

Date: March 4, 2013

Date Minutes Approved: March 25, 2013

BOARD OF SELECTMEN MINUTES

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

Absent: Theodore Flynn, Chair, Richard MacDonald, Town Manager

Staff: John Madden, Finance Director; Susan C. Kelley, Executive Assistant.

CONVENED IN OPEN SESSION

The meeting was called to order at 6:46 PM in the Mural Room.

ENTERED EXECUTIVE SESSION

As Mr. Flynn was absent from the meeting, Mr. 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 strategy with respect to collective bargaining, since an open meeting may have detrimental effect on the Town's negotiating position, and then to reconvene in Open Session. Second by Mr. Dahlen.

As Chair, Mr. Dahlen declared the necessity to discuss the afore-mentioned matter in Executive Session, as discussion in open session would be detrimental to the Town's negotiating position.

ROLL CALL VOTE: Mr. Madigan---aye; Mr. Dahlen---aye.

RECONVENED IN OPEN SESSION

The Executive Session was adjourned and the Open Session meeting reconvened at 7:02 PM after the public entered the room.

Mr. Madden joined the meeting.

OPEN FORUM

Nothing was brought forward

FLUORIDE CHOICE –

Present for this discussion were: Susan Curtis, representing the Duxbury Fluoride Choice group, Mr. Peter Mackin, Duxbury Water Superintendent, Tracy Mayo, Duxbury Health Agent to the Board of Health

Mr. Dahlen explained that there have been concerns over the recently highlighted issue regarding lead contained in the fluoride chemical currently added to the Duxbury Public Water Supply. He indicated that he did not want those concerns to go unaddressed.

Ms. Curtis distributed a photo of the hazard label on a bag of Sodium Fluoride that the Town adds to the water supply. The label clearly indicated that the sodium fluoride, as contained in the bag, was a poison toxic by ingestion.

Ms. Curtis stated that she had contacted the Massachusetts Department of Environmental Protection (DEP) to inquire as to the level of lead considered safe to ingest. She was told that DEP uses a formula and the

level of lead contained in the sodium fluoride additive is below the acceptable level. When Ms. Curtis asked the individual about cumulative levels of lead, the representative stated that no level of lead in the body was an acceptable level.

Ms. Curtis continued that the sodium fluoride additive is distributed from China. The label on the packaging suggests that the chemical is NSF certified. She called the NSF to inquire about the certification and testing and was told that the NSF did not certify the chemical but rather, it is tested by a 3rd-party company. Ms. Curtis inquired as to why the Town is purchasing this particular chemical and found that if several towns purchase the product, there is a reduced cost for the item. She added that Mr. Mackin, Duxbury Water Superintendent, continually tests the water Ph to prevent lead from leeching into the water supply; this additive simply adds the lead back into the water.

Ms. Curtis stated that she wanted there to be a public record of the concerns felt by some residents of not only the addition of sodium fluoride to the water but also that altering the chemical additives in the water supply is a political process when it should be a health issue.

Mr. Dahlen stated that he contacted Town Counsel and asked them to look into the issue of lead. He felt adding lead as a byproduct of the sodium fluoride was a step above the fluoride issue and wanted to know if there was anything that the Selectmen could do. Town Counsel sent an opinion by return email that was read into the record as follows:

“There is nothing for the BOS to be concerned about regarding the chemical Duxbury is using to fluoridate its water supply.

Bruce Bygate’s response below is absolutely correct. Drinking water treatment plants add a variety of chemicals (e.g., chlorine) as part of the water treatment process. Massachusetts regulates the purity of these chemicals as follows (taken directly from a DEP web page):

Owners and operators of public water systems need to ensure that chemicals used in treating public water supplies, and other products or coatings in contact with drinking water, do not inadvertently cause contamination. In order to ensure such safety, Massachusetts Department of Environmental Protection (MassDEP) requires that such treatment chemicals and products meet purity standards and are manufactured under appropriate levels of cleanliness. These standards are commonly known as the ANSI/NSF Standards 60 and 61. Standard 60 addresses the health effects of treatment chemicals in drinking water. Standard 61 addresses the material integrity of products under various physical and chemical conditions and then evaluates the resulting health effects. The MassDEP requirement is 310 CMR 22.04(8).

Owners or operators of public water systems in Massachusetts are responsible for ensuring that chemicals and other products in contact with potable water are certified in accordance with NSF Standards 60 or 61 as appropriate. Chemicals or devices having this certification show the logo of the certifier on products or packaging, and thus it is very easy to identify if such products are certified.

According to the emails below, Duxbury uses “Sodium Fluoride AWWA Grade,” which it obtains from WEGO Chemical & Mineral. The WEGO product specification sheet states that the product meets ANSI/NSF Standard 60. (The Town should double-check that the

certification logo is in fact on the packaging.) If the Town wants more peace of mind, it can send a sample out for testing.

Also, the math in the emails from the concerned residents is not correct. The product specification states that lead constitutes less than or equal to 0.5% of the product. Therefore, the number to multiply by the weight of chemical added is 0.005, not 0.05 as was used in the emails. (That would equal 5 percent, not 0.5 percent.) If the Town is adding 1 milligram of the chemical per liter of water, the amount of lead being added is at most 0.005 mg/L (0.5% of 1 mg), which is below the WHO standard of 0.01 mg/L and the EPA action level of 0.015 mg/L. And in actuality, NSF testing summarized in the attached fact sheet (which I assume is the one that Bruce attached to his email) found that 98% of the fluoridation products they tested added no measurable lead to water when dosed at the maximum use level.

Note that “0” is the MCLG, or “Maximum Contaminant Level Goal,” for lead, not the MCL (“Maximum Contaminant Level”) as was incorrectly stated in one of the emails. MCLGs are aspirational numbers that have no regulatory effect (as opposed to MCLs, which are the actual regulatory levels). As stated above, the EPA regulatory level for lead in drinking water is 0.015 mg/L. The statement below that the Town cannot knowingly add ANY lead to the water supply is not in fact correct. The Town is essentially allowed to add de minimis amounts of lead and other impurities in the process of adding a beneficial additive. It is required by the Safe Drinking Water Act to test its finished water, which ensures that any chemicals added during the treatment process don’t result in exceedances of EPA regulatory levels in the finished water. “

Mr. Madigan reiterated that on any given day, the Board of Health can stop the process of adding fluoride to the water. He believed that the Town Meeting vote would be an indicator of how the residents feel. He continued that he hoped as Water Commissioners, the Board of Selectmen could do something about the situation but they cannot. He opined that any level of lead in the water was too much and at the very least, he would like to see a reduction in the level of fluoride added to the water but the Selectmen did not have the power to make the adjustment.

Mr. Dahlen stated that the Selectmen voted to support taking Fluoride out of the water. He indicated that the Board of Health was waiting to see the results of the Town Meeting vote before proceeding with any adjustments. While he hopes that the Board of Health will reduce the amount of fluoride added to the lowest acceptable amount, he cannot order them to do so, only ask.

Mr. Peter Mackin was present to address the lead contaminant issue. He indicated that 2011 testing of 27 well sites returned the following results:

- 24 sites showed no detectible level of lead
- 2 sites showed .002
- 1 site showed .005

Ms. Tracy Mayo stated that the Board of Health would be meeting on Thursday. As the Board of Health had been reviewing materials, the topic of lowering the limit of fluoride added to the water supply was on the agenda.

OPERATING BUDGET –

For the Fiscal Year 2014, the Finance Committee will be recommending a total budget of \$65,492,926. This figure, an increase of \$8,388,291, or 14.85% over last year's budget, includes shared costs and debt.

The operating budget is the budget that provides services to the Town. This budget increased by 3.76% in Fiscal Year 14. This increase is partially due to the addition of 9 positions: 5 teachers, 2 emergency dispatchers, 1 Facilities Manager and 1 Lands & Natural Resources. The teachers, 2 of which are SPED (special education) teachers, represent 68% of the 3.76% increase. The dispatchers are needed for coverage at the newly combined dispatch center, the Lands & Natural resources worker is needed to maintain the grounds of the increasing number of town-owned properties, and the Facilities Manager needed to coordinate the effort. In addition, the Human Resources department makes up 1.68% of the increase. A total of \$1,667,000 is represented by these departments.

The increase in the budget is being funded by taxation. In spite of this increase, the Town is currently \$300,000 below the levy limit.

The portion of the budget under Shared Services consists of expenses related to all departments, including health insurance, property casualty insurance, pension, etc. This portion of the budget totals \$10,395,701. The largest portion of this budget is the health insurance, costing \$6.8 million. This item was level funded for FY14 based on plan design and claims experience. While increases of 10-12% in claims is typical, Duxbury's claims have not grown. The Town has a healthy workforce and offers wellness initiatives to promote and maintain good health. Over the course of the last 8 years, the health insurance costs have increased a mere 1.5%. Overall benefits have increased 1.94%; well below the average.

Mr. Madigan asked how much the Town saved with the insurance holiday. Mr. Madden replied that savings totaled approximately \$600,000 for the current workforce and \$250,000 for retirees.

Mr. Madden then addressed the Town's debt. He stated that the debt had increased 260% over last year. The debt for the school increased the total amount by \$6,604,000. The Town has done what it can to try to mitigate the increase. The debt was bonded when the rates and economy were favorable and the Town had been issued an AAA bond rating. Receiving a bond rate of 2.5% saved the Town millions of dollars in interest. In addition, the Town received over \$7.0 million as an enticement which will be used to offset the debt. \$944,000 will be used to reduce the debt burden on tax payers next year.

Mr. Dahlen stated that the debt figure represents approximately 10% of the overall budget. He asked Mr. Madden if this is the peak year for debt burden.

Mr. Madden stated that based on the \$83 million bond, the principal payments remain the same but the interest payments are reduced each year. FY2014 will be the highest year on bonds sold for the school, crematory, fire and police stations. Mr. Madden added that he is in favor of aggressive paydowns as the faster the debt comes off the books, the less sticker shock there will be with the next project borrowing.

Mr. William Zachmann asked for clarification of the \$7.0 million premium received for the bonds; whether this was "free" money or if it had to be used for interest and why not be used as a principal payment.

Mr. Madigan described the bond bidding process and explained the relevance of coupons and the relation to interest rate and resale on the bond market. Mr. Madden added that there is a statutory schedule requiring the Town to reduce the bond based on a formula. He indicated that receiving the premium was quite a deal as no bank was required to offer the incentive.

Mr. Zachmann stated that the Town owes Mr. MacDonald and Mr. Madden a debt of gratitude for getting the Town in the shape it is in and indicated that they got the Town as good a bond deal as we could have hoped for.

Mr. Madigan added that the timing of the bonds was very important. Traditionally, bonding is done at the end of a project, but as interest rates have not been this low since the 1950's, timing was right to bond the project up front.

Mr. Madden concluded the operating budget presentation and let the public know that detailed information would be available on the website for review. He also indicated that the "calculator" will be back on line shortly enabling people can see where their tax dollars are being spent.

CAPITAL BUDGET –

Mr. Madigan inquired about the Capital Budget.

Mr. Madden gave an overview of the Capital Budget process indicating that capital requests are received during the months of July and August; \$2,858,000 in requests for FY14. These requests are forwarded to the Fiscal Advisory Committee (FAC). The FAC subsequently meets with Department Heads and the Town Manager. The Town Manager will make recommendations and forward the information to the Finance Committee.

Mr. Madden stated that he expects to fund capital requests totaling \$1.5 million in Fiscal Year 2014. The largest request is for a technology infrastructure update which would make the Town's computer systems and programs more user-friendly. In Article 6, the capital request projects will be funded through free cash. It has become a policy to avoid the interest expense incurred by borrowing for capital projects.

Mr. Madigan agreed that it was important to use one time funds for a one time purchase. He also inquired about the request for financial software.

Mr. Madden stated that the current software is being used by all departments. Originally installed in 1981, the system was updated in 2009. There were not as many improvements to the system as were hoped for. He indicated that the Human Resources department should be using the software; however, there was no personnel package available. He continued that the payroll and personnel platforms are lacking basic functionality. The HR department uses maintenance screens for information as opposed to seeing information on line in real time. Last month, with the help of a consultant, the Town began to investigate other software options. The current software vendor did not bid on the project. Of 321 towns in Massachusetts, 125 use Munis, 110 use Softwrite and 20 use KDS. The towns don't necessarily utilize a complete package from any vendor.

Mr. Madigan asked if this would be a town-wide network. Mr. Madden stated that the intention was to beef up the infrastructure by running dedicated fiber optic cable through the town campus. Adding all locations to a common network would provide for easier contact between the campus locations.

Mr. Zachmann asked why the Town did not allow FIOS (Verizon) to string lines and use the lines that were already in place as this was an expensive effort. He also opined that perhaps the Selectmen could form a committee consisting of several townspeople who have an expertise in this field; he felt there were more cost-effective ways of connecting the Town campus buildings.

Mr. Madden deferred to the IT Department and School Department for the answer to Mr. Zachmann's question.

Mr. Frank Mangione stated that the schools and town were working together on this effort and that was an important step in the process.

TEMPLE STREET – MGL CHAPTER 61 LAND SALE

Mr. Madigan moved that the Board of Selectmen not exercise the Right of First Refusal to purchase the parcel of land located at 705 Temple Street, Duxbury, further identified as a portion of Assessors Plan 050-023-000 containing 12,756 square feet of land. Second by Mr. Dahlen.

A brief explanation of the Chapter 61 Classification (agriculture) status of the land followed. It was stated that the parcel of land was taxed at a lower rate while the property was used for agricultural purposes. If a piece of the total parcel was being taken out to sell, back taxes must be paid on that parcel equal to the residential rate. The roll-back tax amount, the difference between the real property tax rate and the reduced chapter 61 classification (agriculture), for the last 5 years amounts to \$201.35. The Selectmen were voting whether or not they were interested in purchasing the piece of land; a 12,756 sq. ft. slice of the parcel.

The Selectmen then voted the motion. VOTE 2:0:0.

DISCUSSION OF TOWN MEETING ARTICLES

[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.]

STM Article pertaining to Union Contracts

Human Resources Officer Jeannie Horne was present for the discussion of this Article.

Mr. Madigan moved that the Board of Selectmen recommend approval of the 2013 Special Town Meeting Article to raise and appropriate or transfer from available funds, sums of money to fund collective bargaining agreements for the fiscal year commencing July 1, 2013. Second by Mr. Dahlen.

(Settled Agreements for approval at the 2013 Town Meeting include: Duxbury Free Library Employees, Service Employees International Union Local 888; Duxbury Teachers Association; and Duxbury Permanent Firefighter's Association, International Association of Firefighters Local 2167)

Ms. Horne indicated that the Library and Firefighters contracts had been settled. The library had been settled first with a term of one year to expire on June 30, 2013. Ms. Horne stated that the one year term was at the request of the union. Changes to the agreement were mainly housekeeping or due to the attempt to standardize union contracts. There was a 1% increase in wages.

The Firefighters' contract contained more substantial changes including language limiting time off, sick time buyback, stipends, grievance procedures, educational incentives and a new grooming and appearance policy. The wage increases were listed as 1% for the first year, 1.5% for the second year and a blended rate for the third year of 1% for the first 6 months and .5% for the second 6 months. Ms. Horne indicated that the educational incentives and stipends represented not only a financial gain for the firefighters but also a benefit to the town.

The Selectmen then voted the motion. VOTE 2:0:0.

STM Article pertaining to Settlement of Pending Litigation

At the beginning of the discussion of this Article, it was stated that the Pending Litigation referred to in this Article was with Johnson Golf.

Prior to voting the STM Article, the Selectmen made a motion and voted on the current settlement offer from Johnson Golf as follows:

Mr. Madigan moved that the Board of Selectmen refuse the latest offer of settlement and end current negotiations of a settlement with Johnson Golf and pursue litigation. Second by Mr. Dahlen. VOTE 2:0:0.

Mr. Madigan indicated that this vote had been previously taken in an Executive Session of the Board of Selectmen but the Selectmen wanted to discuss the issue in Open Session. He stated that litigation was being handled by an attorney hired by MIIA (the Massachusetts Interlocal Insurance Agency) and was of no cost to the Town. Mr. Madigan opined that Johnson's proposed settlements were extreme and would be an undue financial burden on the Town and he felt the Town should pursue litigation and let the court settle the matter.

The Selectmen then voted the STM Article as follows:

Mr. Madigan moved to indefinitely postpone the Special Annual Town Meeting Article to transfer from available funds, a sum of money to be paid in settlement of pending litigation. Second by Mr. Dahlen. VOTE 2:0:0.

Mr. Zachmann asked if Town Counsel Art Kreiger would be minimally involved in the case and MIIA Attorney Lenny Kesten would be handling the case in Middlesex Court?

Mr. Madigan responded in the affirmative.

Mr. Zachmann opined that he believed the Board of Selectmen was using Executive Sessions in excess for matters related to litigation. He encouraged the Board to distinguish clearly what would be detrimental while still providing information to the residents in Open Session.

Mr. Dahlen stated that while getting legal advice, it was difficult to determine what is appropriate to share in open session. Only after the discussion is over, can the Selectmen determine what information is can be made public without having a detrimental effect on the litigation position.

ATM Article pertaining to the Operating Budget

This Article was voted at a previous Board of Selectmen's meeting. There was no further discussion

BUSINESS

ONE-DAY LIQUOR LICENSE REQUESTS—None

EVENT PERMITS –

29th Annual Cape Cod MS Bike Ride – June 29, 2013

Mr. Madigan moved that the Board of Selectmen vote to grant the National Multiple Sclerosis society (Central New England Chapter) permission to conduct a portion of their 29th annual Great Mass Getaway Bike Tour in the Town of Duxbury on Saturday, June 29, 2013. Second by Mr. Dahlen. VOTE 2:0:0

Council on Aging Half Marathon – March 30, 2013

Mr. Madigan moved that the Board of Selectmen vote to grant Ms. Joanne Moore, as a representative of the Council on Aging, permission to conduct a ½ marathon to raise money for the Alzheimer's Respite Program

on Saturday, March 30, 2013 at 8AM beginning and ending at the Duxbury Senior Center, 10 Mayflower Street. Second by Mr. Dahlen. VOTE 2:0:0.

TOWN MANAGER'S BRIEF

Mr. MacDonald was absent from the meeting – no brief was given

ANNOUNCEMENTS –

1. **Boston Magazine Article:** Mr. Madigan stated that Duxbury was named in *Boston Magazine's* "Best Places to Live 2013: Moving Up" article (March 2013 issue). He read the section of the article which referred to Duxbury.
2. **Annual Town Meeting:** Annual Town Meeting begins on Saturday, March 9th at 9 AM at the Duxbury Schools' Performing Arts Center, 73 Alden Street. Please note: Absentee voting is not allowed for Town Meetings; you must be present at the Town Meeting to cast a vote. Please come and participate.

The Warrant is available on the Town's website. It was published as a special insert section in the Duxbury Clipper. Copies are also available at the Library, Senior Center, and Town Hall. Please bring your copy with you to Town Meeting. There will be additional copies at the meeting as well.

3. **Annual Town Election:** The Annual Town Election will be held on Saturday, March 23, 2013 at the Duxbury Middle School Gymnasium, 71 Alden Street. The polls will be open from 8 AM to 8 PM.
4. **Transfer Station:** Mr. Madden mentioned that the Transfer Station would be accepting storm wood debris (no stumps) through the end of March.

MINUTES

02-25-13 Open Session Selectmen Minutes

Mr. Madigan moved that the Board approve the Open Session Selectmen Minutes of February 25, 2013, as presented. Second by Mr. Dahlen. VOTE: 2:0:0.

COMMITTEE APPOINTMENTS / RE-APPOINTMENTS - NONE

ADJOURNMENT

At approximately 8:32 PM, Mr. Madigan moved that the Board adjourn. Second by Mr. Dahlen. VOTE: 2:0:0.

Minutes prepared by: Susan Kelley

LIST OF DOCUMENTS FOR OPEN SESSION MEETING

1. *Agenda for 03-04-13 Selectmen's Meeting*
2. *Copy of email from Attorney Kevin Batt (of Anderson & Kreiger) to Shawn Dahlen regarding "Lead Alert for infants from Sodium Fluoride, notification to Board of Health: RE: status on requested fluoride testing"*
3. *Photocopy of the label from a bag representative of the Sodium Fluoride added to the Town Water Supply*
4. *Copy of Town of Duxbury General Operating Budget*
5. *Copies of budget presentations for Finance Director, Accounting Department, Assessing Department, Human Resources Department, Treasurer/Collector's Office,, email from Recapdata@dor.state.ma.us to John Madden regarding Free Cash Approval Notification for Duxbury, copy of revenue categories*
6. *Related to a Portion of Parcel 050-023-000, Temple Street: Memo from Joe Grady, Conservation Administrator, to the Board of Selectmen regarding MGL Chapter 61 Land Sale of a portion of parcel 050-023-000, Temple Street; copy of MGL Chapter 61A; letter from Attorney John McCluskey dated 2/1/13 regarding Notice of Intent to Sell and/or Convert Land taxed under MGL Chapter 61A; Plan of Land; copy of Board of Assessors Agricultural or Horticultural Land Tax Lien; copy of Assessors Classified Forest – Agricultural or Horticultural Recreational Land Tax Lien; copy of Quitclaim Deed; copy of Certificate of Trustee; copy of Assessors Roll-back Tax calculation for Chapters 61, 61A and 61B; memo from Steve Dunn, Director of Assessing, to Board of Selectmen regarding Roll-back Due*
7. *Summary of Final Settlement Agreements By and Between the Town of Duxbury and the Duxbury Free Library Employees, SEIU Local 888*
8. *Summary of Final Settlement Agreements By and Between the Town of Duxbury and the Local 2167, Duxbury Permanent Firefighters Association AFL-CIO*
9. *Event Permit: National Multiple Sclerosis Society, Great Mass Getaway Bike Tour, Saturday, June 29, 2013*
10. *Even Permit: Council on Aging, ½ Marathon, March 30, 2013*
11. *Town Manager Brief (potential items)*
12. *MINUTES: 02-25-13 Selectmen Minutes-DRAFT*