

Date: December 10, 2012

Date Minutes Approved: April 8, 2013

BOARD OF SELECTMEN MINUTES

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

Absent: None

Staff: Richard MacDonald, Town Manager; C. Anne Murray, Administrative Assistant; and Susan C. Kelley, Executive Assistant.

CONVENED IN OPEN SESSION

The meeting was called to order at 6:32 PM in the Mural Room.

ENTERED EXECUTIVE SESSION

Mr. Flynn was caught in traffic and will be arriving late, so Vice-Chair Dahlen assumed the Chair.

Upon convening the meeting, the Chair entertained a motion to enter Executive Session. Mr. Madigan moved that the Board enter Executive Session in order to discuss (a) the purchase, exchange, lease or value of real property, i.e., a proposed Conservation Commission Land Acquisition, and (b) matters regarding the King Caesar Fund, *specifically case: KCF 2012-06 (SM) for an administrative clarification and updates on existing cases and/or administrative matters*, which are of a confidential nature, as the funds purpose is to provide assistance with medical/ dental expenses for the financially-need residents of Duxbury.

As Acting Chair, Mr. Dahlen declared the necessity for the discussions to be in Executive Session because: (a) an open discussions would be detrimental to the Town's strategy and/or negotiating position regarding the potential land acquisition and (b) because of the need for medical confidentiality regarding the King Caesar Fund cases.

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

Having completed Executive Session A and Session B, Mr. Madigan moved that the Board adjourn the Executive Session and reconvene in open session. Second by Mr. Dahlen. ROLL CALL VOTE: Mr. Dahlen – “aye” and Mr. Madigan –“aye”.

RE-CONVENED IN OPEN SESSION

The meeting was called to order at 7:00 PM after the public entered the room.

OPEN FORUM – No items were brought forth

TAX CLASSIFICATION HEARING

At approximately 7:01 PM, the Chair opened the Tax Classification Hearing. Notification of the Tax Classification Hearing was published in the December 5, 2012 edition of the *Duxbury Clipper*.

Present for this item of business was Mr. Stephen Dunn, Director of Assessing, and the Board of Assessors: Ms. Linda Collari, Ms. June Albritton, and Mr. Jamie MacNab.

Mr. Stephen Dunn, Director of Assessing, was introduced. Mr. Dunn explained that the Town is required each year to set the tax rates for residential and commercial property. As has been the tradition, Mr. Dunn reviewed with the Board a Fact Sheet (“FY 2013 Tax Classification Hearing Fact Sheet”) prepared by the

Assessors and Mr. Dunn. Copies of the Fact Sheet will be posted on the Town website: www.town.duxbury.ma.us on the Assessing Department page.

Duxbury has traditionally had a residential factor of “one”. This means that the commercial tax rate is identical to the residential tax rate. The figures showed that setting a dual tax classification would have minimal savings for residential taxpayers (approximately \$179.20 for average residential assessed values of \$560,000), but have a substantial increase (approximately \$5,423.85) for a similarly-valued commercial property. Given the disparity, the Selectmen decided to maintain the residential factor of one.

The proposed single tax rate for FY2013 is \$14.19 per one thousand of assessed valuation. This is a \$0.40 increase over the FY 2012 tax rate of \$13.79.

There was some discussion of the reflection of the new debt in the tax increase. The increase includes the temporary debt; permanent debt will be reflected in 2015.

Mr. MacDonald recommends keeping the single tax rate.

Mr. Madigan moved that the Board of Selectmen vote to adopt a single tax rate for FY 2013 by setting a residential factor of one. Second by Mr. Dahlen. Vote 3:0:0.

The Tax Classification Hearing was closed at 7:10 PM and the Selectmen returned to the Open Session meeting.

COASTAL POLLUTION REMEDIATION GRANT PRESENTATION

Present for this item of business was Mr. Joseph Grady, Conservation Administrator and Mr. Peter Buttkus, Director of DPW.

Mr. Grady announced that the Town has been awarded a competitive grant to fund coastal pollution remediation; the 10th such grant since 2003. This \$124,115 grant will be used to fund modifications of the drainage system along Bay Road. The goal of the project is to eliminate swimming beach closures and open shellfish beds for harvest along Bay Road. To date, the Town has received nearly \$1,000,000 in grant money to reduce pollution entering the bay.

Remediation work began in the Bluefish River, moving on to Snug Harbor to Rocky Nook and now Howland’s Landing to Kingston. The remediation process works to treat rainwater before it is discharged into the bay. State of the art drainage systems have been installed in Foodies parking lot, at the school complex, Halls Corner and at the Duxbury Bay Maritime School, i.e., the areas which are considered “hot spots”.

When Mr. Flynn asked if the grant must be applied for each year, Mr. Grady indicated that was indeed the case. He stated that Duxbury and Kingston had received the largest amount of money for this purpose. Mr. Grady indicated that he would be applying for one more grant from the Division of Marine Fisheries. There is a time and construction cost match required for some grants. Mr. Grady stated that as the DPW sees this remediation as a priority, they are willing to assist with the remediation process.

Mr. Mangione asked if other communities around the bay are doing the same work?

Mr. Grady stated the Duxbury had been working on its own until Kingston joined the effort. He also indicated that Duxbury is not working on issues with Plymouth.

BUDGET PRESENTATION

(this item was taken out of order)

Mr. MacDonald presented to the Selectmen the balanced FY2014 preliminary budget. He indicated that over the next several weeks, this budget will be reviewed, tweaked and revised as more information becomes available.

Mr. MacDonald indicated that the budget continues to reflect limited revenues available as local receipts have been largely flat and State Aid continues to be limited. He added that while this is not the time to expand government substantively, he is recommending the following positions for FY2014: Facilities Manager and one, possibly two, dispatchers. Establishment of the Facilities Manager, a priority recognized by the Selectmen, was passed at the last Town Meeting. The Additional dispatchers are necessary to ensure adequate coverage at the emergency dispatch center.

For the 6th consecutive year, a budget has been developed that is supported entirely by renewable revenue. Once again, this budget is built on the practice of renewable revenues for ongoing expenses and one-time revenues for one-time expenditures.

There are four areas of revenue that satisfy our requirements: Tax Revenue 80.85%, Local Receipts 10.53%, State Aid 9.125%, and Other Available Funds .28%.

- State Aid – Because the state is falling short of projections used to build its FY13 budget, Mr. MacDonald recommended budgeting less than the Town is scheduled to receive for FY 13; projected for FY 2014 is \$5,479,134.
- Local Receipts – Local receipts comprise just under 11% of the revenues required to balance the budget. These receipts include fees, licenses and permits, rentals, transfer station revenue, beach revenue, ambulance revenue, crematory revenue and motor vehicle excise tax. Projection of local receipts remains conservative given some lingering economic uncertainty. As always, these revenues will be monitored closely to identify trends both negative and positive.
- Taxation – taxation increases for FY 2014 amount to slightly more than \$1,103,743. An increase in building permits during FY12 has remained strong suggesting that new growth revenue will remain level with FY 2013. Revenues raised by debt exclusions will increase dramatically in FY 2014 by \$6,951,949. While this is a staggering amount, the increase will be mitigated by nearly \$940,000 in revenues received from the September bond sale.
- Other Available Funds - The Water and Pool Enterprise funds will provide support for their portion of operations appropriated in the General Fund totaling \$126,283. Additionally, \$80,000 will be transferred from the Pension Reserve fund to offset increases in Contributory Pension Assessment.

Mr. MacDonald briefly discussed expenditures highlighting areas of increased cost. He indicated that the budget provides for overall growth that will allow the departments to keep pace with the increased cost of providing services, the funding of the Facilities Manager and additional dispatcher(s), as well as utilities costs related to the recently completed facilities. While the buildings have been fitted with the latest technology, they are larger than the facilities they replace and more will be expected from them. Every effort has been made to project the cost of utilities, however, there is a possibility that these expenses will have to be reviewed at the March 2014 Special Town Meeting.

The preliminary General Fund budget being presented totaled \$65,148,946. Overall, the operating budget net of fixed costs and debt is up \$1,243,089 or 2.81%. Over the entire General Fund budget, the amount is up by \$8,044,312 or 14.25%. Debt service alone is up nearly 260% from FY 2013 due to the bond sale that included funds for the Police Station, the Fire Station, the Crematory and the Middle School/High School project.

The Capital Improvement Program continues with a projected \$1,000,000 from Free Cash to fund the requests. This year, the departments have submitted nearly \$2.3 million in capital requests, much of which is aimed at building maintenance, technology and communications upgrades. While not all of the requests can be funded, with the help of the Fiscal Advisory Committee, the most pressing needs will be addressed.

Mr. MacDonald concluded his presentation to the Selectmen and thanked the Finance Director and department heads for their assistance and cooperation during the budget process. He stated that the next step will be individual department budget presentations to the Fiscal Advisory Committee and Finance Committee for review/approval.

DISCUSSION OF TOWN COUNSEL SEARCH FINALISTS

Mr. Flynn stated that there were three law firms chosen as finalists for the position of Town Counsel including: Anderson & Kreiger LLP, Blatman, Brobowski & Mead, and Petrini & Associates. All three firms had been recommended by the Town Counsel Search Committee and had made presentations to the Selectmen. Mr. Flynn then asked his fellow Selectmen their thoughts on the candidates.

Mr. Madigan's thoughts were as follows:

- Petrini & Associates was the least expensive and smallest firm they interviewed. He was concerned that the price they provided may have been underestimated.
- Blatman, Brobowski & Mead would be a good choice for the next couple of years as the firm is strong in zoning issues and Duxbury has an immediate need for those services. He noted that the cost was higher than Petrini, and while he had reservations about a long-term arrangement, perhaps their services could be used as consultant for a zoning re-write.
- Anderson & Kreiger – Mr. Madigan expressed concern about their availability due to their proximity to Duxbury and their strength in zoning. He continued that while Duxbury has had good dealings with the firm so far, he was concerned about the perception as the firm was brought in when former counsel Troy left and was originally asked not to apply for the permanent appointment.

Mr. Dahlen stated that he liked the “business plan approach” taken by the firms. He felt the “Flat Fee” approach would be a big plus, making Town Counsel more available to people to ask questions which would lead to less litigation in the future. He continued with the following:

- Petrini provided a flat fee option of \$50,000 plus litigation
- Blatman, Brobowski & Mead had provided flat fee options without litigation (at \$72,000/yr plus litigation) and with litigation (at \$108,000 which is substantially lower than past costs). He would like more time to discuss the details of which services were included in their proposal
- Anderson & Kreiger provided a flat fee option of \$90,000 plus litigation. He felt they had done a great job and has the deepest bench to draw from. The only negative is the hourly rate on litigation. Mr. Dahlen would like to see if Anderson & Kreiger would propose a flat fee including litigation.

In summary, Mr. Dahlen stated that he would like more time to discuss with each firm what was included and excluded from their proposals.

Mr. Flynn stated that there was no need to vote tonight unless they were confident about their decisions. He stated with the following:

- He could not judge where a long term relationship Blatman, Brobowski & Mead would go.
- Like Mr. Madigan, Mr. Flynn did not want to consider Anderson & Kreiger but the firm has proven itself over the last months as interim Town Counsel.

Mr. Dahlen asked if the questions were clarified, how would the Board like to proceed?

(due to a medical emergency in the hall outside the Mural Room, the Meeting was paused at 8:52 PM to allow someone to call 911 for assistance. The Meeting came back to order at 8:54 PM)

Mr. Flynn suggested that all questions the Selectmen had should be given to Mr. MacDonald for follow-up.

Mr. Madigan mentioned that Blatman, Brobowski & Mead proposed \$108,000 including litigation of land cases but nothing else. As the bulk of Duxbury's cases are zoning, he would like to know what others would offer for similar services.

Mr. MacDonald stated that all three were great firms. He opined that Mark Bobrowski was the go-to person for land use issues while Anderson & Kreiger has done an excellent job and has successfully settled cases that were very old.

It was determined that the Selectmen would like a list of the types of included/excluded cases and a higher level of detail regarding services offered by each of the three firms.

Mr. Flynn opined that there were some things that could not be put in dollars and cents. He did not want to make a decision based on price alone.

When Mr. MacDonald asked the Selectmen for a time frame for providing answers to their questions, Mr. Flynn responded that he would like to vote on the successful candidate the following week.

BUSINESS

There were no One-Day Liquor Licenses or Event Permits

TOWN MANAGER'S BRIEF

Mr. MacDonald discussed the following:

1. Powder Point Bridge – the repairs on the bridge will begin in approximately 2 weeks. More will be reported next week.

MINUTES

Mr. Madigan moved that the Selectmen approve the Open Session minutes of 12-03-12 as written. Second by Mr. Dahlen. Vote 3:0:0.

ADJOURNMENT

At 9:04 PM, Mr. Dahlen moved that the Board adjourn. Second by Mr. Madigan. VOTE: 3:0:0.

Minutes prepared by: Susan Kelley

LIST OF DOCUMENTS FOR OPEN SESSION MEETING

1. *Tax Classification Hearing package including: Memo from Steve Dunn to Board of Selectmen dated 12-7-12, FY 2013 Tax Classification Hearing Fact Sheet, copy of Legal Notice from Duxbury Clipper, 12-5-12*
2. *Coastal Pollution Remediation Grant memo from Joe Grady to Richard MacDonald, email containing press release.*
3. *Budget Presentation: Town Manager's presentation, detail of preliminary FY2014 budget*
4. *Town Counsel Candidates list of litigation filed for last 3 years in towns where firms are Town Counsel*
5. *Selectmen's minutes – Open Session 12-03-12*