

Date: December 5, 2011

Date Minutes Approved: December 12, 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 Present for Open Session: Richard MacDonald, Town Manager; John Madden, Finance Director; and C. Anne Murray, Administrative Assistant.

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

CALL TO ORDER & ENTERED EXECUTIVE SESSION

The meeting was called to order at 6:30 PM in Open Session. Upon convening, Mr. Flynn moved that the Board enter Executive Session in order to discuss strategy related to collective bargaining with all bargaining units. Second by Mr. Donato. Next, Mr. Dahlen declared the necessity of holding an Executive Session since an Open Session would have a detrimental effect on the Town's bargaining position. Roll Call Vote: Mr. Flynn—aye; Mr. Donato---aye; and Mr. Dahlen---aye.

RECONVENED IN OPEN SESSION

Having completed the business of Executive Session, the Board reconvened in Open Session at approximately 7:00 PM.

OPEN FORUM

Ms. Judi Vose, of Powder Point AVE, asked the Selectmen for some guidance in having May 27, 2012 proclaimed as Rachel L. Carson Day in Duxbury. She provided the Board with an unofficial proclamation and an article published last year in the *Duxbury Clipper* about Rachel Carson and her connection with Duxbury. It was mentioned that next spring is the 50th anniversary of the publication of Rachel Carson's book, *Silent Spring*. (May 27th is Rachel Carson's birthday.) The Selectmen suggested that Ms. Vose get in touch with their office staff for assistance with her request.

Mr. Donato congratulated the Duxbury High School football team and Coach Dave Maimaron and his staff on their Super Bowl win this weekend.

AQUACULTURE LICENSE TRANSFER REQUEST HEARING

At approximately 7:10 PM the Chair opened the Aquaculture License Transfer Request Hearing regarding Lease Numbers: 6718-2 and 6718-3. The leases are currently held by Mr. George C. Shamma and this application seeks to transfer them to the applicant, Mr. Brian Zec. The grants are in the area of Beach Flat, North of Clarks Island.

Mr. Brian Zec indicated that he is asking for the transfer to work a site that has not been worked in several years. He said he plans to use 50-60 cages to cultivate 500,000 seed next spring.

Mr. Dahlen noted that Mr. Zec had already been before the Shellfish Advisory Committee and they have indicated their support of the transfer request. He mentioned that he would like to add a condition after a motion is made.

Mr. Flynn moved that the Board of Selectmen approve the transfer of the aquaculture license currently held by Mr. George C. Shamma to Mr. Brian Zec. Second by Mr. Donato.

Before voting Mr. Dahlen asked that the motion be amended to add the condition that “no rebar be used on the grant and any existing rebar be removed by the applicant prior to the expiration of the three-year license that we typically grant on a first-time grant.” He explained that there are different ways of cultivating shellfish. One way is to use cages, into which racks of seed are slid. The other is to mount them on rebar. Mr. Dahlen believes the use of rebar is (a) not the best for the environment, (b) it can be a public safety issue for boaters or windsurfers, and (c) this is an opportunity to have the rebar removed, especially since this applicant has indicated his intent to use the cage method. In discussion it was also suggested that the motion be amended to incorporate the grant lease numbers.

Mr. Flynn made the amended motion. Mr. Flynn moved that the Board of Selectmen approve the transfer of the aquaculture license for three years for grant lease numbers 6718-2 and 6718-3, currently held by Mr. George C. Shamma, to Mr. Brian Zec, with the condition that that no rebar be used on the grant and any existing rebar be removed by the applicant prior to the expiration of the three-year license. Second by Mr. Donato. VOTE: 3:0:0.

ACCEPT GIFT OF LAND ON HARRISON STREET

Mr. Joe Grady, Conservation Administrator, indicated that the Conservation Commission is asking for the Selectmen’s support for the acceptance of a land donation, which is salt marsh on the east side of the Bluefish River off Harrison ST. The family is trying to settle the estate of their mother, and Mr. Scott Lillie has offered this parcel on behalf of the estate.

Mr. Flynn moved that the Board of Selectmen accept the donation of a parcel of real estate from Scott E. Lillie, to be held under the care, custody and control of the Duxbury Conservation Commission pursuant to the provisions of Massachusetts General Laws Chapter 40, Section 8C. The parcel of real estate, which consists of .93 acres, more or less, is described as Lot C on a certain plan entitled “Land in Duxbury Plan Showing Subdivision of Land of Winthrop A. Baker et ux., dated February 16, 1954, Delano & Keith, Surveyors” which plan is recorded with the Plymouth County Registry of Deeds in Plan Book 9, Page 693, all in accordance with a Vote of the Conservation Commission on July 19, 2011, and all in accordance with the provisions of Massachusetts General Laws Chapter 40, Section 8C. Second by Mr. Donato. VOTE: 3:0:0.

RE-NAMING OF OPEN SPACE & RECREATION COMMITTEE

Mr. MacDonald mentioned that Mr. Paul Costello, Chair of the Open Space & Recreation Committee (OS&RC), was before the Board several weeks ago to request the Committee name change to the Open Space Committee.

Mr. MacDonald added since then the staff has researched this matter. The OS&RC was established by a Town Meeting vote in 1987. However in 1991, the OS&RC was removed from the General Bylaws by the Bylaw Review Committee. The Committee has continued to operate but does not get its authority from the General Bylaws or from a State statute. Therefore, there is no reason not to change the name if the Board decides to. Since the Town has a Recreation Activities Committee it is felt that changing the Open Space & Recreation Committee’s name to just the Open Space Committee would help eliminate some confusion.

Mr. Flynn moved that the Board of Selectmen change the name of the Open Space and Recreation Committee to the "Open Space Committee", effective immediately. Second by Mr. Donato. VOTE: 3:0:0.

REPRESENTATIVES FROM NSTAR: HURRICANE IRENE RESPONSE

Present for this item of business were:

NSTAR Representatives:

Mr. Dennis Galvam, Manager of Community Relations & Development, for NSTAR and Mr. Don Boudreau, Director of Electrical Operations for the Southern Territory.

Town Employees:

Fire Chief Kevin Nord, who also is the Town's Emergency Management Director, was present. Police Chief Matthew Clancy, DPW Director Peter Buttkus, and Harbormaster Don Beers were also present.

Mr. MacDonald began the discussion by reading a letter he had addressed to Mr. Galvam after Tropical Storm (TS) Irene. The letter expressed (a) the disappointment with the lack of response and lack of communication by NSTAR and (b) a formal request that representatives of NSTAR management appear before the Duxbury Board of Selectmen to explain NSTAR's lack of response.

After introducing himself and his colleague (see above), Mr. Galvam acknowledged that they have heard concerns from some of the neighboring communities similar to Mr. MacDonald's comments. He acknowledged that communication could have been better during the storm and tried to assure the Selectmen that NSTAR is working on improvements to better handle future situations. By way of explanation he made several points:

- On NSTAR's internal scale TS Irene was a category 5. This level of severity had not been dealt with before and NSTAR was challenged by the wide-spread outages.
- The Dept. of Public Utilities (DPU) holds the utilities accountable for dealing with outages. So the NSTAR's focus was on getting customer service back online and that competed with them being able to focus on working with public safety officials for determining if downed lines were live or not. Any crews in Duxbury were working on the main transmission lines (i.e., the backbone of the power system) in order to restore power, which is why they might not have been seen on the streets.
- NSTAR does have an Emergency Response Plan (ERP) in place, but that is under review and reports are being prepared for the DPU regarding NSTAR's actions and recommendations.
- NSTAR is reviewing the language of the information it provides to customers to give more realistic information and expectations.

Mr. Dahlen voiced his concerns about the lack of presence of NSTAR technicians (on the day of the storm) to work cooperatively with local Public Safety officials and Town crews trying to keep the roads open for emergency situations. He stressed the public safety concerns in which local officials were hampered in responding to emergencies because there were no NSTAR employees on scene to let them know if the downed wires were live or not. He also mentioned Town officials were not getting straight answers from NSTAR management for the first two days, and this made it difficult for Town officials to respond to Duxbury citizens.

Fire Chief Kevin Nord, who serves as the Town's Emergency Management Director briefly gave some of the statistics from his after-action report regarding the number of calls the public safety officials were dealing with during the initial storm period. He mentioned to deal with some of the emergencies, that local officials "kidnapped" any NSTAR crews they came across to get them to deal with downed wires, but those NSTAR crews had to answer to NSTAR management and were then directed elsewhere. Chief Nord said he used the phone numbers he was provided by NSTAR, but there was a period of time when he was not

receiving return calls. He also said that if NSTAR has an ERP, as was required by the DPU years ago, then it should be shared and reviewed with Town officials. He has not seen it and publicly requested a copy.

Mr. Flynn echoed the concerns mentioned above. What follows are the direct questions Mr. Flynn posed and the gist of the responses from Mr. Galvam:

Q: Where were the (NSTAR) crews?

A: Mr. Galvam said the crews were in Duxbury but were working along the main transmission lines. You have to bring the backbone of the power system up first in order to restore power. Mr. Galvam then spoke briefly about how the DPU holds utilities accountable for the number of outages and that competes with the need to focus on public safety. He gave some assurances that NSTAR is reviewing that focus for the future.

Q: Did you fully mobilize employees?

A: Mr. Galvam explained that when an ERP is called the NSTAR employees are taken off administrative tasks to respond to customer issues for 12-hr shifts. He mentioned that several days prior to the event information is emailed to Town officials regarding phone numbers to be used. He said that in some cases officials did not print out the emails before power outages and this caused problems.

Q: How are you re-organizing?

A: Mr. Galvam indicated that they are working on that now. Every aspect is under review and reports required by the DPU are being prepared.

Mr. Donato pointed out that NSTAR's lack of a response put a lot of pressure on local Town employees to take risks that they shouldn't have been taking to try to serve the residents. He voiced concern that the safety of the town employees was affected by NSTAR's actions.

Mr. Dahlen said that the NSTAR officials should be providing to the Town officials realistic plans and expectations so that in turn Town officials can provide answers to the citizens. Mr. Galvam agreed and indicated NSTAR is working on this for the future.

Mr. Madden suggested that if NSTAR is undergoing internal reviews the Town officials, specifically the Town's public safety officers, could assist with this and should be proactively included in the process.

Mr. Galvam closed with assurances that NSTAR intends to do better in the future.

DISCUSSION OF TOWN MEETING ARTICLES

Mr. Dahlen mentioned the Selectmen had briefly talked about sponsoring two articles regarding the following topics and gave a brief overview of how these came about.

1) COMPENSATION & BENEFITS FOR ELECTED OFFICIALS

Mr. Dahlen read a draft article (i.e., Article 10) regarding compensation and benefits for Elected Officials prepared by Town Counsel.

In discussion, Mr. Madden expressed a concern that section 2 of the drafted article might not release the Town from liability in cases of catastrophic loss. The Town is self-insured but it does have a stop-loss policy for cases of catastrophic loss, and the concern is the wording with respect to that. Mr. Flynn also suggested the language between section 1 and section 2 do not seem to make sense. It was also mentioned that the draft wording does not address what was discussed at previous meetings, namely that currently seated members would remain eligible until running for re-election and upon re-election would no longer be eligible.

There was also some discussion that the elimination of stipends was not included. It was suggested that stipends likely came about because often elected officials are invited to numerous events and the stipend was seen as a way to offset some of the costs involved.

The general consensus was that the selectmen would like to move forward with this article, but more work is needed on the language. This matter will be referred back to Town Counsel.

2) CHANGE TOWN CLERK TO APPOINTED POSITION

Although a draft article was provided to the Board, it was agreed that the Selectmen had previously decided to have this matter reviewed by the Personnel Board for recommendations. The Selectmen discussed this and agreed they do want the Personnel Board to review it before taking any further action.

TOWN MANAGER BRIEF

Mr. MacDonald reported on the following:

- 1) **Construction Costs:** The Construction Cost estimates for November were \$2.1 million. Mr. MacDonald said this included 16 residential restorations or alterations, 2 new homes and 2 new townhouses.
- 2) **Island Creek Oyster Festival:** Mr. MacDonald was informed by Mr. Shore Gregory of Island Creek Oysters that the owners of Island Creek Oyster have decided not to continue the Oyster Festival. It was hugely successful raising over a half million dollars for worthy causes from Duxbury's own Crossroads for Kids to their aquaculture project in Africa, but Island Creek Oysters are moving on to other areas. Mr. MacDonald noted that they had worked cooperatively with the Town and he appreciated that Mr. Gregory came and discussed their decision with him.
- 3) **Trenching along Bay Road:** Mr. MacDonald mentioned that Joe Grady, Conservation Administrator, asked him to mention that the work being done along Bay Road in the marshes is a Plymouth County Mosquito Control mitigation project. They do have the necessary permits to be conducting this work.
- 4) **Retirement of Mr. Gail Cannon:** Mr. MacDonald announced that last week, Mr. Gail Cannon, an employee of 44 years, retired. Gail was a valued and dedicated member of our Cemetery Department. This is a wonderful opportunity for Gail to take some well deserved time to enjoy life and his many interests, like gardening at home.

Speaking to Gail, Mr. MacDonald said "Gail, I know you are watching because you tell me you watch. You are not type of person who wants a party, a big send off, or any special attention, but you deserve to be recognized, Gail. 44 YEARS!"

Mr. MacDonald asked those present to join him in a round of applause honoring Gail's 44 years of service to our Town.

- 5) **Retirement of Lt. Susan James:** Mr. MacDonald also announced that Lt. Susan James is retiring from the Duxbury Police Department after 33 years on the job. Lt. James grew up in Duxbury and graduated from Duxbury High School.

She was a Patrol Officer in 1984, Police Sergeant in 1992, Police Lieutenant in 1996.

Lt. James was responsible for launching the Police Department's first K-9 unit.

Mr. MacDonald thanked Lt. James for her 33 years of service, and wished her well in her retirement.

- 6) **Death of Patrolman Bill Griffin:** On a sad note, Mr. MacDonald announced he had received word of the death of retired Patrolman Bill Griffin. He was a police officer for 30 years, and he passed away in Florida last week. Mr. MacDonald extended condolences to Officer Griffin's family.
- 7) **Jaycox Tree Farm:** Joe Grady informed Mr. MacDonald that they sold approximately 200 Christmas trees last weekend at the Town-owned Jaycox Tree Farm, which raised \$14,500. The money will be used for work on the irrigation system, which will be done in the spring. Mr. MacDonald thank Joe, who worked there all weekend and the individuals who purchased trees from the Town.
- 8) **Preliminary Budget Presentation:** Mr. MacDonald ended his brief by indicating his preliminary Budget Presentation is on the Selectmen's agenda next week.

ANNOUNCEMENTS - none made.

MINUTES

Mr. Flynn moved that the Board approve the Minutes of November 28, 2011, as presented. Second by Mr. Donato. Vote: 3:0:0.

OLD BUSINESS

Howland's Landing Rules and Regulations: Mr. Flynn indicated he just want to make sure the establishment of Howland's Landing Rules and Regulations are in process. Mr. Dahlen responded by indicating he has had some discussion about that with Ms. Pat Loring and Mr. Joe Grady. He explained that the plan is for them to address the conservation restrictions and what is to happen with the buildings first and then to finalize the rules and regulations. It will be on a future agenda when it is ready to be brought forward.

ADJOURNMENT

At 8:03 PM, Mr. Flynn moved for adjournment of the meeting. Second by Mr. Donato. Vote: 3:0:0.

LIST OF DOCUMENTS

- 1) **AQUACULTURE LICENSE TRANSFER:**
 - a. Suggested motion
 - b. 03-28-11 Letter from George C. Shamma requesting transfer of grant(s).
 - c. Memorandum from Don Beers, Harbormaster to George C. Shamma RE: Response to request to transfer aquaculture license(s).
 - d. 04-11-11 Letter from George C. Shamma requesting transfer of grant(s)
 - e. 06-09-11 Agreement between George C. Shamma and Brian Zec regarding transfer of aquaculture grant(s), upon approval by the Duxbury BD of Selectmen.
 - f. 10-17-11 Email from Don Beers to Al Hoban, Chair of the Shellfish Advisory Committee
 - g. Posting of 11-01-11 Shellfish Advisory Committee Meeting
 - h. 12-05-11 Memo of Don Beers to Board of Selectmen RE: Shellfish Aquaculture Lease transfer application (i.e., Shamma grants to Zec)

- i. 12-05-11 Memo of Alan P. Hoban, Chair of Shellfish Advisory Committee to Board of Selectmen RE: Aquaculture Lease transfer ((i.e., Shamma grants to Zec)
 - j. 11-02-11 published notice in Duxbury Clipper for Aquaculture License Transfer
 - k. Aquaculture Lease Transfer Application & Residency Confirmation from Brian Zec
 - l. Aquaculture Rules and Regulations currently in effect (12-01-11) per Harbormaster
- 2) Harrison Land Gift:
- a. Suggested motion
 - b. 11-22-11 Memorandum from Town Counsel RE: Harrison Street Land Gift
 - c. Vote Certification of the Board of Selectmen of the Town of Duxbury (to be executed if approved by the Board)
 - d. 08-11-11 Letter to Mr. Scott Lillie (donor) –Notification of the Conservation Commission’s vote to accept the gift.
 - e. Property information map showing parcel 082/190 048 003
 - f. copy of deed Book 3797 Page 497
 - g. Enlargement of property map showing parcel
 - h. 02-19-1954 Ply. Co. Registry of Deeds recording of the Duxbury Planning Board “Approval under Subdivision Control Law not required.”
- 3) Open Space & Recreation Committee – name change:
- a. suggested motion
 - b. 11-23-11 Email from Ms. Pat Loring explaining how OP&RC name came about
- 4) NSTAR:
- a. 09-13-11 Letter from Richard MacDonald, Town Manager to Mr. Dennis Galvan, NSTAR RE: T.S. Irene storm response by NSTAR
 - b. 09-13-11 Letter from Richard MacDonald to AG Martha Coakley and Ms. Ann Berwick, Chair of Mass. Dept. of Public Utilities Commission
- 5) Two Draft articles for 2012 Annual Town Meeting:
- a. Article 10: COMPENSATION & BENEFITS FOR ELECTED OFFICIALS
 - b. Article 14: CHANGE TOWN CLERK TO APPOINTED POSITION
- 6) Town Manager’s Brief: Construction costs for November 2011 (coversheet)
- 7) Draft of 11-28-11 Board of Selectmen Minutes