

Date: September 14, 2015

Date Minutes Approved: September 28, 2015

TOWN CLERK
15 SEP 30 PM 1:46
DUXBURY, MASS.

BOARD OF SELECTMEN

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

Absent: *(none)*

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

I CALL TO ORDER - CONVENED IN OPEN SESSION

The Selectmen's meeting was called to order at 6:30 PM in Open Session in the Mural Room.

II 6:30 PM EXECUTIVE SESSION

VOTE TO ENTER EXECUTIVE SESSION

Mr. Madigan moved that the Board of Selectmen enter into an Executive for the purpose of discussing strategy with respect to pending litigation since an open meeting may have a detrimental effect on the litigating position of the Town, if the Chair so declares, in accordance with Mass. General Laws Chapter 30A, Section 21. This Executive Session will adjourn when completed, and the Board will reconvene in Open Session on or about 7:00 PM.
Second by Mr. Dahlen.

As Chair, Mr. Flynn declared the necessity for an Executive Session is due to the confidential nature of discussions pertaining to litigation.

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

RECONVENE IN OPEN SESSION

Having completed the business of the Executive Session the Selectmen reconvened in Open Session at 7:00 pm after the public had entered the Mural Room.

III OPEN FORUM - nothing was brought forward for discussion

IV NEW BUSINESS

Discussion regarding Right to Farm bylaw

Mr. Read explained that this topic was put on the agenda in response to an inquiry letter from Ms. Audrey Nee and Mr. Thomas Nee and others with respect to a rooster in their neighborhood. He introduced Ms. Nee, who asked to address the Board.

The Chair recognized Ms. Audrey Nee. Ms. Nee explained the letter that was submitted was after a month-long issue with a neighbor's rooster. She understood that after a number of complaints the rooster has been re-located. Although the immediate issue has been resolved, she came before the Selectmen tonight because

she feels she is not the only person aggrieved by individuals, who have farm animals and seem to think the Right to Farm Bylaw allows them to keep the animals no matter how offensive they are to others. She suggested that it was time to re-visit and fine-tune the Right to Farm Bylaw.

She said that a citizen shouldn't have to involve the Police, the Animal Control Officer (ACO), the Town Manager, and the Selectmen for a resolution. She pointed out the ACO can write a fine for a continuously barking dog; but not for a continuously crowing rooster. So she advocated to the Board for a review of the Right To Farm Bylaw language, and offered to work with any committee reviewing the language. She also mentioned that she was not opposed to animals, but felt there should be a better way to deal with offensive animals and problem owners.

Mr. Read explained that this is a General Bylaw. The process for Bylaw amendments usually begins when a concern is brought to the Selectmen and then it is referred to the appropriate board, in this case the Agricultural Commission, for recommendations regarding amendments of the language to be brought forth either by the Selectmen or by the committee as a Town Meeting article.

Mr. Dahlen said this was the first time he was aware of an issue being brought forward. In response, Ms. Nee suggested that it is likely some people might not complain because they are intimidated. Mr. Dahlen did agree that specifically the language section 5 of the Bylaw might be better.

In discussion the Board mentioned that section 5 tends to give guidance about how to go about making a complaint, but doesn't spell out the resolution and/or enforcement actions.

Mr. Madigan moved that the Board of Selectmen refer the Right to Farm Bylaw to the Agricultural Commission to strengthen the resolution of disputes with some enforcement actions and with the recommendations to be brought back to the Board of Selectmen for a potential article in March (2016). Second by Mr. Dahlen. VOTE: 3:0:0.

Discussion pertaining to review and approval of Island Creek closing documents for Phase II

Mr. Madigan moved that the Board of Selectmen execute the Record of Vote of the Duxbury Board of Selectmen to approve the loan given by the Town to ICVN Age Restricted LLC in the amount of \$25,000 for the Island Creek Village North development (Phase II) along with associated documents, and to authorize the Town Manager and the Board of Selectmen Chair to take all actions on behalf of the Town, as further described in detail in the Record of Vote. Second by Mr. Dahlen.

In response to questions from the Board, Mr. Mark Epker from Beacon Communities (the developer) was introduced. Mr. Epker explained that the documents to be signed by the Board are for a loan, which is payable in 45 years. The loan does not have a payment schedule so it won't accrue interest, but will be paid in full at the end of the 45 year term. This loan is for Phase II.

He added that the Town previously provided a similar loan for Phase I. Phase I closed this past spring with age restrictions, a waste water treatment facility, and a 94-unit, age-restricted building. Phase I is currently under construction.

Following the explanation the Board voted on the motion. VOTE: 3:0:0.

V CONTRACTS

CPC Contract – Myles Standish Homestead archaeological assessment

Mr. Madigan moved that the Board of Selectmen approve and authorize the Chair to execute the contract between Public Archaeology Lab, Inc. and the Town of Duxbury for an archaeological overview and assessment of the Myles Standish House Site at a cost of \$32,530. Second by Mr. Dahlen.

Mr. Read mentioned that this is under the oversight of the CPC. It was approved as Article 26 at the March 2015 Annual Town Meeting. This was seen as a step towards the eventual filing for recognition on the National Register of Historic Places.

A question was raised whether this was put out to bid. Ms. Murray recalled that because of the special nature of the work and the limited vendors, who do it, that it did not go have to go out to bid. That prompted Mr. Read to add that architects and engineers are exempt from bidding requirements under the procurement laws.

The Board then voted on the motion. VOTE: 3:0:0.

Fire Department contract with Pierce Manufacturing Inc. for new pumper truck

Mr. Madigan moved that the Board of Selectmen approve and authorize the Chair to execute the Purchase Agreement between Pierce Manufacturing Inc. and the Town of Duxbury for a new Pierce Pumper fire apparatus as detailed in Exhibit A for a total cost of \$590,724. Second by Mr. Dahlen.

Chief Nord mentioned that part of the Agreement is the trade-in value of the 2006 Pierce pumper. It was approved at the March 2015 Annual Town Meeting. It is anticipated that it will be about six months before the Town receives it.

The Board then voted on the motion. VOTE: 3:0:0.

Fire Department contract with Firematic Supply Co., Inc. for new brush truck

Mr. Madigan moved that the Board of Selectmen approve and authorize the Chair to execute the contract between Firematic Supply Co., Inc. and the Town of Duxbury for a new B.R.A.T. (Brush Rapid Attack Truck) fire apparatus for a total cost of \$178,835. Second by Mr. Dahlen.

Chief Nord mentioned that this is a replacement vehicle being purchased with a grant the Fire Department was awarded. The Town's share is only 5%, which is \$8,000. The vehicle being replaced will be stripped for any useable items and then disposed of as it cannot continue to be used as Fire Dept. vehicle.

After receiving the explanation the Board voted on the motion. VOTE: 3:0:0.

V TOWN MANAGER'S REPORT

Mr. Read reporting on the following items:

1. Grants Response:

Mr. Read a recent letter to the editor from the *Duxbury Clipper* in which the author asked if Duxbury had applied for grants awarded to other coastal communities. In response Mr. Read said that in October last year an application was submitted for this grant for a study of Duxbury Beach, which he thought might have been submitted in conjunction with the Duxbury Beach Reservation, Inc. Unfortunately the Duxbury submission did not receive the funding. With respect to the question about whether the Town would be applying for other grants, Mr. Read answered "Yes, absolutely without question."

2. Dredging Update:

Mr. Read read the following 09-10-15 dredging update:

"The US Army Corps of Engineers have recently awarded a contract with Cashman/Burnham joint venture to complete dredging work in Duxbury.

On September 9, 2015 Duxbury Town officials met with representatives of the Army Corps of Engineers and representatives from Cashman/Burnham joint venture for a pre-construction meeting during which the dredge project schedule was discussed. The dredging project window runs from September 1, 2015, to December 31, 2015.

The dredging contractors will arrive on September 21, 2015, to commence with the dredging of the Federal entrance channel marked by Federal Aids to Navigation nuns and cans numbered 12 through 22. Channel dredging activities will occur 7 days a week, during the daylight hours at first, and the work site will likely occupy the entire width of the Federal entrance channel. The contractors anticipate their arrival into the Federal Basin by mid-October at which time two dredges will be operating to dredge the Basin area.

Prior to entering the Basin, several flats mooring will be required to be removed establishing a setback of approximately 50' feet from the Federal Entrance Channel marked Federal Aids to Navigation nuns and cans 20 thru 22. **Moorings in the Federal Basin will be required to be removed on or before Wednesday, October 14, 2015.**

Additional Duxbury Harbormaster Department dredge notices providing specific information and instructions will be provided as the aforementioned dates draw closer. In the meantime, **if you have questions, please feel free to contact the Harbormaster's office via the following e-mail address which we have created specifically for this purpose - dredgeinfo@town.duxbury.ma.us** – or by calling our office at (781) 934-2866."

3. Workplace Violence Training / Town Hall Closure:

Mr. Read mentioned that the Town Hall will be closed from 8:30 AM –Noon on Monday, September 21st so employees can participate in a Workplace Violence Training.

VI COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION

Mr. Madigan moved that the Board appoint Mr. Mark P. Barry as a member of the Historical Commission to fill an unexpired term due to expire on June 30, 2016. Second by Mr. Dahlen. VOTE: 3:0:0.

With the above appointment the Historical Commission is fully staffed.

VIII ONE-DAY LIQUOR LICENSE REQUESTS - None presented

[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.]

IX EVENT PERMITS

10-03-15 Chandler Family Fun Run

Mr. Madigan moved that the Board of Selectmen grant to Ms. Melissa Magner, as a representative of the Chandler PTA, permission to hold a Chandler Family Fun Run event at the Chandler School on Saturday, October 3, 2015 from 8:00 AM to 11:00 AM, subject to the conditions on the permit. Second by Mr. Dahlen. VOTE: 3:0:0.

X MINUTES

Mr. Madigan moved that the Board of Selectmen approve the 08-31-15 Selectmen's (Open Session) Minutes, as presented. Second by Mr. Dahlen. VOTE: 3:0:0.

XI ANNOUNCEMENTS

Mr. Madigan read the following announcements:

1. Duxbury Town Hall Offices Closed

The Town Hall Offices will be closed from 8:00am to 12 Noon on Monday, September 21, 2015 for workplace violence prevention training.

2. Duxbury Beach Triathlon Reminder:

The Duxbury Beach Triathlon will be taking place on Saturday, September 26th. The route will be similar to in the past.

3. Annual Duxbury Beach COASTSWEEP Cleanup:

Annual Duxbury Beach COASTSWEEP will take place this Saturday, September 19, 2015 from 9 AM to 1 PM on Duxbury Beach. Volunteers are needed just show up at Duxbury Beach to help.

4. Transfer Station Paint Days

Unused one gallon cans of oil paint or stain will be accepted at the Transfer Station from 9 AM – NOON on Saturday, September 19th and Saturday, November 21th.

5. Free Caregiver Workshops:

A free educational series for caregivers is being offered at the Duxbury Senior Center for six Wednesdays from Sept. 30th through Nov. 4th from 2 PM-3:30 PM. Due to space limitations, pre-registration is required. Contact Donna Ciappina at the Duxbury Senior Center at 781-934-5774; Ext. 5730. See the flyer posted in the Town News column for more info.

6. Next Scheduled Selectmen's Meeting: will be on Monday, September 21, 2015.

X ADJOURNMENT

At approximately 8:25 PM, Mr. Madigan moved that the Board adjourn. Second by Mr. Dahlen.
VOTE: 3:0:0.

Minutes respectfully submitted by C. Anne Murray

LIST OF DOCUMENTS FOR 09-14-15 SELECTMEN'S MEETING (DOCUMENTS LOCATED IN THE SELECTMEN'S OFFICE FILES.

1. *Agenda for 09-14-15 Selectmen's Meeting*
2. *EXECUTIVE SESSION: See Executive Session Minutes regarding Executive Session documents which will be filed separately in the 09-14-15 Executive Session file.)*
3. *OPEN FORUM: no documents*
4. *NEW BUSINESS:*
 - a. *Right to Farm bylaw; Copy of September 4, 2015 Grievance Letter from Audrey and Thomas Nee and Copy of the General Bylaw Chapter 11: Right to Farm Bylaw*
 - b. *Island Creek North closing documents for Phase II: Coversheet with suggested motion and previously signed Record of Vote of the Duxbury Board of Selectmen and copies of the closing documents.*
5. *CONTRACT(S): Each of the following had a coversheet with some background information and a suggested motion and a copy of the contract:*
 - *Agreement between Public Archaeology Lab, Inc. and the Town of Duxbury for an archaeological overview and assessment of the Myles Standish Homesite.*
 - *Purchase Agreement between Pierce Manufacturing, Inc. and the Town of Duxbury for Pierce Pumper fire apparatus*
 - *Agreement between Firematic Supply Co., Inc. and the Town of Duxbury for new Brush Rapid Attack Truck (B.R.A.T.)*
6. *TOWN MANAGER REPORT (Potential Items): 09-10-15 Dredging Update.*
7. *COMMITTEE APPOINTMENTS-RE-APPOINTMENTS /RESIGNATIONS: 09-14-15 Appointment Sheet*
8. *ONE-DAY LIQUOR LICENSE REQUESTS: [For each the packet included the ODLL application and other details provided about the event, results of the department feedback received, and a drafted ODLL incorporating the conditions indicated.] --none*
9. *EVENT PERMITS: For each of the following events the packet included the Event Permit application and other details provided about the event, route maps, if applicable, results of the department feedback received, and a drafted Event Permit incorporating the conditions indicated.*
 - *10-03-15 Chandler Family Fun Run event*
10. *MINUTES: Coversheet with suggested motion; 08-31-15 Selectmen's Minutes- Draft*
11. *SUGGESTED ANNOUNCEMENTS 09-14-15 Suggested Announcements.*