

**Date: November 7, 2011**

*Date Minutes Approved: November 28, 2011*

## **BOARD OF SELECTMEN MINUTES**

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

**Absent:** No members were absent.

**Staff:** Richard MacDonald, Town Manager; John Madden, Finance Director; and C. Anne Murray, Administrative Assistant /King Caesar Fund Staff Liaison.

**Others Present:**

Attorney Robert Troy, Town Counsel

The meeting was called to order at 6:15 PM.

### **VOTE TO ENTER EXECUTIVE SESSION**

Mr. Dahlen moved that the Board enter Executive Session in order to discuss matters regarding the King Caesar Fund, which are of a confidential nature, as the fund's purpose is to provide medical relief for the financially-needy residents of Duxbury, and to discuss strategy with respect to litigation since an open meeting may have a detrimental effect on the Town's litigating position, in accordance with Mass. General laws Chapter 30a, Section 21, and then to reconvene in open session. Second by Mr. Flynn.

Mr. Dahlen declared that due to medical confidentiality it is necessary for King Caesar Fund cases to be discussed in Executive Session and that there is a need to discuss pending litigation in Executive Session because a discussion of the matters in Open Session would have a detrimental effect on the Town's litigating position. Roll Call Vote: Mr. Dahlen---aye; Mr. Donato---aye; and Mr. Flynn---aye.

### **RE-CONVENED IN OPEN SESSION**

At approximately 7:00 PM, after adjourning the Executive Session, the Board of Selectmen meeting re-convened in Open Session and the public entered.

**OPEN FORUM** --Nothing was brought forward.

### **SENIOR CENTER UPDATE / Joanne Moore, COA Director**

On behalf of the Board, Mr. Dahlen read and presented a Proclamation to honor Ms. Pamela Campbell Smith for her many volunteer activities in and around the Duxbury community.

### **7:05 P.M. PUBLIC HEARING RE: USE OF TOWN GREEN FOR CHRISTMAS TREE LIGHTING ON NOVEMBER 25, 2011**

Shortly after 7:05 PM the Chair opened the public hearing by recognizing Mr. Paul Brogna. Mr. Brogna represented the Duxbury Rotary Club and requested permission to use the Millennium Town Green for the Annual Christmas Tree Lighting to be held on November 27, 2011 from 1:00 PM to 7:00 PM. Mr. Brogna said that the event will be similar to how it has been held in the past.

Notices were sent to the abutters as required and departmental feedback incorporated in the conditions listed on the permit. No one in the audience had any comments on the request.

Mr. Flynn moved that the Board of Selectmen grant to Mr. Paul Brogna, as a representative of the Duxbury Rotary Club, an event permit for the Annual Christmas Tree Lighting, to be held on the Millennium Town Green on Sunday, November 27, 2011 from 1:00 PM to 7:00 PM, contingent on the conditions listed. Second by Mr. Donato. VOTE: 3:0:0.

**OPEN SPACE AND RECREATION COMMITTEE: Renaming of the committee/ Paul Costello, Chair**

Mr. Paul Costello, Chair of the Open Space and Recreation Committee (OSRC), explained to the Board that he was present to request that the Board change the name of Committee to eliminate "and Recreation" from its title. He explained that his Committee has virtually no involvement in recreation, other than sponsoring an annual scavenger hunt. He pointed out that the Committee has trouble attracting and keeping members because volunteers come expecting the focus to be something else. He acknowledged that the OSRC was established by a Town Meeting vote and therefore, it may require a Town Meeting vote to implement the name change. What is not clear and may require further research is whether the OSRC was set up in accordance with State guidelines and if so, it might take more than a Town Meeting vote to implement the name change.

The Selectmen agreed in theory with the request to change the Committee's name, but asked Mr. MacDonald to review this matter further to assure the steps that would be required and to report back to the Selectmen.

**7:10 P.M. HEARING: WINE & MALT PACKAGE STORE APPLICATION FOR KBBJ MARKET  
(277 ST. GEORGE STREET)**

At 7:12 PM Mr. Dahlen opened the hearing for the above-referenced request.

Mr. Bobby Barry, owner of KBBJ Market dba Sandy Lamberts' Marketplace, spoke on behalf of himself and his wife, Ms. Sandy Barry, the manager.

He explained that they that have opened Sandy Lamberts' Marketplace in the location recently vacated by Millbrook Market. They would like to continue to run this location as a convenience store and to offer wine and malt, as the previous owners did. Tonight they are seeking approval of: (1) a Wine & Malt Package Store License and (2) a Common Victualler's License.

Mr. Dahlen mentioned that the appropriate application for a Wine & Malt Package Store has been submitted. He indicated that the information was circulated with no objections received from: the Public Safety Departments (Police & Fire), the Inspectional Services Department, or the Board of Health. The Treasurer's Office has confirmed there are no tax issues to warrant delay or non-approval of the request.

The Chair asked if anyone present would like to speak on this matter. No one in the audience asked to speak.

Mr. Flynn moved that the Board of Selectmen, acting as the Licensing Authority, approve a Wine & Malt Package Store License for KBBJ Marketplace, dba Sandy Lambert's Marketplace, Sandy Lambert, Manager, at 277 St. George Street, subject to the following conditions:

- Signed Workers' Compensation Affidavit
- Provision of Proof of Workers' Compensation Insurance
- Proof of Liquor Liability Coverage
- Payment of Annual Fee (currently \$1,000.00 for Wine and Malt Package Store 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:

- When Store is Open and as Allowed By State Law:
- 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

and also that the Board approve a Common Victualler's License for KBBJ Marketplace, at 277 St. George Street, 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 (done)
- Inspection by the Board of Health (done)
- Provision of signed R.E.A.P. form (Payment of State Taxes)

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

#### ONE-DAY LIQUOR LICENSE

*Elizabeth Pearce for the Alzheimer's Association: Fundraiser on November 12, 2011 at the Ellison Center for the Arts*

Mr. Flynn moved the Board of Selectmen grant to Ms. Elizabeth Pearce, as a representative of the Alzheimer's Association, a One-Day All-Alcohol License to hold a reception on November 12, 2011 at the Ellison Center for the Arts, 64 St. George Street, from 5:30 PM to 7:30 PM, subject to the conditions listed. Second by Mr. Donato. VOTE: 3:0:0.

#### MINUTES

Mr. Flynn moved that the Board approve the Executive Session Minutes of October 24, 2011, 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 Minutes of October 24, 2011, as presented. Second by Mr. Donato. VOTE: 3:0:0.

#### 7:20 P.M. MEETING OF THE WATER & SEWER COMMISSIONERS:

Mr. Flynn moved that the Board of Selectmen adjourn the meeting as Selectmen in order to meet as the Water & Sewer Commissioners, with the intent of re-convening as Selectmen afterward. Second by Mr. Donato. VOTE: 3:0:0.

Present for the Water and Sewer Commissioner's meeting were Mr. Tom Sexton, Haley and Ward Engineers (The consultants hired to prepare Capital Improvement Plan.), and Mr. Peter Mackin, Town of Duxbury Water Superintendent.

Background: The Town received a Capital Improvement Plan (CIP) Grant. The CIP Grant program provides monies to public water systems for the purpose of developing a capital improvement plan for their water system and for discussing the adoption of funding these needed improvements on an annual basis.

## **DISCUSSION OF CAPITAL IMPROVEMENT PLAN**

Mr. Sexton indicated that the Dept. of Environmental Protection (DEP) requires that the Selectmen as water commissioners review and discuss the CIP. He indicated that the main “takeaway” point made was that the Water Department has not been budgeting for the useful life of the water infrastructure.

He also explained that the CIP report is more a data-gathering report of the current system versus a Water System Master Plan, which not only looks at the current system, but projects future needs and hydraulic withdrawal capacities based on growth projections. It also includes more of a financial master plan.

Mr. Madden said that we do not have a water stabilization fund. He noted, however, that a rate study was done two years ago, which has positioned the Town to cover basic future improvements. However, big upcoming projects would have to be paid for by bonding.

Mr. Mackin noted that in 2000 a Water System Master Plan was done. Most of the items on it, such as the Birch Street tank, were accomplished. It is time to do an updated Water System Master Plan and in anticipation of that \$50,000. was included in the Water Dept. budget for funding it. The CIP is an initial step toward an updated Water System Master Plan.

No votes were necessary, but the Selectmen were glad to be informed about the CIP findings and do recognize planning for the useful life of the water system is important.

## **WATER, SEWER, AND SERVICE COMMITMENT**

Mr. Flynn moved that the Board of Water & Sewer Commissions instruct the Treasurer to collect the amount of \$1,021,248.82 for water, sewer, and service. Second by Mr. Donato. VOTE: 3:0:0.

Mr. Flynn moved that the Board of Selectmen adjourn the meeting as Water & Sewer Commissioners in order to reconvene their meeting as Selectmen. Second by Mr. Donato. VOTE: 3:0:0.

## **DISCUSSION REGARDING SELECTMEN-SPONSORED ARTICLES FOR 2012 ANNUAL TOWN MEETING**

Mr. Dahlen put this on the agenda so the Selectmen could start discussing some articles that they might want to sponsor.

The following potential articles were discussed:

### **1. A Facilities Manager and the funding for that position:**

Mr. Dahlen suggested that he would like the Selectmen to sponsor an article to establish the position of a Facilities Manager and the funding for that position. His colleagues indicated their agreement. In discussion, it was noted that the Town Building Committee has surveyed a number of other communities regarding Facility Manager job descriptions and salary ranges. They have also made a site visit to Jordan Hospital to see how they have utilized a Facilities Manager, and have had some preliminary discussions with the Personnel Board.

Mr. MacDonald expressed his support for such a position. He did, however, suggest that the funding for the Facilities Manager should be a separate article from the budget article.

It was suggested that the Town Manager should review this matter with Town Counsel for a draft article to be prepared for review by the Board in two weeks.

**2. Zoning Bylaw Review Committee potential article(s):**

It was suggested that if the ZBRC has completed its work and has any recommendations, the Selectmen should be prepared to receive and discuss any articles the ZBRC might bring forward. It is, however, expected that the ZBRC would draft the article(s).

**3. Town Clerk position:**

It was suggested that the Town Clerk's position, which is a full-time position, be reviewed for the advisability of moving it from an elected position to an appointed position. Mr. Flynn thought this matter should be referred to a committee for review and Mr. Donato agreed. Rather than establish a new committee, the Town Manager suggested that the Personnel Board should be asked to review it.

It was decided that there might not be sufficient time for a committee review and the preparation of an article for the ATM 2012. The Board did decide to discuss this matter again, perhaps with the Personnel Board, at an upcoming meeting. It was agreed Mr. Dahlen would speak with Mr. Heward, the Chair of the Personnel Board, about that.

**4. Compensation / Health Insurance for Elected Positions:**

Mr. Dahlen asked the Board if they want to look again at eliminating stipends and eligibility for Town health insurance from elected positions (excluding the Town Clerk's position).

Mr. Dahlen indicated most of the elected positions are part-time. He explained that in his opinion part-time elected officials should not receive those benefits when other board and committee members give as much time and do not receive either. He suggested a procedure would have to be developed for how implementation of the policy change would occur and suggested that current elected officials would maintain their eligibility until the end of their terms, but not upon re-election.

It was agreed that the Town Manager would work with Town Counsel to develop an article for the 2012 Annual Town Meeting, and report back to the Selectmen in two weeks.

**DUXBURY EMERGENCY MANAGEMENT DIRECTOR KEVIN NORD: EMERGENCY MANAGEMENT PLANS**

Present for this item of business were Chief Kevin Nord, Duxbury's Emergency Management Director and Ms. Pixie Lampert, Chair of the Duxbury Nuclear Advisory Committee (DNAC).

Chief Nord and Ms. Lampert explained that the updated/revised Radiological Response Plan for the Town of Duxbury has been reviewed. They explained that the Board of Selectmen need to acknowledge the review and the acceptance of the Radiological Response Plan, but it was their recommendation that the Selectmen do so under protest because there are a number of items, which Duxbury has voted to support, which have not been incorporated in the Plan on the State level.

Ms. Lampert then provided a number of examples of some of the outstanding issues and concerns.

It was agreed that the Board would re-visit this item at their next meeting. In the interim, Chief Nord will prepare a letter for their review and approval which certifies to the review under protest, and highlights some of the outstanding items.

**BUSINESS**

**TOWN MANAGER'S BRIEF**

Mr. MacDonald mentioned the following items:

**1. Construction Costs:** The construction costs for the month of October were \$4.4 million of this amount \$1.7 million was attributable to the Crematory construction.

**2. MAPC District Technical Assistance (DLTA) Program:** Mr. MacDonald reported that the Towns of Duxbury, Marshfield and Scituate have partnered with MAPC (our regional planning agency) to study general changes in coastal hazard impacts that could occur due to climate change, in particular the effect of rising seas and more intense and frequent storms. The study explores existing and future vulnerabilities along the coast, and will identify a range of local options and resources to adapt to the changes. The study is funded through the DLTA program.

**3. Annual Test of Sirens at Entergy:** Mr. MacDonald said that he received notification that Entergy (Pilgrim Nuclear Station) will be conducting its annual test of its Prompt Alert and Notification System (i.e., sirens) on Thursday, November 10, 2011. The test will begin at 3:45 PM with the sounding of sirens, which should last about 3 minutes. He noted that this has nothing to do with the National EAS testing which has been broadcast on television.

**4. The DPW has submitted a grant for software and hardware that will help with tracking vehicle maintenance.**

**5. NStar Officials to be at Dec. 5, 2011 Selectmen's Meeting:** Mr. MacDonald announced that representatives from NStar are on the Selectmen's Agenda for the December 5<sup>th</sup> meeting. He invited citizens, who had power issues to come and speak directly with the NStar representatives.

#### **ANNOUNCEMENTS**

Mr. Donato announced the following:

**1. Submission of Warrant Articles:** The Board of Selectmen invites citizens, Department Heads, and Boards & Committees to submit articles for the 2012 Annual and Special Town Meetings. Articles must be submitted to the Town Manager's Office by December 6. Complete language is required.

If you need assistance in drafting your article, Town Counsel will be available on Mon., November 21. Please call Barbara Mello in the Town Manager's office if you would like to schedule an appointment with Town Counsel.

**2. Upcoming Strategic Planning Session:** The Town of Duxbury will be holding a Strategic Planning Session on Saturday, November 19, 2011 from 9:30 AM to 12:30 PM at the North Hill Country Club, 29 Merry Avenue. This is an open invitation to all Town of Duxbury elected officials, appointed members of boards and committees, and interested citizens to participate in the Town of Duxbury's Strategic Planning process. The three-hour session on Nov. 19<sup>th</sup> will be step 2 in the process. It will include a brief recap of the initial (Sept. 12) meeting, followed by large- and small-group activities. For more information please see the invitation and the Strategic Planning Questionnaire, which will be on the Town's website shortly.

#### **COMMITTEE APPOINTMENTS/RE-APPOINTMENTS**

**APPOINTMENT: Alternative Energy Committee**

Mr. Donato moved that the Board appoint Ms. Susan Fontaine to the Alternative Energy Committee to fill an unexpired term due to expire on 06/30/2012. Second by Mr. Flynn. VOTE: 3:0:0.

**RESIGNATION: Alternative Energy Committee**

Mr. Donato moved to accept the resignation of Mr. John Murdock from the Alternative Energy Committee. He resigned due to other commitments. Second by Mr. Flynn. VOTE: 3:0:0.

**APPOINTMENT: Open Space & Recreation Committee**

Mr. Dahlen moved that the Board appoint Mr. Philip Tuck to the Open Space & Recreation Committee to fill an unexpired term due to expire on 06/30/2014. Second by Mr. Flynn. VOTE: 3:0:0.

**COMMITTEE ANNOUNCEMENT:**

For informational purposes, Mr. Donato announced that after many years as the Chair of the Municipal Commission on Disability (MCOD), Ms. Pat Randall has turned the chairmanship duties of the MCOD over to Co-Chairs Linda Garrity and Jerry Nightingale.

**APPOINTMENT: NEW LOCAL HISTORIC DISTRICT COMMITTEE**

Ms. Murray explained that at last year’s Annual Town Meeting with the passage of Article 31 the Town vote to adopt a new Chapter 12 to the General Bylaws to be known as the Local Historic District Bylaw. The Town of Duxbury created three local historic districts: The Winsor District, the Bradford Local Historic District, and the First Parish Church Local Historic District; to be administered by a Local Historic District Commission (LHDC) as provided for under Massachusetts General Laws, Chapter 40C. The MGL Chapter 40C Section 12.4 outlines the membership of the committee.

In their packet the Selectmen received a chart of the seats to be filled and the names of the potential candidates. Mr. Donato volunteered to be the Board of Selectmen liaison for the LHDC.

Mr. Donato moved to appoint the following to the Local Historic District Commission:

NAME	POSITION / REPRESENTING	LENGTH OF TERM	EXPIRATION OF TERM
Gerald W. “Jerry” Kriegel	Duxbury resident who resides in the Historic District	3 Yr term	06/30/2014
Brady Wyrzten	Duxbury resident who resides in the Historic District	2 Yr Term	06/30/2013
Peter Smith	Duxbury resident representing American Institute of Architects	2 Yr Term	06/30/2013
Audrey MacDonald	Duxbury resident representing the Bd. of Realtors	1 Yr Term	06/30/2012
Jim Hartford	Duxbury resident representing the Duxbury Rural & Historical Society	1 Yr Term	06/30/2012
Pam Campbell Smith	Alternate	3 Yr. Term	06/30/2014
Robert C. “Terry” Vose	Alternate	3 Yr. Term	06/30/2014
William S. “Bill” Thayer	Alternate	3 Yr. Term	06/30/2014
Renee Mierzejewski	Alternate	3 Yr. Term	06/30/2014

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

OLD BUSINESS / NEW BUSINESS – No items brought forward.

**Mr. MacDonald mentioned the two additional items:**

**1. Veterans' Day Holiday:** The Town Hall will be closed on Friday in observance of the Veterans' Day holiday.

**2. Justin Graeber:** Mr. MacDonald mentioned that he received word that Mr. Justin Graeber will be leaving his post as Editor of the *Duxbury Clipper*. He extended his best wishes to Mr. Graeber.

**Unidentified Audience Member:** Before adjourning a gentleman in the audience asked to be recognized. Regarding the recent school building votes at Special Town Meeting (STM) and Special Town Election, he asked the Board why a 2/3rds vote was required at the STM, but only a simple majority vote at the Election. Mr. Madden, the Finance Director, explained that the vote at Town Meeting required the authorization of borrowing and by statute that requires a 2/3rds vote of the Town Meeting body in accordance with Mass. General Laws Chapter 44 Section 7.

#### **ADJOURNMENT**

**At 8:30 PM Mr. Flynn moved that the Board of Selectmen's meeting be adjourned. Second by Mr. Donato. VOTE: 3:0:0.**

#### **LIST OF DOCUMENTS**

- 1) *Draft Motion for Entering Executive Session*
- 2) *Executive Session A packet RE: King Caesar Fund (moved to Exec. Session files)*
- 3) *Executive Session B packet (moved to Exec. Session files)*
- 4) *A Resolve to Honor Pamela Campbell Smith*
- 5) *Draft of Event Permit- Duxbury Rotary Club Annual Christmas Tree Lighting*
- 6) *WINE & MALT PACKAGE STORE APPLICATION FOR KBBJ MARKET (277 ST. GEORGE STREET):*
  - a. *Application packet*
  - b. *Duxbury Clipper Nov. 8, 1984 article: "Millbrook Market Gets Beer / Wine License"*
  - c. *Petition in support submitted by Applicants*
- 7) *Draft One-Day Liquor License and application materials: Alzheimer's Assoc. Reception on November 12, 2011 at COA*
- 8) *10-24-11 Selectmen's Executive Session Minutes – DRAFT*
- 9) *10-24-11 Selectmen's Minutes – DRAFT*
- 10) *Draft Motion for Convening and Adjourning as Water & Sewer Commissioners:*
  - a. *Capital Improvement Plan Grant Program*
  - b. *Commitment for Water, Sewer, and Service – Draft Motion*
- 11) *11-04-11 Letter from Chief Nord RE: Radiological Response Plan*
- 12) *TOWN MANAGER'S BRIEF:*
  - a. *Construction Cost Estimates for October 2011*
  - b. *Entergy notification of Test of the Prompt Alert & Notification System*
  - c. *MAPC District Local Technical Assistance (DLTA) grant- Coastal Hazards Impacts*
- 13) *SUGGESTED ANNOUNCEMENTS: 2012 Town Meeting Articles and Strategic Planning Session*
- 14) *RESIGNATION Sheet: John Murdock from Alternative Energy Comm.*
- 15) *APPOINTMENT Sheet: Alt. Energy Comm. & Open Space & Recreation Comm.*
- 16) *APPOINTMENT Sheet: (new) Local Historic District Committee*