

Date: September 24, 2012

Date Minutes Approved: November 5, 2012

BOARD OF SELECTMEN MINUTES

Present: Theodore J. Flynn, Chair; Shawn Dahlen, Vice Chair; and David J. Madigan, Clerk.

Absent: None

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

CONVENED IN OPEN SESSION

The meeting was called to order at 6:00 PM in the Mural Room.

ENTERED EXECUTIVE SESSION - The meeting was called to order at 6:01 PM.

VOTE TO ENTER EXECUTIVE SESSION

Upon convening, Mr. Dahlen moved that the Board enter Executive Session in order to discuss matters regarding the King Caesar Fund, specifically cases: KCF 2012-01 (MC/LC); KCF 2012-04 (LS); and KCF 2012-05 (DS), and updates on existing cases and/or any administrative matters necessary, 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 a potential Conservation Commission land acquisition, in accordance with Mass. General Laws Chapter 30a, Section 21, and then to reconvene in Open Session.

Mr. Flynn, as Chair, declared the necessity for the discussions to be in Executive Session because (a) of medical confidentiality regarding the King Caesar Fund cases and (b) because discussion of potential land acquisitions might have a detrimental effect on the Town's negotiating position in the purchase, exchange, lease or value of real property.

Second by Mr. Madigan. Roll Call Vote: Mr. Dahlen-aye; Mr. Flynn-aye; and Mr. Madigan-aye.

RECONVENED IN OPEN SESSION

The Executive Session was adjourned at 6:40PM and the Open Session meeting reconvened at 7:00 PM after the public entered the room.

OPEN FORUM - Nothing was brought forward.

FEE HEARING -

At 7:02 PM, Mr. Madigan moved that the Board of Selectmen open an advertised public hearing regarding the new fees and/or fee changes for the following departments: Assessors, Crematory, Fire.

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

Present to address the Board regarding the fee changes were:

Mr. Steve Dunn, Assessor
Ms. Patricia Pappas, Cemetery Director
Chief Kevin Nord, Fire Department
Mr. Frank Mangione, Fiscal Advisory Committee

Assessor: Mr. Dunn, Assessor, read the following to the Board of Selectmen:

It is the recommendation of the Board of Assessors that the fees for printed Ownership & Address File for a Duxbury Resident be raised to \$75.00 from \$50.00 and that the Non-Resident Fee be raised to \$125.00 from \$100.00. At the present time, the fees are the same for an electronic and printed copy. The printed copy is more of an expense to the Town than an electronic which is emailed to the customer.

It is also proposed that the fee be raised for the GIS Data disk to \$500.00 from \$100.00. The office incurs an annual expense of \$2,000-\$3,000 updating the various parcel line changes, lot splits, etc. \$100.00 does not cover the cost of producing the disk.

Both of these Fee increases, upon approval by the Board of Selectmen, would become effective October 1, 2012.

Mr. Madigan asked how many disks are sold and if the disks are re-useable?

Mr. Dunn responded that he has sold 1 or 2 disks in the last 12 months. He mentioned that the data is updated annually so the information is current for the year produced. He also indicated that engineering firms are the most frequent customers.

Mr. Flynn recognized Mr. Mangione. Mr. Mangione reported that the Fiscal Advisory Committee had reviewed and recommended the increases. The Committee also suggested that the fees should be paid by all For-profit companies but waived for all Not-for-profit companies seeking the information.

Mr. Madigan moved that the Board of Selectmen approve the fees as listed in the Assessor's memorandum dated September 12, 2012, with the new fees to be effective on October 1, 2012 with fees to be assessed for all for-profit disks provided. Second by Mr. Dahlen. Vote: 3:0:0.

Fire Department: Mr. Flynn recognized Chief Nord who was present to discuss an increase in Ambulance fees. Chief Nord indicated that he would like to address two issues related to the fees 1) an increase in the payer index, and 2) approve the increase retroactive to July 1, 2012.

- 1) Chief Nord stated that the Affordable Healthcare Act passed in 2012 had, over a period of time, reduced the Medicare Index Rate, the rate on which the Fire Department bases the Ambulance fees charged. Currently, the Ambulance rates are set at 30% above the Medicare index. The Chief would like to set the rate at 75% above the index. While this is a margin increase of 45%, in essence it is a 12% increase in the dollar value for the Ambulance rate.
- 2) Chief Nord stated that he had started charging a higher fee on July 1, 2012. He indicated that he had made the adjustment without a Fee Hearing and Board approval based on a Board of Selectman vote from 2004 (see minutes of March 29, 2004 with attached memo dated November 25, 2003) which allowed the Fire Chief to adjust ambulance rates indexed to the Medicare rate without Selectmen approval. This had allowed the Fire Department to offset the fluctuations in Medicare payments and ensure the cost for Ambulance services were covered. However, Chief Nord had misinterpreted this vote understanding that fees could be raised by a specific dollar amount based on the Medicare index when in fact the 2004 vote allows for a percentage increase based on the Medicare index.

Mr. Madigan asked if the Fire Department was currently billing at the higher rate. Chief Nord responded yes, since July 1, 2012.

Mr. Madigan moved that the Board of Selectmen approve the fees as listed in the Fire Chief's memorandum, dated September 12, 2012, with the new fees to be effective retroactively to July 1, 2012. Second by Mr. Dahlen. Vote 3:0:0.

Cemetery Department: Patricia Pappas, Cemetery Director, was present to address the Selectmen regarding a request to omit a fee for fetal cremations. Currently the fee for fetal cremations is \$30.00. Ms. Pappas indicated that she and Peter Buttкус, DPW Director, were requesting the omission of a fee for cremations less than 350 grams and no more than 21 weeks gestation. Research indicates that crematories closest to the Duxbury facility do not charge a fee for this service and most funeral homes provide their services pro-bono.

Ms. Pappas also indicated that if a child is stillborn, the death is not reportable. If a death certificate had been issued, the cremation fee would be \$50.00.

Revenue for the crematory from July 1, 2011 through June 30, 2012 totaled \$719,895.00. Revenue for the cremation of fetal remains for that same period totaled \$750.00. Revenues for the fee before the Selectmen today represent 1% of the total fetal cremations.

Mr. Mangione reported that the Fiscal Advisory Committee agreed with Ms. Pappas' and Mr. Buttкус' request.

Mr. Madigan moved that the Board of Selectmen approve the fees as listed in the Cemetery Director's memorandum, dated September 23, 2012, with the new fees to be effective on October 1, 2012. Second by Mr. Dahlen. Vote 3:0:0.

ADJOURN FEE HEARING - At 7:11 PM Mr. Madigan made a motion that the Board of Selectmen close the public hearing regarding new fees and/or fee changes for the following departments: Assessors, Crematory and Fire. Second by Mr. Dahlen. Vote 3:0:0

ZONING BY-LAW REVIEW COMMITTEE – UPDATE, Bob Fitzpatrick, Chair

Mr. Bob Fitzpatrick was present to update the Selectmen on the progress of the Zoning By-Law Review Committee. As background, Mr. Fitzpatrick explained that the committee was established 14-15 months ago and charged with the task of reviewing the Zoning By-Laws, offering suggestions on ways to make the By-Laws easier to administer by Town officials and easier for residents to understand. He stated that the 10 members named to the committee have gathered for 20 meetings over the last year and deserve mention for their efforts. Those members include:

- Judi Barrett, Vice Chair & ZBA Representative
- Paul Boudreau, Citizen-at-Large
- Freeman Boynton, Jr., Citizen-at-Large
- Scott Casagrande, Citizen-at-Large
- Fred Clifford, Citizen-at-Large
- Martin Desmery, Secretary & Citizen-at-Large
- Nancy Armington Johnson, Design Review Board Representative
- Mary Steinke, Citizen-at-Large
- George Wadsworth, Planning Board Representative

Together the Committee looked at issues, spoke with Town officials, residents and professionals and put together some recommendations for changes to the By-Law. It was determined that the current document was a "patchwork of amendments over the last 10 years" which were made to an original document that itself was a "patchwork quilt".

To better regulate the Community, the Committee felt that recodification would be best. While they were not looking to change but rather to clarify the By-Law, this task would be a very large undertaking. The Committee felt that the Town should hire a consultant rather than rely on a volunteer committee to coordinate this initiative.

Mr. Fitzpatrick made note that 2 of the Citizen-at-Large members had sought and are currently seated on land use boards. This was a testament to their commitment to the Town.

The Selectmen asked if Mr. Fitzpatrick thought there should be an Article at the Annual Town Meeting to fund a consultant to work on the re-write of the By-Laws.

Mr. Fitzpatrick opined that yes, that would be the next step in the process. He also suggested that a committee be formed to aid in the process of the re-write.

Mr. Madigan inquired as to the length of the re-write process. Mr. Fitzpatrick believed the initiative could be completed in 1-2 years. There were substantive issues brought up regarding land use which would be addressed at re-write.

Mr. Dahlen commended Mr. Fitzpatrick and the entire Committee for their efforts. He stated that the report presented to the Selectmen was one of the best drafted reports he had read, that the knowledge of the Committee members was expressed and backup thorough. He would encourage the Committee to take the next step and come to the Annual Town Meeting with a request for a professional to recodify the By-Laws.

Mr. Flynn, on behalf of the Board of Selectmen, thanked the Mr. Fitzpatrick and the Committee for their work on the issue and commitment to the process.

BUSINESS

For Event Permits and One-Day Liquor Licenses, departmental reviews of the requests were done. There were no objections and departmental feedback was incorporated into the conditions listed on the permit or license.

ONE DAY LIQUOR LICENCES

Duxbury Rural & Historical Society – Nips, Sips & Shots, October 5, 2012

Mr. Madigan moved that Ms. Alison Arnold, as a representative of the Duxbury Rural & Historical Society, is granted a One-Day All Alcohol Liquor License for an event to be held at the Nathaniel Winsor, Jr. House, 479 Washington Street, on Friday, October 5, 2012 from 7:00PM to 9:00PM, subject to the conditions on the permit. Second by Mr. Dahlen. Vote 3:0:0.

EVENT PERMITS

American Legion – Lt. Timothy Steele Memorial Dedication, November 11, 2012

Mr. Flynn Recognized Mr. Thomas Janczewski from the American Legion Post 223.

Mr. Janczewski stated that on Veteran's Day, there would be a dedication of the new War on Terrorism/Gulf War Memorial to Lt. Timothy Steele, a soldier from Duxbury killed in action in 2011. Mr. Janczewski wanted to publicly thank the following:

- The Town of Duxbury for their support

- The DPW and Peter Buttkus for moving the Korean and Vietnam Monuments and for the use of the transfer station to raise funds for this cause
- The Citizens of Duxbury for their generosity -\$5,000 in contributions was raised at the transfer station in 3 days
- Ed Vickers of the DPW for cutting a limb at the memorial site
- Mario DiMascio for the design and building of the new memorial (produced at Swenson Granite in Hanover). This is the 3rd monument produced by Mr. DiMascio; he also designed the Korean and Vietnam monuments.
- The Senior Center for spreading the word about this effort
- Fran Tripi –for notifying the press
- Tom Linski, Seagrass Home Improvement – for helping to build the paths
- Taylor Lumber - who donated a cement mixer
- Lowes of Kingston – who donated cement

Mr. Madigan moved that the Board of Selectmen vote to grant Mr. Thomas Janczewski, as a representative of the Duxbury Post 223 American Legion, Inc., permission to hold the dedication of the War on Terrorism/ Gulf War Memorial dedicated to Lt. Timothy Steele at 5 West Street on Sunday, November 11, 2012 (Veterans' Day) from 10:00 AM – 12:00 PM subject to the conditions on the permit. Second by Mr. Dahlen. Vote 3:0:0.

Mr. Janczewski thanked the Board and the Duxbury Police for providing the detail officers for the street detours required to maintain public safety.

Alden School PTA – 15th Annual Alden School Walkathon, October 25, 2012

Mr. Madigan moved that the Board of Selectmen vote to grant Ms. Beth DaSilva, as a representative of the Alden School Reach-Out Program, is granted permission to hold the 15th Annual Walk-a-thon to benefit the Plymouth Area Coalition of the Homeless beginning at 11:00 AM on Thursday, October 25, 2012 contingent on the conditions in the permit. Second by Mr. Dahlen. Vote 3:0:0.

TOWN MANAGER'S BRIEF

Mr. MacDonald mentioned the following items:

1. **Powder Point Bridge Closure** – The State was concerned about the safety of the bridge because of 3 deteriorating pilings in the middle of the bridge. Approximately 100 ft. of the lane on the north side of the bridge has been blocked off with cones until the State can inspect the condition of the pilings (due to happen mid-week). These cones will be removed for the triathlon event scheduled for September 29. Bridge reconstruction plans are pending approval.
2. **Pine Street Water Main** – The bid opening for the Pine Street water main project will be on Thursday at 2:00PM. Construction of phase 1 is expected to begin in mid-October.
3. **Brewster Commons** – This is a previously approved 40B development located 3A behind Dr. Oliver's office building. This project will go back to the Zoning Board before construction but there is every indication that construction on the 44 unit development is expected to begin in spring 2013. Coupled with the 16 units at Webster Point, the next couple of years will be busy for construction.
4. **NSTAR/Recent Storm** - Mr. MacDonald commended the Public Safety officials, Harbormaster and DPW. They were well prepared to respond to issues resulting from the storm. He mentioned that there was a downed tree on Marshall Street that took the wires down also. NStar arrived to work on the wire

repair but abruptly left at 11PM giving the reason of a shift change. The next shift did not arrive until 12:30AM. NStar has not returned any of the phone calls placed by Mr. MacDonald or Chief Nord. Mr. MacDonald feels this is a poor response by NSTAR and will address this with NSTAR and keep the Selectmen informed.

5. **Budgets** – John Madden is working on the department budgets in preparation for Town Meeting in March.
6. **Fire Station** - The dedication /opening of the Headquarters Fire Station will be on Sunday, October 21. The open house will begin at 9:00AM with a dedication to the Town of Duxbury at 10:00AM. Following the ceremony, the annual fire prevention open house will be held from 11:00AM – 2:00PM.

ANNOUNCEMENTS

Mr. Madigan made the following announcements:

1. TAKING BACK UNWANTED PRESCRIPTION DRUGS

On September 29 from 10 a.m. to 2 p.m. 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 Duxbury Senior Center at 10 Mayflower St., Duxbury. The service is free and anonymous, no questions asked.

2. EEE Info

The Suspension of outdoor activities currently is 6:45pm. Please see the information below and adjust the curfew times accordingly:

Starting Sun. 9/23, the curfew will become 6:15pm
Starting Sun. 10/7. the curfew will become 6:00pm
Starting Sun. 10/21. the curfew will become 5:30pm

The curfew times will remain in effect until the first hard frost. A hard frost is commonly defined as 3 hours under 28 degrees.

Please continue to go to www.mass.gov/dph for the most recent information regarding mosquito activity in our area and throughout the State.

3. PUBLIC FLU CLINICS

The Duxbury Board of Health will hold a Public Flu Clinic on **Tuesday, October 9, 2012** from **4:30 –6:00 p.m.**, at the Senior Center, 10 Mayflower Street. The Board has received a limited supply of state-supplied influenza vaccine that will be available to all children 7 years and above and all adults regardless of insurance status. The flu clinic will be first come first serve.

Hannaford Pharmacy will hold an additional flu clinic at the Senior Center on **Monday, October 15** 9:00-11:00 a.m. For those with Medicare B it is free, and there will be a charge of \$20 for those without.

Rite Aid will also hold a flu clinic at the Senior Center. For more information on the date and time of this clinic, please contact the Senior Center.

MINUTES

Mr. Flynn noted that there were Minutes from the September 10, 2012 Open Session and September 10, 2012 Executive Session in their packets for review and approval.

Mr. Madigan moved that the Board approve the September 10, 2012 Open Session Selectmen Minutes as presented. Second by Mr. Dahlen. Vote 3:0:0.

Mr. Madigan moved that the Board approve the September 10, 2012 Executive Session Selectmen Minutes as presented; the minutes to remain sealed until the need for confidentiality has passed. Second by Mr. Dahlen. Vote: 3:0:0.

COMMITTEE APPOINTMENTS / RE-APPOINTMENTS

The following votes were taken pertaining to appointments to Town Boards and Committees:

Mr. Flynn moved to recommend Tom Broadrick to the MBTA Advisory Board for a term to expire 6/30/13. Second by Mr. Madigan. VOTE: 3:0:0.

Mr. MacDonald clarified that Mr. Richard Prone was appointed as a citizen volunteer to the MBTA Advisory Board reporting to the Town Manager while Mr. Broadrick was the town official appointed to represent Duxbury.

Mr. Flynn also announced the resignation of Ms. Linda Garrity from the Municipal Commission on Disabilities and Mr. Alden Ringquist from the Duxbury Housing Authority. He thanked them for their service to the community.

Mr. Madigan announced the following vacancies:

- Municipal Commission on Disabilities – 2 seats
- Nuclear Advisory Committee – 1 seat
- Recreational Activities Committee – 1 seat

BONUS SHELLFISH SEASON

Mr. Madigan moved that the Board of Selectmen declare a temporary Bonus Shellfish Season:

1. For the commercial harvesting of soft-shell clams for the month of October, 2012 in accordance with posted Attachments B & C; and
2. For the commercial harvesting of quahog clams for the month of October, 2012 in accordance with posted Attachments A & C.

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

ADJOURNMENT

At 7:40 PM, Mr. Dahlen moved that the Board adjourn. Second by Mr. Madigan. VOTE: 3:0:0.

LIST OF DOCUMENTS FOR OPEN SESSION MEETING

- 1. Motion for Executive Session*
- 2. Motion to Open the Public Hearing*
- 3. Fee increase packet from Assessor's Office, Crematory and Fire Department*
- 4. Zoning By-Law Review Committee: Draft Report*
- 5. One Day Liquor License – Duxbury Rural & Historical Society, September 24, 2012*
- 6. Event Permit – Duxbury Post 223 American Legion, November 11, 2012*
- 7. Event Permit – Alden School Reach-Out program, October 25, 2012*
- 8. Minutes – Board of Selectmen Open Session September 10, 2012*
- 9. Minutes – Board of Selectmen Executive Session September 10, 2012*
- 10. Board & Committee Vacancies as of September 24, 2012*
- 11. Bonus Shellfish Season, October 2012*