

**Date: May 6, 2013**

*Date Minutes Approved: January 27, 2014; ~~to remained sealed until the need for confidentiality has passed~~  
Date Minutes Released: January 27, 2014*

**BOARD OF SELECTMEN MINUTES**

**(EXECUTIVE SESSION)**

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

**Absent: None**

**Staff: Richard MacDonald, Town Manager, Susan Kelley, Executive Assistant**

**CONVENED IN OPEN SESSION**

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

**VOTE TO ENTER 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 the purchase, exchange, lease or value of real property, (i.e., a proposed Conservation Commission Land Acquisition) since an open meeting may have a detrimental effect on the Town's bargaining position, and then to reconvene in Open Session, in accordance with Mass General laws Chapter 30A, Section 21.

As Chair, Mr. Madigan 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 strategy. Second by Mr. Flynn. Roll Call Vote: Mr. Madigan - aye; Mr. Flynn - aye; Mr. Dahlen - aye.

**EXECUTIVE SESSION**

**Others present for the Executive Session were:**

**Mr. Joseph Grady, Conservation Administrator; Pat Loring, Conservation Commission**

**DISCUSSION**

**CONSERVATION COMMISSION – Land Purchase**

Mr. Grady stated that they were present to discuss the acquisition of the Kaiser property, 7 acres located in the woods off of High Street, a strategic purchase that would block future development of surrounding property. He indicated that the Selectmen had previously voted to approve the execution of a Purchase & Sale Agreement ("P&S") on this property which was to be purchased with Conservation Commission funds. Because the funds earmarked to purchase this property were transferred from the Community Preservation Act Fund ("CPA") to the Conservation Commission Fund, Town Counsel has labeled this purchase a hybrid transaction - land purchased with CPA funds is not subject to MGL 30B Procurement whereas land purchased with Conservation Commission funds is subject to 30B restrictions. Mr. Grady stated that based on opinion of Town Counsel, a request for proposals ("RFP") must be drafted and the property advertised in the Central Registry before the P & S is signed unless the Selectmen declared the property "unique". As a "unique" property, the transaction would not be subject to 30B regardless of the source of funds. Mr. Grady opined that advertising in the Central Registry prior to execution of a P&S could jeopardize the Town's position and ultimately the purchase of the property. He

indicated that the process suggested by Town Counsel Anderson & Kreiger is a deviation from past practice. Previously, parcels were advertised after the P&S was signed but before the Town took custody of the property.

Ms. Loring opined that there were two issues of concern:

- 1) 30B regulations (Conservation Commission funds) vs. no 30B (CPA funds)
- 2) A \$45,000 land purchase made with Conservation Commission funds should not be a publicly advertised transaction.

Mr. Flynn asked Mr. Grady and Ms. Loring if they would rather not declare the property “unique” but rather move ahead as is. Ms. Loring stated that they would prefer that it not be declared unique, and reiterated her belief that the 30B regulations did not apply to this transaction.

However, Mr. Dahlen suggested the Selectmen declare the property unique but not proceed with advertising until it was confirmed with Town Counsel that this was the correct process. The Board agreed to proceed in this manner.

Mr. Dahlen moved that the Board of Selectmen declare the property off High Street owned by John Kaiser, further identified as Parcel #030-014-000 on the Duxbury Assessors Map, as a unique property for the purposes of acquisition. Second by Mr. Flynn. ROLL CALL VOTE: Mr. Madigan – aye; Mr. Flynn – aye; Mr. Dahlen – aye.

#### **ADJOURNMENT**

At 6:52 PM, Mr. Dahlen moved that the Board adjourn the Executive Session and reconvene in open session at 7:00 PM. Second by Mr. Flynn. ROLL CALL VOTE: Mr. Madigan – aye; Mr. Flynn – aye; and Mr. Dahlen – aye.

Minutes prepared by Susan Kelley

#### **LIST OF DOCUMENTS**

- 1) *Memo to the Board of Selectmen from Joe Grady, Conservation Administrator, dated December 5, 2012*