

Date: October 3, 2011

Date Minutes Approved: October 17, 2011

BOARD OF SELECTMEN MINUTES

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

Absent: No members were absent.

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

CALL TO ORDER

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

LIQUOR LICENSE HEARING: CHANGE IN LOCATION / MILLBROOK MARKET

Present were:

Ms. Susan Durant, applicant

Mr. Gary Durant

Robert Galvin, applicant's attorney

Attorney Galvin explained that when ownership of the building at 277 St. George Street changed hands, the Durants lost their lease for Millbrook Market. They are applying to move their business across the street, to 282 St. George Street. Unfortunately, the new space is too small for a general store, so it will be a liquor store only. He said that this new business plan offers one advantage. Minors will have no business in the store unless they are accompanied by an adult. They will be much more noticeable in a liquor store than they would be in a general store.

The Selectmen asked some general questions of Mr. Galvin, and then invited comments from the public. Mr. Steve Carleton, resident of River Lane, and spouse of the owner of FarFar's Ice Cream Shop, asked to speak. Mr. Carleton stated that a grocery store is vital to the success of the Millbrook business area. He said that a new grocery store is planned for the former location of Millbrook Market, and that the new owners will likely apply for a liquor license. He said that the success of the new grocery store could be hurt by a decision to allow a liquor store across the street.

Mr. Dahlen responded that the Selectmen should not be deciding who can have a business and who cannot, unless the business will be detrimental to the Town. Mr. Flynn commented that the Alcoholic Beverage Control Commission has ruled that a license cannot be denied strictly to limit competition.

Mr. Donato said that he shares Mr. Carleton's concerns. However, on balance, he said that he could not deny the Durants the opportunity to continue operating a business in Duxbury.

Ms. Ellen Keir Bobseine, a resident of Onion Hill Road, said that she has been a customer of Gary and Susan Durant for fourteen years. She would like them to have the opportunity to continue their business.

Mr. Flynn moved that the Board approve a change in location for the All-Alcohol Retail Beverage License held by Duxbury Provisions, Inc., dba Millbrook Market, (Susan Durant,

Manager), from 277 St. George Street to 282 St. George Street, subject to the following conditions:

- Satisfactory Completion of an Inspection by the Fire and Inspectional Services Departments
- 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---already paid for 2011)
- 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 11:00 PM
 - Evening Before Holiday, until 11:30 PM
 - Sundays and Holidays, Noon to 11:00 PM

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

LIQUOR LICENSE HEARING: ALTERATION OF PREMISES / SUN TAVERN

Present were:

Larry Friedman, applicant
Carol Friedman

Mr. Friedman explained that the Sun Tavern has been very successful during the colder months, and has been less successful in the summer months. This is because patrons would like to eat outside. He would like to provide an opportunity for outdoor dining. He said that he has built a patio with seven tables, and would like to be able to serve cocktails there.

Mr. MacDonald commented that the Friedmans owned the Sun Tavern a few years ago. Then there were two subsequent owners. The restaurant was failing under the new owners, and as a labor of love, the Friedmans took it over again. He said that the Friedmans do a wonderful job and should be commended for bringing the restaurant back to its former glory.

Mr. Dahlen commented that the Fire Chief has recommended that a mulch bed be removed from an area adjacent to the patio, to avoid the inadvertent igniting of the mulch by disposal of smoking materials. Mr. Friedman said that smoking is not allowed in the restaurant or on the patio. However, he thinks that the Fire Chief's idea is a good one, so he will replace the mulch with crushed stone.

Mr. Flynn moved that the Board vote to approve an alteration of the premises for the All-Alcoholic Common Victualler License of Bramblebush Eats, Ltd, dba The Sun Tavern, Lawrence P. Friedman, Manager, at 500 Congress Street, such alteration to consist of the addition of a 13-foot by 28-foot fenced-in patio area adjacent to the building, subject to removal of a mulch bed as requested by the Fire Chief. Second by Mr. Donato. Vote: 3:0:0.

SPECIAL TOWN MEETING ARTICLE: PILGRIM NUCLEAR POWER PLANT MONITORING

Present were:

Ms. Becky Chin, co-chair of Duxbury Nuclear Advisory Committee
Fire Chief Kevin Nord, Duxbury Emergency Management Agency (DEMA)

Ms. Chin explained that the owner of the power plant has already set aside money for monitoring. However, a strong sense of the Town Meeting is needed in order to convince the authorities to implement the monitoring. Chief Nord added that DEMA fully supports this article.

Mr. Donato moved that the Board support the October 29, 2011 Special Town Meeting article pertaining to monitoring of the Pilgrim Nuclear Power Station. Second by Mr. Flynn. Vote: 3:0:0.

SPECIAL TOWN MEETING ARTICLE: SOLAR ARRAY PROJECT

Present:

Mr. Josh Cutler, Vice-Chair of Alternative Energy Committee

Mr. Cutler explained that this article would allow the Selectmen to lease the property containing our capped landfill, for 10-20 years, to a solar energy provider. If the article passes, the vendor will be "American Capital Energy". This vendor was selected via the Request For Proposals (RFQ) bidding process. This project will save the Town approximately \$45K per year.

Mr. Dahlen asked who would be responsible for permitting with the Department of Environmental Protection. Mr. Cutler responded that the vendor will be responsible for the permitting.

Mr. Flynn moved that the Board support the October 29, 2011 Special Town Meeting article pertaining to the installation, operation, maintenance and removal of a proposed solar array project at 145 Mayflower Street. Second by Mr. Donato. Vote: 3:0:0.

UPDATE ON NORTH HILL COUNTRY CLUB

Present:

**Emmett Sheehan, Owner of Pilgrim Golf, LLC
Gordon Cushing, Recreation Director**

Mr. Cushing said that there was a change in management of the Town's golf course this year. The new manager is Pilgrim Golf, LLC. Due to legal issues, the change was delayed until April. It was a huge challenge for the new manager to have the course up and running for the golf season, with such short notice. However, the course was opened very successfully. There was a second challenge because the previous manager retained membership fees that were needed for course management. This was finally resolved in September, with the membership fees coming under control of the new manager.

Next, Mr. Sheehan gave a Power Point presentation of upgrades to the facility. He emphasized that Town departments have worked very cooperatively with him.

Mr. Donato said that he has heard great compliments about the food in the clubhouse. Mr. Doyle, resident of Old Cove Road, said that he is "amazed" at Pilgrim Golf's performance. He said that the golf course is on its way back to being what it should be. Mr. Cushing said that it has been a "joy" to work with Pilgrim Golf.

APPLICATION FOR ENTERTAINMENT LICENSE: PILGRIM GOLF

Present:

Mr. Emmett Sheehan, Owner of Pilgrim Golf, LLC

Mr. Sheehan explained that he would occasionally like to, for functions and special events, be able to offer live music or recorded music, either inside the clubhouse, outside under the covered deck area, and/or in a special events tent. The special events tent location is adjacent to the left of the putting green, near the clubhouse and away from any residences.

Mr. Robert Doyle, resident of Old Cove Road, said that he hoped this would be very low-key. If it gets "out of hand", the course will turn into something it was not meant to be.

Mr. Dahlen noted that there were no objections by public safety department heads.

Mr. Flynn moved that the Board of Selectmen grant an Entertainment License for Pilgrim Golf, LLC for the North Hill Country Club, for the remainder of calendar year 2011, subject to the conditions listed on the license.

(Those conditions are):

- 1) *Outdoor entertainment shall be limited to private events only;*
- 2) *A Sunday entertainment license shall be obtained from the Commonwealth of Massachusetts;*
- 3) *Entertainment hours are limited to: Noon until 11:30 PM*
- 4) *The Selectmen may choose to modify or rescind the entertainment license if deemed in the Town's best interest to do so.*

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

SPECIAL TOWN MEETING ARTICLE: PERCY WALKER POOL ENTERPRISE FUND

Mr. Madden explained that the Town has only recently began operating the Percy Walker Pool as an enterprise fund. For the fiscal year ending July 1, 2011, there was a deficit in the Fund of \$7,717.60. The main reason for this is that revenues were not as high as we had hoped. Overall, for a new enterprise fund, Mr. Madden is pleased with how close our estimates were. Mr. Madden noted that Mr. Cushing would like to hire a third aquatic supervisor. However, the revenues do not support this yet. Mr. Madden also discussed the need for more accurate ways to account for pool usage by the School Department.

Mr. Flynn moved that the Board support the October 29, 2011 Special Town Meeting article pertaining to the Percy Walker Pool Enterprise Fund. Second by Mr. Donato. Vote: 3:0:0.

SIGN SPECIAL TOWN MEETING WARRANT

The Selectmen held a discussion about the best order in which to consider the Special Town Meeting articles on October 29, 2011. Mr. Dahlen expressed his preference for grouping them by subject matter. After discussion, the following order was decided:

- 1) School Building Project
- 2) Owner Petition (Off Franklin Street)
- 3) Owner Petition (Tremont Street)
- 4) Solar Array Project
- 5) Pilgrim Power Station Monitoring
- 6) Town Clerk Salary Article
- 7) Percy Walker Pool Enterprise Fund
- 8) Unpaid Bills
- 9) Quinn Bill Rescission
- 10) Collective Bargaining Agreements

Mr. Donato moved that the Board vote to hold a Special Town Meeting on Saturday, October 29, 2011 at the Duxbury Performing Arts Center, 73 Alden Street, beginning at 9:00 AM, to consider ten articles as shown on a Draft Warrant dated 9-29-11. Second by Mr. Flynn. Vote: 3:0:0.

Mr. Donato moved that the articles for the October 29, 2011 Special Town Meeting shall be considered in the order as previously discussed. Second by Mr. Flynn. Vote: 3:0:0.

EVENT PERMIT: TARKILN BUILDING FUNDRAISER

Mr. Flynn moved that Ms. Ann Prince, as a representative of the Friends of Tarkiln, is permitted to hold a Pumpkin Sale on Saturday, October 15, 2011, on the grounds of the Tarkiln Building, from 10:00 AM until 4:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.

EVENT PERMIT: STUDENT UNION YARD SALE

Ms. Laura Smith, president of the Duxbury Student Union, was present on behalf of Teresa Woodward and the entire Student Union organization, to ask permission to hold a Yard Sale on the grounds of the Student Union. She described the event and invited residents to call the Student Union to arrange yard sale donations.

Mr. Flynn moved that Ms. Teresa Woodward, as a representative of the Duxbury Student Union, is granted permission to hold a Yard Sale on the front fenced-in-yard of the Wright Building, on Saturday, October 15, 2011 (raindate: Sunday, October 16, 2011) from 9:00 AM to 3:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.

ONE-DAY LIQUOR LICENSE: DUXBURY YACHT CLUB

Mr. Flynn moved that Mr. Douglas E. Hart, as a representative of the Duxbury Yacht Club, is granted a One-Day All-Alcoholic Beverage License to hold a Committee Chairs Orientation at the Golf Clubhouse on Fairway Lane on October 16, 2011, from 5:00 PM to 7:00 PM, subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.

ONE-DAY LIQUOR LICENSE: DUXBURY ART MUSEUM

Mr. Flynn moved that Ms. Doris Collins, as a representative of the Duxbury Art Museum, is granted a One-Day All-Alcohol License to hold a reception on Sunday, October 16, 2011 from 1:30 PM to 3:30 PM at the Art Complex Museum (186 Alden Street), subject to the conditions listed on the license. Second by Mr. Donato. Vote: 3:0:0.

TOWN MANAGER BRIEF

- 1) Road repairs will begin around Town. Residents will be notified via Reverse 9-1-1 whenever possible.
- 2) The Massachusetts Attorney General's office called the Town Manager about the letter he sent about the poor performance of NSTAR during Hurricane Irene. The Department of Public Utilities will conduct a formal investigation.
- 3) There will be a meeting in the Student Lounge of Duxbury High School, on Tuesday, October 4, from 6 PM to 7:30 PM about the potential closing of the Snug Harbor Post Office.

- 4) The David Cutler Forest was dedicated on Friday, September 30, 2011. The dedication ceremony was a nice tribute to one of the Town's great citizens.

ANNOUNCEMENTS

- 1) Representative Daniel Webster is pleased to announce that he will be available to meet with constituents at Foodies' Market in Hall's Corner on Tuesday, October 11, 2011, beginning at 7:00 PM. Appointments are not necessary and all residents are welcome to speak with the Representative about issues of concern.
- 2) On October 29, from 10 AM until 2:00 PM, the Duxbury Board of Health, Duxbury Police Department, and the Drug Enforcement Administration (DEA) will give the public another opportunity to prevent pill abuse and theft by ridding their homes of potentially dangerous expired, unused, and unwanted prescription drugs. Bring your medications for disposal to the Duxbury Senior Center at 10 Mayflower Street, Duxbury, MA. The service is free and anonymous, no questions asked. Ms. Mello mentioned that the Town regrets that this is scheduled on the same day as the Special Town Meeting. However, the date is set by the Drug Enforcement Administration, and cannot be changed. Hopefully, Town Meeting will adjourn in time for residents to take advantage of this opportunity. The Town Manager commented that the first "Take Back Unwanted Prescription Drugs Day" was very successful.

MINUTES

Mr. Flynn moved that the Board accept the Executive Session minutes of 9/26/11 as presented, with the contents to remain sealed until the need for confidentiality has passed. Second by Mr. Donato. Vote: 3:0:0.

Mr. Flynn moved that the Board approve the Open Session minutes of 9/26/11 as presented. Second by Mr. Donato. Vote: 3:0:0.

BOARD AND COMMITTEES: RESIGNATION AND APPOINTMENT

Mr. Dahlen noted that Mr. Michael Gill has resigned from the Duxbury Zoning Board of Appeals. The Board of Selectmen thanked Mr. Gill for his service.

Mr. Flynn moved that the Board appoint Mr. Wayne Dennison to fill the unexpired term on the Zoning Board of Appeals, such term to expire on June 30, 2015. Second by Mr. Donato. Vote: 3:0:0.

OLD BUSINESS

Mr. Dahlen said that Ms. Susan Kelley is organizing the Town's FY11 Report. She has presented the Board with several options for a cover photo. Mr. Dahlen asked the other members to help him select covers for the front and rear. After discussion, the photos were selected.

ADJOURNMENT

At approximately 8:25 PM, Mr. Donato moved for adjournment of the meeting. Second by Mr. Flynn. Vote: 3:0:0

LIST OF DOCUMENTS

- 1) *Millbrook Market Liquor License: Application for Change in Location*
 - a) *Suggested Motion*
 - b) *Background Information*
 - c) *Department Head Feedback*
 - d) *Duxbury Clipper article, dated 11-8-94*
 - e) *Application Packet*
- 2) *Sun Tavern Liquor License: Application for Alteration of Premises*
 - a) *Suggested Motion (revised)*
 - b) *Department Head Feedback*
 - c) *Application Packet*
- 3) *Suggested Motion for STM article pertaining to Pilgrim Power Plant Monitoring*
- 4) *Suggested Motion and information packet for STM article pertaining to a solar array project*
- 5) *List of Improvements to the North Hill Golf Course, received 9-28-11*
- 6) *Pilgrim Golf Entertainment License: Application Packet and Suggested Motion*
- 7) *Suggested Motion for STM article pertaining to the Percy Walker Pool Enterprise fund*
- 8) *Special Town Meeting Warrant, draft dated 9-29-11*
- 9) *Suggested Motions pertaining to the Special Town Meeting Warrant*
- 10) *Suggested Motions for Event Permits and One-Day Liquor Licenses*
- 11) *Announcement: Representative Daniel Webster Office Hours*
- 12) *Announcement: "Taking Back Unwanted Prescription Drugs"*
- 13) *Draft Minutes of 9-26-11*
- 14) *Information regarding opening on Zoning Board of Appeals*