goal, which led to the presentation of a draft charge for the ZBRC. It was suggested that this would be the first phase of the process and that first phase should focus on identifying the problem areas in the current bylaw. In that process the ZBRC should ask for input from a wide-range of individuals, including department staff, developers, citizens, etc.
- Concerns were expressed for the need to employ a professional for the actual re-writing of the Zoning Bylaw and funding for payment of a professional. It was noted that there are no funds in the FY'12 budget and therefore, it was suggested that funding would have to be authorized at a future Town Meeting.
- Membership: There was a fairly extensive discussion revolving around the number of members and the make up of the ZBRC, including which Boards should have a representative and the geographical diversity of the ZBRC.
- The ZBRC should not just be looking a clarifying the wording and format of the Zoning Bylaw, but should also reviewing policy matters, specifically as they might pertain to business and affordable housing or special family circumstances. Some examples offered were: whether to allow a new overlay district for areas less than one acre, lot coverage to allow for more flexibility on parcels specifically for those between 20,000 - 40,000 square feet, and accessory apartments to accommodate affordable housing and /or circumstances to allow for family to care for disabled or elderly residents.
- Suggestion was made that in making any policy changes, esp. with respect to density, consideration should be given for maintaining the water quality of the aquifer and Duxbury Bay.
- The Zoning Bylaw is a cluster of laws that should reflect the community at-large, as to what they want, and therefore should reflect the Comprehensive Plan. For the initial phases of wording, clarification and format, there are a number of existing documents (1999 Comprehensive Plan, 2004 Community Development Plan, and 2008 Open Space Plan), which can be reviewed to assist in that process. It was suggested that when policy changes are considered, the ZBRC should be using a current Comprehensive Plan as its guide. It was noted that the Comprehensive Plan is currently under review with expectation to complete that in 8 -12 months.

Mr. Flynn moved for a (Zoning Bylaw Review) Committee of 9 members to include two representatives from Boards; one representative each from the Planning Board and Zoning Board of Appeals and 7 citizens at-large as follows:

[To be recommended by the Planning BD]	(Planning Board Rep.)
Judi Barrett	(ZBA REP)
Nancy Armington Johnson	(Design Review BD) <i>–added after discussion</i>
Scott Casagrande	(Citizen At-Large)
Martin Desmery	(Citizen At-Large)
Freeman Boynton, Jr.	(Citizen At-Large)
Fred Clifford	(Citizen At-Large)
Paul Boudreau	(Citizen At-Large)
Mary Steinke	(Citizen At-Large)
Robert (Bob) Fitzpatrick	(Citizen At-Large)

and ask that Bob Fitzpatrick be given the responsibility to set up the inaugural meeting of the Committee.

Following an extensive discussion with audience members the Board discussed the make up of the committee and the number of committee members. During this discussion a brief overview was given regarding the background of the individuals, especially their previous experience on Town Boards and Committees. Hearing the comments, the Selectmen agreed that a representative of the Design Review Board (DRB) should be added, and this was done through an amendment to the motion.

Mr. Flynn amended his motion for the Zoning Bylaw Review Committee to be a total of 10 members to include three representative of Boards; one each from the Planning Board, Zoning Board of Appeals, and Design Review Board with Nancy Armington Johnson as the Design Review Board representative; and that the draft charge be the Zoning Bylaw Review Committee's charge. Second by Mr. Donato. VOTE: 3:0:0.

BUSINESS

TOWN MANAGER'S BRIEF

Mr. MacDonald mentioned the following items:

- 1) **Construction Costs:** Mr. MacDonald reported construction costs for the month of May were \$4.7 million. He noted that \$2.9 million was related to the Fire Station project, but the remaining \$1.8 million is an improvement.
- 2) **Birch Street Water Tank / Water Main Issues:** Mr. MacDonald said that the Birch Street Water Tank was erected to resolve low water pressure issues that some areas of Town had experienced in the past. As a result of the Birch Street Water Tank there has been a substantial increase in water pressure. This has caused problems in the Franklin ST / Lincoln ST area, which recently experienced water main breaks. He apologized for the inconvenience to the affected residents. Mr. MacDonald reported that he has asked DPW Director Peter Buttkus and Water Superintendent Peter Mackin to put together a priority list for replacement of existing water mains with estimated costs.

Mr. Dahlen asked if they could lower the level in the tank to alleviate some of the water pressure problems? Mr. MacDonald indicated that that is a possibility but a study was done and the water level is set at the recommended level to achieve the required pressure for fire emergency and other issues.

ANNOUNCEMENTS

Mr. Donato announced the following:

- (a) **An Amateur Radio Field Day** will be held on June 25 & 26 at the Plymouth Airport at the Entrance of Gate #2. The public was invited to attend.
- (b) A free **Forum on Nuclear Safety & Duxbury Emergency Preparedness** will be held on Wednesday, June, 15, 2011 from 7:30 PM – 10:00 PM at the Duxbury Senior Center, 10 Mayflower ST. There will be a panel of experts in the nuclear field to discuss citizen concerns about the safety at the Pilgrim Nuclear Power Station. Following brief presentations there will be an audience question & answer period. Chief Kevin Nord will be available to answer any specific questions regarding emergency planning. The public was invited and encouraged to attend.

MINUTES

Mr. Flynn moved that the Board approve the Minutes of May 23, 2011, as presented. Second by Mr. Dahlen. VOTE: 2:0:1. (*Mr. Donato abstained as he was not at that meeting.*)

COMMITTEE APPOINTMENTS/RE-APPOINTMENTS

Zoning Board of Appeals

Mr. Flynn moved to re-appoint Jill Cadigan-Christenson to the Zoning Board of Appeals for a term to expire on 06/30/2016. Second by Mr. Donato. VOTE: 3:0:0.

Board of Appeals Associate Members

Mr. Flynn moved to re-appoint Paul Boudreau and Dimitri Theodossiou as Associate Members of the Zoning Board of Appeals for a term to expire on 06/30/2012. Second by Mr. Donato. VOTE: 3:0:0.

ADJOURNMENT FROM OPEN SESSION & RE-CONVENED IN EXECUTIVE SESSION

At 9:47 PM, Mr. Dahlen moved to adjourned the Open Session and to re-convene in Executive Session to discuss strategy with regard to collective bargaining in accordance with Mass. General Laws Chapter 30a, Section 21, and then to adjourn directly from Executive Session without reconvening in Open Session. Second by Mr. Flynn. ROLL CALL VOTE: Mr. Donato – Aye; Mr. Flynn – Aye; Mr. Dahlen – Aye;

LIST OF DOCUMENTS (on next page).

LIST OF DOCUMENTS (reflecting revised order)

- 1) Executive Session Packet: Suggested Motion for Entering Executive Session and Materials relative to step two Grievance RE: K. Smith (moved to Executive Session Files)*
- 2) North Hill Golf Course Update –no packet items*
- 3) Lease between Duxbury Beach Reservation, Inc. and Town of Duxbury for period of July 1, 2011 to June 30, 2012.*
- 4) Duxbury Beach Preservation Society: One-Day Liquor License packet -Beach Party on 08-06-11*
- 5) Island Creek Foundation, Inc.: One-Day Liquor License packet for Island Creek's "Friends of Haiti" on 09-09-11 and "2011 Oyster Festival" on 09-10-11*
- 6) 4th of July Beach Party & Parade Plan for 2011: Draft Event Permit*
- 7) Conservation Restriction: Isaac Keene Barn*
- 8) Duxbury Rural & Historical Society: One-Day Liquor License packet – 2 events on 06/24/11*
- 9) Duxbury Yacht Club: One-Day Liquor License packet – 4 events 6/15/11;6/18/11;7/02/11; 7/08/11*
- 10) Zoning Bylaw Review Committee packet: Draft of Overall Charge/ Duties, Spreadsheet of Potential Members; Talent Banks of Potential Members; Handout given at meeting by Mr. Dahlen: Recommended list of appointees to Zoning Bylaw Review Committee*
- 11) Announcements: Amateur Radio Field Day on June 25-26, 2011 and Forum on Nuclear Safety & Duxbury Emergency Preparedness on 6-15-11*
- 12) Draft Board Minutes of May 23, 2011*
- 13) Board and Committee Appointments 06-06-11*