

**Date: October 7, 2013**

*Date Minutes Approved: October 28, 2013*

## **BOARD OF SELECTMEN MINUTES**

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

Absent: David J. Madigan, Chair

Staff: René J. Read, Town Manager, John Madden, Finance Director; and C. Anne Murray, Administrative Assistant

### **CONVENED IN OPEN SESSION**

Mr. Madigan had a business conflict and was not able to attend tonight's meeting. Mr. Flynn assumed the Chair in his absence.

The meeting was called to order at 7:01 PM in the Mural Room.

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

### **PROCLAMATION – United Nations Day, October 24, 2013**

Mr. Flynn made the following statement "Every day, the United Nations and its family of agencies work to improve people's lives throughout the world through peace-building, environmental sustainability, emergency relief, human rights and global health work. We invite you to join us this year in recognizing the important work of the UN on October 24, 2013, the 68<sup>th</sup> anniversary of the United Nations. Since 1947, every US President, beginning with Harry Truman, has issued a proclamation asking citizens to observe this special occasion. This year's celebration focuses on the topic: The United Nations: Partnerships for Global Progress. "

Mr. Dahlen then read the full Proclamation proclaiming October 24, 2013 as United Nations Day in the Town of Duxbury.

### **UPDATE BY PLYMOUTH COUNTY COMMISSIONERS**

Mr. Tom O'Brien, the Plymouth County Treasurer, acted as a spokesman for the Plymouth County Commissioners. He began by thanking the Selectmen for allowing them to be present this evening and he introduced the Plymouth County Commissioners.

There are 3 Plymouth County Commissioners:

- Chairman Dan Pallotta, who introduced himself to the Board prior to the meeting, but had to leave due to a business meeting in western Massachusetts.
- Sandra Wright, who was present, but suffering from laryngitis.
- Mr. Greg Hanley, who was not present as he was celebrating his anniversary.

Mr. O'Brien provided the Board with some facts and an overview in which he mentioned the following:

- **Cost of Plymouth County Govt.:** citizens pay \$2.73 per person per year for Plymouth County government.
- **What does Plymouth County government do:**
  - Operates the Plymouth County Registry of Deeds
    - Main office is in Plymouth
    - 2 satellite offices are in Rockland and Brockton
  - Owns and maintains 3 Court Houses: Plymouth, Brockton, and Wareham.  
*[Edit. Note: The State is responsible for court operations.]*
  - Handles the administration and finances of the Mayflower Municipal Heath (Ins.) Group.  
Duxbury is not a member, but other towns in the county are. He mentioned that they have had 0% rate increases during the past two years and an average increase of 4.7 % over the past five years.
  - Operates a parking ticket administration service, which Duxbury participates in.
  - Offers a bulk purchasing service for municipal fuel needs.
  - Runs a 4H Extension program. Mentioned that there is a fair in Middleboro on Oct. 12<sup>th</sup>.
  - Owns and operates a Fire Control airplane, which costs about \$17,000. / year, but has been estimated to save hundreds of thousands of dollars in property damage.
- Recent initiatives of the Plymouth County Commissioners:
  - To inform people about what County government does
  - To restore a more equitable balance in revenue sharing: For every \$1.00 generated Plymouth County gets 10.625 cents and the Commonwealth receives the balance or 89.375 cents. Used to be a 50 /50 split. Recent legislative request has been submitted to request 42.5 cents per dollar stay with Plymouth County.
  - **Legislative Initiatives:** (See Handouts listing County Legislation Co-Sponsors and County Legislation Status provided.) Mr. O'Brien provided the following overview:
    - Courthouse Rent: The Commonwealth is the tenant for the County-owned courthouses. They pay about 80% of the rental amount and typically pay in arrears. This legislation would correct the rental formula so that public entity rentals would be treated like a private sector rental property with rent payments at 100% and monthly.
    - Deeds Excise: This is legislation (H.2516) which would allow the County to retain 42.5 cents per dollar generated in the Plymouth County. Requested that the Duxbury Board of Selectmen support this piece of legislation with a vote of the Board and/or a letter of support.
    - Recording (reallocation): Would allow Plymouth County to keep a larger percentage of the recording fees than can currently be retained by the County.
    - M.O.E.: (Maintenance of Effort): This has to do with the Sheriff's Department's unfunded liability. He explained that when the Commonwealth took over the Sheriff Department, they left behind with the County the pension liability. This legislation would make the Commonwealth assume

that liability. The argument being that it is not right that the Commonwealth took the asset without also taking its liabilities.

- Stabilization Fund: Would allow Plymouth County to have a stabilization fund.
- Pension Obligation Bond: This is an initiative of the Plymouth Commissioners with support from many of the County's Boards of Selectmen; it would allow County to take advantage of bond rates to fund the outstanding pension liability.
- **Ongoing initiatives:**
  - Plymouth County Energy Cooperative (Handout provided) –bulk purchasing of utility advantages. (initiative of Comm. Hanley)
  - Solid waste initiative – looking at the ability to save money through regional hauling and disposal of waste. This may be of interest to any County community that is not in a contract of longer than 5-10 years. (initiative of Comm. Hanley)
  - Dredge Services: Recognized the need for dredge services to many of the Plymouth County towns and promoted this to State Legislators. Through the work of State Legislators (State Reps. Cutler, Bradley, Calter, and Cantwell) \$250,000 for a saltwater dredge services was obtained. He mentioned the leadership roles played by a number of Duxbury Town Officials (including the Town Manager and Harbormaster staff) and the Duxbury Bay Maritime School in working on this. (initiative of Comm. Wright)
  - Freshwater Dredge Services: Is something that will be looked into in the future. (initiative of Comm. Wright)
  - Registry of Deeds Information & Training Sessions: These are held on the 1<sup>st</sup> Thursday of each month from 9 AM -11:30 AM at the Plymouth Registry of Deeds. The training is to help community understand the assessing and planning challenges they have and the information and services, including online services, available at the Registry.

After discussion, it was decided that the Town Manager would draft a letter of support regarding H.2516 for the Selectmen to vote on and execute at their next meeting.

## **DISCUSSION PERTAINING TO PINE STREET WATER MAIN EXTENSION**

Present for this item of business were Mr. Peter Buttkus, DPW Director, and Mr. Peter Mackin, Duxbury Water Superintendent.

Mr. Read indicated that there was plan of the Pine Street water main extension project on display.

Mr. Buttkus mentioned the following:

- The project came about because residents in the Pine ST area approached the Town requesting water service. He mentioned that some of the area residences had failing wells or radon in their wells.
- When the Town went to the State's Office of Dam Safety (hereafter Dam Safety) the intent was to have the water main in the dam (encased in concrete) or under the toe of the dam.
- Dam Safety did not like and would not approve either of those options citing concerns about seepage.

- A suggestion was made that the water main be put in the pond. Mr. Buttkus explained the Town did not own the pond and easements would be required. In addition, this option was discarded from a water management perspective. He explained that (a) it would be difficult to detect a water main leak and (b) it would be difficult to make repairs in such a situation.
- Dam Safety finally approved a water main that, similar to Temple ST area, is brought out the ground across the dam and back into the ground. He said that the Town did try many times to get representatives from Dam Safety to meet at the site, but they refused to do so.
- Project is almost complete, except for the paving. Residents, who wanted to be tied in, have been connected.
- In response to the question: "Why couldn't the water main come up closer to the dam and go back underground closer to the dam?", Mr. Buttkus said that was worked out between Dam Safety and the project engineers.

Mr. Jerry Dowd, 223 Pine ST: When were the abutters notified of the change (that the main would be above ground)? In response Mr. Buttkus indicated abutter notification was sent out showing the route (not whether it would be above or below ground). Since there was no change to the route another filing (i.e., Notice of Intent with the Conservation Commission) and re-notification was not required.

- Mr. Buttkus indicated that funding was voted at a Town Meeting. It was planned as a two-phase project. Project was started late last fall on the Kingston side and went as far as possible to do hookups. Then resumed in the Spring 2013 with completion anticipated to be in Fall 2013.
- Mr. Flynn asked what the cost would be to put the main underground? In response Mr. Buttkus said he did not know and he is uncertain that Dam Safety would allow that.

At this point, Mr. Mackin mentioned that officials from Dam Safety and the project engineers are supposed to be on site on Wednesday, October 9th for a meeting.

Mr. Joe Nardone, 108 Lake Shore Dr., questioned that Dam Safety told the Town that it needed to come out of the ground. In response Mr. Buttkus again stated that Dam Safety would not approve putting the main in the dam or under the dam toe and putting the main in the pond was not a viable option as far as the Town was concerned for the previously stated reasons. Mr. Mackin added the other placement to the side is privately held on the downstream side. He did, however, clarify that Dam Safety did not suggest it, but it was the only plan that they would approve which was suggested by the project engineers.

Mr. Dahlen then suggested 2 potential options to be discussed with Dam Safety to make it more aesthetically appealing. His first suggestion was to see if the water main could come out of the ground closer to the dam and reenter closer to the dam so less main is above-ground. His second suggestion was to run the pipe below grade so it is less visible from the street, but would still be visible from the pond side. He spoke briefly about the need for the guardrails and also suggested that plantings be installed.

Mr. Russ Erikson, 9 Lake Shore DR, noted that he is probably the biggest opponent of the exposed main as it affects his property. He questioned why an abbreviated guard rail was put on the pond side, which he opined was the more dangerous side. He referred to a packet of emails (copies of which have been given to the Selectmen) between the State Dam Safety and the project engineer,

and he said the State had informed the engineer to put either in the pond or underground at the toe of the dam. He further opined that the engineer resisted the recommendations and because of money and time opted for the above ground route. On Rte. 27 between Winter and School Streets the project went in the water and there was no issue getting approvals from the State. He said that had he been informed and asked, he would have granted an easement. He added that the pipe blocks his ability to get a mower to his lower lawn.

It was left that the options would be explored with the State Dam Officials at Wednesday's site visit.

In response to a question from Mr. Read, Mr. Buttkus said that a landscaping option was offered but he has not heard back.

Unidentified man asked "Is paving scheduled this year?" Mr. Buttkus indicated it is scheduled for this month, but it is dependent upon the contractor's schedule. He suggested that if necessary they could pave the other areas of the project, do a temporary binder in this area and then return to pave this area next spring.

Mr. Mackin indicated that as a rough estimate approximately \$220,000. was left in the project budget, which was not specifically earmarked, but is for unforeseen costs and change orders. He also mentioned that Environmental Partners in Quincy were the project managers.

## **UPDATE NSTAR TREE REMOVAL AND RE-PLANTING PROJECT**

Present for this item of business was Mr. Peter Buttkus, DPW Director, as he was one of the Town officials, who met with residents and the NStar representatives.

Mr. Buttkus indicated that he has spoken with Mr. Bill Hayes, Senior Arborist of NStar:

- All the cutting is complete, except for areas out on Rte. 3, which is State-owned;
- Some stump grinding is still going on but should be wrapped up shortly.
- NStar is planting at 61 locations (residences and town-owned properties) in Duxbury and about one-third are already done. The rest should be completed by November 19<sup>th</sup>.
- He has heard no negative feedback from Duxbury residents.
- All the town areas have been planted. There are some minor issues, but he was confident those could be resolved.
- NStar has filed with Conservation that they plan to replace about 32 of the towers (structures and cables), but we don't know with what, and 15 are within buffer wetlands.
- He noted that because it has been such a dry fall that the Dept. of Lands and Natural Resources has been going out with water trucks. Since it has been this dry it has been esp. hard to get the plantings established. Mr. Hayes has assured him that given that the plantings would be warrantied for one year.

## **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.*

### **Event Permits**

*Duxbury Business Association – Holly Days, December 1, 2013*

Mr. Dahlen moved that the Board of Selectmen grant to Ms. Anne Antonellis, as Holly Days Chairman for the Duxbury Business Association, an Event Permit for the Holly Days Celebration, to be held on Sunday, December 1, 2013 from Noon to 4:00 PM, subject to the conditions on the permit. Second by Mr. Flynn. Vote: 2:0:0.

Ms. Antonellis mentioned that she and some other business owners are looking to light up trees with solar-powered lights at Halls Corner and inquired who she should speak to about it. It was agreed she should discuss it with the Town Manager.

### **One-Day Liquor License Requests**

*Duxbury Art Complex Museum – Artist Reception, November 17, 2013*

Mr. Dahlen moved that the Board of Selectmen grant to Ms. Doris Collins, as a representative of the Duxbury Art Museum, a One-Day Wine & Malt License to hold a reception on Sunday, November 17, 2013 from 1:30 PM to 3:30 PM at the Art Complex Museum (186 Alden Street), contingent upon the conditions on the license. Second by Mr. Flynn. Vote: 2:0:0.

### **DISCUSSION PERTAINING TO POSSIBLE APPEAL OF FEMA FLOOD MAPS**

Mr. Read indicated that in the Selectmen's packet is a copy of the letter from the Woods Hole Group, which outlines the scope. He has signed off on that, and the cost will be \$3,500 to proceed with an analysis to determine whether the Town has a basis for appealing the new FEMA flood maps. It will be done in time to meet the FEMA appeal deadline.

He added that he did reach out to two other companies: Ransom Engineering and ASA Science, but neither company was able to complete the work within the FEMA appeal deadline.

Mr. Dahlen indicated that ASA Science did provide a proposal for doing a letter / map amendment, which can be done after the fact, but is a more lengthy process. He also mentioned that he has heard that some other communities have applied and been granted a discount on flood insurance if the community takes steps to mitigate flood damage within FEMA guidelines. The discounts range from 5% to 25% for all members of the community based on a rating system. It does involve quite a bit of work so in Marshfield, for example, a committee was established to work on this. He is trying to explore through FEMA what the residents of Duxbury pay on all their flood insurance so a determination can be made of the projected dollar savings. He will report back when he has more information.

### **SELECTMEN VOTE TO OPEN ATM/STM WARRANTS**

Mr. Dahlen moved that the Board of Selectmen vote to open the 2014 Annual Town Meeting and Special Town Meeting warrants. Second by Mr. Flynn. Vote: 2:0:0.

The Board of Selectmen invites citizens to submit articles for the 2014 Annual Town Meeting. Articles must be submitted to the Town Manager's Office **by December 3, 2013**. Complete Article

language and explanation required. Please contact Susan Kelley at 781-934-1100 x141 with questions.

Mr. Read said that his office will not help with the substance of an article, but will be available to provide assistance with respect to the form of an article.

### **ACCEPT DONATION from Duxbury Youth Baseball**

Mr. Dahlen moved that the Board of Selectmen accept the generous donation of \$1,500.00 from the Duxbury Youth Baseball to be used towards the cost of the field rehabilitation project of the Murphy baseball field and the Train baseball field. Second by Mr. Flynn. Vote: 2:0:0.

### **ANNOUNCEMENTS**

Mr. Dahlen read the announcements about the following:

1. **Flu Clinic:**

The Board of Health will hold a **Public Flu Clinic** on **Tuesday, October 8, 2013** from **4:00-5:30 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 and may end before the allotted time.

2. **Next Scheduled Selectmen's Meeting:** Monday, October 21, 2013

### **MINUTES**

Mr. Dahlen moved that the Board of Selectmen approve the 09-23-13 Selectmen's Minutes, as written. Second by Mr. Flynn. Vote: 2:0:0.

### **TOWN MANAGER'S BRIEF**

Town Manager René Read mentioned the following items:

1. **Small Claims Court Case:** Mr. Read said that at the last Selectmen's meeting Atty. Kreiger mentioned a Small Claims Court case brought against the Town by a claimant seeking a refund for a purchased beach sticker. [The case was L. Denenberg (Plaintiff) vs. Town of Duxbury (Defendant).] Mr. Read announced the judgment was in favor of the Defendant, provided the Board with a copy of the Judgment for the Defendant.
2. **Aquaculture Re-opening:** The Division of Marine Fisheries has been notified by the Department of Public Health that the risk of *Vibrio parahaemolyticus* (commonly known as "Vibrio") has diminished. At sunset on Saturday, October 5, 2013 the oyster beds have been re-opened.
3. **Budget Update:** He will be holding departmental meetings regarding Capital Budget requests later this week. He asked Mr. Madden to provide a FY'15 revenue update to the Board.

Mr. Madden said that they met with Department Heads regarding their budgets and all have submitted reasonable requests. However, they realize a second review might be needed. He said there is a projected \$890,000. FY'15 shortfall between expenditures and revenue, which

will need to be closed. He mentioned three of the largest factors are: (1) the pension assessment from Plymouth County; (2) a \$77,000. net property insurance increase due to a new building; and (3) an anticipated \$300,000. decline in beach sticker revenue due to the beach closures this summer.

He did, however, note the following:

- The Town was given a \$756,000. pension assessment, but as was mentioned earlier he does expect a lower assessment will be given after the next Plymouth Retirement Board meeting October 22<sup>nd</sup>.
- The Town of Duxbury is self-insured, and our experience has been for 1% increases during the past few years, which has allowed us to level-fund this line item.

Mr. Flynn inquired if the Town has ever discussed a longer term beach lease? The reply given by Mr. Read was that historically it has been an annual discussion, but that is something that could be explored.

## **COMMITTEE APPOINTMENTS/RE-APPOINTMENTS**

### **Historical Commission**

Mr. Flynn moved to appoint Mr. “Chris”(Christopher) Tice and Mr. Arthur Evans to the Historical Commission to fill unexpired terms due to expire on 6/30/2014. Second by Mr. Dahlen. Vote: 2:0:0.

### **Council on Aging (COA)**

Mr. Flynn moved to re-appoint Anne Antonellis, Marcy Bravo, Paul Brogna, Marilyn Murphy, and Carol Chapman and to appoint Ms. Susan Grunwald to the Council on Aging all with the exception of Ms. Chapman for terms to June 30, 2016. Ms. Chapman’s appoint is for a term to June 30, 2015. Second by Mr. Dahlen. Vote: 2:0:0.

### **Council On Aging Alternate Members**

Mr. Flynn moved to appoint Ms. Susan C. Kelley as an Alternate to the Council on Aging for a term to expire on June 30, 2015. Second by Mr. Dahlen. Vote: 2:0:0.

## **ADJOURNMENT**

At 8:20 PM Mr. Dahlen moved that the Selectmen adjourn. Second by Mr. Flynn. Vote: 2:0:0.

Minutes prepared by: C. Anne Murray

## ***LIST OF DOCUMENTS FOR 10-07-13 SELECTMEN’S MEETING***

1. *Agenda for 10-07-13 Selectmen’s Meeting*
2. *Open Forum: none*
3. *PROCLAMATION – United Nations Day, October 24, 2013*
4. *PINE STREET WATER MAIN EXTENSION: 09-27-13 Dux. Reporter article “Duxbury resident upset over town’s placement of above-ground water main”; large map of project (displayed); Returned receipt card signed by Phyllis Erikson; and 9 pages of email*



- communication between Ryan Trahan, P.E., Project Manager for Environmental Partners Group Inc. and William Salonaa, Director of Office of Dam Safety of the Dept. of Conservation and Recreation (DCR) (provided by Mr. Erikson to Mr. Flynn) copy of certified plot plan showing Erikson lot (#914-155) with water main along Lake Shore Drive;*
- 5. FEMA FLOOD MAPS DISCUSSION: Emailed proposal from Kelly Knee of ASA Science and agreed to proposal Leslie Fields, Coastal Geologist from Woods Hole Group dated September 30, 2013*
  - 6. PLYMOUTH COUNTY COMMISSIONERS: Handouts provided at meeting by Treas. Tom O'Brien: flyer on Plymouth County Energy Collaborative; Spreadsheet of County Legislation Co-Sponsors, 188<sup>th</sup> General Court; and Spreadsheet of County Legislation, 188<sup>th</sup> General Court, as of 9/12/13.*
  - 7. Open ATM/STM WARRANTS: Suggested motion and announcement*
  - 8. DONATION FROM DYB: suggested motion and Memo from Gordon Cushing, REC Dir. Dated September 24, 2013 explaining the donation.*
  - 9. ODLL: License, ODLL app. and Dept. Feedback packet RE Dux. Art Museum reception on 11/17/13*
  - 10. EVENT PERMIT: Event Permit, Letter from Dux. Business Assoc. giving an overview of Holly Days 2013, and departmental feedback.*
  - 11. POTENTIAL TOWN MANAGER BRIEF ITEMS: Provided at meeting copy of Judgment for Defendant(s)- Denenberg v. Town of Duxbury.*
  - 12. SUGGESTED ANNOUNCEMENTS for 10-07-13*
  - 13. MINUTES: Suggested Motion and 09-23-13 Selectmen's Minutes -DRAFT*
  - 14. APPOINTMENTS/ RE-APPOINTMENTS: 2 Board and Committee Appointment Sheets for 10-07-13 regarding Historical Commission appointments and Council on Aging appointments.*