

**Date: January 7, 2013**

*Date Minutes Approved: January 28, 2013*

## **BOARD OF SELECTMEN MINUTES**

**Present: Theodore J. Flynn, Chair and Shawn Dahlen, Vice Chair.**

**Absent: David J. Madigan, Clerk**

**Staff: Richard MacDonald, Town Manager; John Madden, Finance Director; Susan C. Kelley, Executive Assistant, and C. Anne Murray, Administrative Assistant.**

### **CONVENED IN OPEN SESSION**

The meeting was called to order at 6:03 PM in the Mural Room.

### **ENTERED EXECUTIVE SESSION**

Upon convening the meeting, the Chair entertained a motion to enter Executive Session. Mr. Dahlen moved that the Board enter Executive Session in order to discuss strategy with respect to litigation, including the matters of: the North Hill Country Club (a/k/a Johnson Golf), the DeLuca case, and the Lilienthal 16 Hounds Ditch Lane case, since an open meeting may have detrimental effect on the Town's negotiating and/or litigating position, and then to reconvene in Open Session. Second by Mr. Flynn.

As Chair, Mr. Flynn declared the necessity to discuss the afore-mentioned matters in Executive Session, as discussion in open session would be detrimental to the Town's negotiating and /or litigating position.  
ROLL CALL VOTE: Mr. Dahlen---aye; Mr. Flynn---aye.

### **RECONVENED IN OPEN SESSION**

The Executive Session was adjourned and the Open Session meeting reconvened at 7:10 PM after the public entered the room.

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

### **STATE REPRESENTATIVE JOSH CUTLER**

Newly-elected and sworn in State Representative Josh Cutler was recognized and received a round of applause. State Rep. Cutler said he was present tonight to provide some brief updates and to introduce his aide, Ms. Maureen Bates. Ms. Bates was present and was introduced.

State Rep. Cutler mentioned the following items:

1. **Morning Office Hours:** He has sent them up in each of the Towns. The Duxbury Office Hours will be at the Duxbury Senior Center on the 3rd Friday of each month from 9 AM – 10 AM. He noted that he had coordinated that time with State Rep. Tom Calter so that citizens could speak to both of them at the same time.
2. **Evening Office Hours:** For those who can't get to daytime hours, State Rep. Cutler will also have evening hours in each of the Towns. The Duxbury evening hours will be at Foodies' Market on the 2nd Monday of each month from 6 PM – 7 PM.
3. **Coffee with Josh Series:** On the first Monday of each month, he will be having a series of "coffee with Josh" meetings that will be rotated among local restaurants and coffee shops. The times and locations will be posted on his website: <http://www.joshcutler.com>

4. **His State House Office:** He said he has been assigned to the “bullpen” with the other freshmen representatives. It is State House Room 437, Boston MA 02133. Tel. # 617-722-2425; Email: josh.cutler@mahouse.gov.
5. **District Office:** He said he will be opening a District Office at 235 Washington ST, Pembroke, MA shortly.
6. **Budget Update:** For FY’13 there is a shortfall of \$540 million in State revenues. The Governor has made \$225 million in Executive branch cuts and taken \$200 million from the Stabilization Fund to close the gap. This still leaves a \$115 million shortfall. To cover that the Governor is expected to ask the Legislators for authority to make cuts to local aid of about 1%. State Rep. Cutler said he spoke to a member of the Ways and Means Committee and he reported he was told that the Governor’s request is “highly unlikely” to be approved.
7. **Bill Filing Deadline:** State Rep. Cutler also wanted people to know that the deadline for filing any bills for this session is January 18, 2013. He noted that in Massachusetts citizens can file a “by request” bill, which is a bill that their state representative files on their behalf. So if anyone has anything they want filed, please do not hesitate to contact him.

In response, Mr. Dahlen indicated that the Town will be discussing with him the dredging that is needed in Duxbury Bay.

8. **Committee Assignments:** He indicated that he put in his request for committee assignments focusing on economic development and small businesses, which is his background. He hopes that the committee assignments will be made by February.

#### **EXECUTION OF CONTRACT WITH NEW TOWN COUNSEL: Anderson & Kreiger LLP**

The contract has been reviewed by the Selectmen and tonight they are being asked to vote to execute it.

Mr. Dahlen moved that the Board of Selectmen authorize the Town Manager to sign the contract dated January 3, 2013 with Anderson & Kreiger, LLP as Town Counsel. Second by Mr. Flynn.  
VOTE: 2:0:0.

Mr. Dahlen noted that as part of the flat fee arrangement Anderson & Kreiger will hold three (3) training sessions a year in the community and will also have office hours (one morning or afternoon per month) in the Town Hall to address citizens’ questions through the Town Manager to the Town Counsel. The scheduling of the office hours will be arranged shortly. Atty. Kreiger also noted that there are several upcoming meetings regarding Town Meeting matters that Anderson & Kreiger will be attending.

#### **DISCUSSION OF INTERIM TOWN MANAGER**

Mr. Flynn mentioned that Town Manager Richard MacDonald’s official retirement date is January 25, 2013. A Town Manager search is in process, but in all likelihood an Interim Town Manager will be needed between Mr. MacDonald’s retirement and the starting date of a new Town Manager. He then said that in light of this he had spoken with Mr. MacDonald about the possibility of him staying on as the Interim Town Manager. Mr. Flynn indicated that he felt this would be the best option for the Town, and he was happy to report that Mr. MacDonald indicated his willingness to do so.

Mr. Dahlen added that he also independently had similar discussions with Mr. MacDonald because he felt it would be best for the Town to have the continuity versus someone stepping in for a short period.

Mr. MacDonald said he was happy to stay on as the Interim Town Manager for a period after his official retirement. He noted he has worked for the Town of Duxbury for 17 years, the last 7 years as the Town Manager, and he loves the community. He mentioned that his retirement decision was difficult to make, but

it was made together with his wife and he had to honor her wishes as well. He was however, willing to stay on to fill the Interim Town Manager role.

Mr. Dahlen moved that after the retirement date of Mr. Richard MacDonald on January 25, 2013 that from January 26, 2013 Mr. MacDonald be appointed as the Interim Town Manager and that Atty. Kreiger work out a contractual arrangement similar to Mr. MacDonald's current contract for this. Second by Mr. Flynn. VOTE: 2:0:0.

### **DISCUSSION OF TOWN MEETING ARTICLES (as numbered in Draft Warrant)**

*[For the purposes of this discussion Annual Town Meeting will be abbreviated as ATM and Special Town Meeting will be abbreviated as STM. Roman numerals are used until the order of the articles is set by the Board of Selectmen at which time Arabic numbering will be assigned. ]*

#### **ATM Article III: Compensation of Elected Officials**

There was a brief discussion about the article, which is an annual article. The FY'14 article sets the compensation for the elected officials as follows: the Moderator \$40., the Selectmen; Chair \$2,000. and Members \$1,500., the Board of Assessors; Chair \$2,000. And Members \$1,500., and the Town Clerk; \$80,000. It was noted that the dollar amounts proposed for FY'14 are unchanged from last year.

Mr. Dahlen moved that the Board of Selectmen vote to support Draft ATM Article #III, Compensation of Elected Officials, as drafted.

Since the Finance Committee has not reviewed or voted on this article there was some discussion of what would happen if the dollar amounts were changed. Mr. Flynn suggested they could choose to make that recommendation. At this point Mr. Dahlen said changes to the Compensation of Elected Officials was discussed and taken to Town Meeting last year, but it focused on eliminating the insurance benefit that individuals in these elected positions are eligible for. He added that one of the things learned was that without compensation the elected positions are not eligible for the insurance benefit.

Mr. Dahlen then opined that he feels that the Selectmen should be treated no differently than any of the other individuals, who volunteer for the Town boards and committees. Those volunteers put in a tremendous amount of time and effort and receive no compensation. Therefore, he feels the Selectmen should not receive this compensation, and chooses not to accept it. He also suggested that by eliminating the compensation for the Selectmen it would eliminate their eligibility for the insurance benefit. Mr. Flynn said that he views the Selectmen as volunteers and agrees that they should not receive compensation.

Mr. Dahlen then moved to amend the previous motion to support Draft ATM Article #III, Compensation of Elected Officials with the stipends of the Board of Selectmen (i.e., the Chair and each member) being reduced to zero dollars for FY'14. Second by Mr. Flynn. VOTE: 2:0:0.

#### **ATM Article X: Revolving Funds – Council on Aging, Jaycox Tree Farm, Hazardous Materials Response Revolving Fund**

Mr. Madden explained that Revolving Accounts must be authorized annually.

Revolving Accounts are ones in which monies collected are deposited to be used specifically for related expenses to those items. The authorized amounts set the ceiling for expenditures so they cannot overspend the set authorization, but, if there were a specific need, a subsequent authorization could be made by approval of both the Selectmen and the Finance Committee. These are fee-for-service accounts. The recommended maximum expenditure amounts for each of the revolving accounts are as follows: (a) Council on Aging (COA) \$120,000 (b) Jaycox Tree Farm \$20,000., and (c) the new Fire Department Hazardous

Materials account \$50,000. It was noted that the COA Revolving Fund has increased this year (from \$90,000. to \$120,000.) to allow for the expansion of the Respite Program for an additional day of service.

Mr. Dahlen moved that the Board vote to support Draft ATM Warrant Art. X, Revolving Funds for the Council on Aging, the Jaycox Revolving Fund, and the Hazardous Materials (Haz-Mat.) Revolving Fund, as drafted. Second by Mr. Flynn. VOTE: 2:0:0.

#### **ATM Article XII: Fourth of July Parade Funding**

Traditionally the Town has budgeted for the contribution to the fund the 4th of July Parade and celebration. The allocation included in the budget for FY'14 is \$10,000.

Mr. Dahlen moved that the Board of Selectmen vote to support Draft ATM Warrant Art. # XII, Fourth of July Parade Funding, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

The next three articles have all come before the Selectmen and received approval for temporary easements so that construction could begin. As previously explained, the easements must come before a Town Meeting vote in order to be made permanent.

#### **ATM Article XVII: Easement - Verizon/NSTAR at 155 Mayflower Street**

It was mentioned that this easement is to allow for a pole to be installed and maintained to service the new Police Station and Crematory.

Mr. Dahlen moved that the Board of Selectmen vote to support Draft Warrant Article #XVII, an Easement for Verizon New England/NSTAR at 155 Mayflower Street, as drafted. Second by Mr. Flynn. VOTE: 2:0:0.

#### **ATM Article XVIII: Easement – Verizon/NSTAR at 71 Alden Street**

The easement is to allow for a pole to be installed and maintained to service the new middle/high school.

Mr. Dahlen moved that the Board of Selectmen vote to support Draft Warrant Article #XVII, an Easement for Verizon New England/NSTAR at 71Alden Street, as drafted. Second by Mr. Flynn. VOTE: 2:0:0.

#### **ATM Article XIX: Easement – Verizon/NSTAR off Pine Hill Avenue for 130 St. George Street**

This easement is to allow for a pole to be installed and maintained off Pine Hill Avenue to service 130 Saint George Street, which is related to the new school construction.

Mr. Dahlen moved that the Board of Selectmen vote to support Draft Warrant Article #XVII, an Easement for Verizon New England/NSTAR off Pine Hill Ave for 130 Saint George Street, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

### **BUSINESS**

**ONE-DAY LIQUOR LICENSE REQUESTS –None**

## **TOWN MANAGER'S BRIEF**

Mr. MacDonald mentioned the following items:

1. **Construction Costs for December:** Mr. MacDonald said the construction costs for December were \$2.1 million. He added that this is high for December as usually it is a slow construction month.
2. **GOTMS (Permitting Software):** Mr. MacDonald said that new permitting software has been installed in the Municipal Service Department. Eventually the goal is to offer online services as much as possible and this software will allow for that.

He also mentioned that in the capital requests this year a heavy emphasis is being put into technology.. This is something which has been talked about and is overdue. To that end the Town has been working with the Schools in a collaborative effort towards the purchase and installation of an integrated system.

3. **Dispatchers Move:** Mr. MacDonald mentioned that Dispatchers move from the Police Station to the Emergency Operations Center (E.O.C.) at the Fire Station has been delayed slightly due to the delay in receiving some of the consoles but is expected to happen on February 4, 2013.
4. **Pine Street Water Main Project:** The Town Manager said that the first phase of the Pine Street Water Main project has been completed and the project wrapped up for the winter. The project will be completed this spring.
5. **Powder Point Bridge:** Mr. MacDonald told the Board that fabrication of the jackets, i.e., the material to wrap the piles, has begun. The contractor is expected to be on site January 21, 2013 with the project to be completed by the first week of February. The goal is to get the bridge open for emergency vehicles as soon as possible.

He mentioned that Town Counsel is working on the agreement that the Duxbury Beach Reservation requested.

6. **Appointment of Deputy Police Chief:** Mr. MacDonald announced he was making the appointment of a Deputy Police Chief, a position which was approved by Town Meeting and required authorization of the State Legislature. He said he was pleased to announce the appointment of Stephen R. McDonald as the new Deputy Police Chief. (He emphasized the Deputy Chief is not related and spells his last name McDonald; not MacDonald.) The Town Manager said that Mr. McDonald is a Sergeant in the Mashpee Police Department and noted that he has extensive military service in the US Coast Guard with numerous courses and awards. There was an extensive search to fill this position and Mr. MacDonald said the observed the assessment center that the finalist went through. He noted that Deputy Police Chief McDonald's first day of duty will be on Friday, January 18, 2013 and there will be a swearing in at the Senior Center at 2:00 PM to which the Selectmen and the public are invited to attend.

## **ANNOUNCEMENTS**

Mr. Dahlen read the announcements:

1. **Waiting Lists for Commercial Mussel & Razor Clam Licenses:** This announcement was a reminder that individuals on the Waiting Lists for Commercial Mussel and Razor Clam Licenses must renew their application annually within the month of January. The sign-up sheets to do so have been posted in the Selectmen's office.
2. **Black Tie Bingo:** Friends of the COA will be holding their Black Tie Bingo event on Saturday, January 26, 2013 from 6:00 PM -11:00 PM at the Duxbury Senior Center.

**MINUTES** - No minutes for review and approval this evening.

**COMMITTEE APPOINTMENTS / RE-APPOINTMENTS** --none

**ADJOURNMENT**

At approximately 8:40 PM, Mr. Dahlen moved that the Board adjourn. Second by Mr. Flynn. VOTE: 2:0:0.

Minutes prepared by: C. Anne Murray

**LIST OF DOCUMENTS FOR OPEN SESSION MEETING**

1. *State Representative Josh Cutler's 2013 Office Hour Schedule*
2. *01-08-13 Letter of Agreement between the Town of Duxbury and Anderson & Kreiger LLP regarding Town Counsel Services*
3. *Town Meeting Articles- Background and Suggested Motions for the following:*
  - a. *ATM Article III: Compensation of Elected Officials*
  - b. *ATM Article X: Revolving Funds – Council on Aging, Jaycox Tree Farm, Hazardous Materials Response Revolving Fund*
  - c. *ATM Article XII: Fourth of July Parade Funding*
  - d. *ATM Article XVII: Easement - Verizon/NSTAR at 155 Mayflower Street*
  - e. *ATM Article XVIII: Easement – Verizon/NSTAR at 71 Alden Street*
  - f. *ATM Article XIX: Easement – Verizon/NSTAR Off Pine Hill Avenue for 130 St. George*
4. *Town Manager Brief (potential items): Construction Costs for December & Background information on Stephen R. McDonald*
5. *Suggested Announcements*