

Date: December 7, 2015

Date Minutes Approved: December 14, 2015

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 7:00 PM in Open Session in the Mural Room.

II OPEN FORUM - nothing brought forward.

III NEW BUSINESS

Discussion and review of Right to Farm Bylaw update from the Agricultural Commission

Earlier this fall the Board of Selectmen had referred the Right to Farm bylaw back to the Agricultural Commission with respect to issues raised by a letter from Mr. and Mrs. Nee regarding complaints about a rooster in their neighborhood. Mr. Jeff Chandler, Chair of the Agricultural Commission, submitted a memorandum to the Board. Mr. Chandler explained that the Agricultural Commission had discussed the matter at their meetings on September 21, 2015 and October 20, 2015.

In reviewing the matter Mr. Chandler mentioned the following:

- He had a discussion with the Duxbury Animal Control Officer (ACO). The ACO informed Mr. Chandler that he has only received one rooster complaint in 11 years.
- The Massachusetts Farm Bureau was consulted as the Duxbury bylaw was drafted off of the Massachusetts bylaw language. They were not supportive of a bylaw change. It was pointed out that any changes to the bylaw would require approval by the Attorney General's Office.
- He did try to contact someone in Barnstable as the Town of Barnstable did pass an amended bylaw, and he wanted to know what prompted them to file an amendment. Mr. Chandler said he was not able to connect with anyone and did not hear back from Barnstable.
- Duxbury does not have a noise ordinance. Mr. Chandler explained it was the view of the Commission that a general noise ordinance might be a better solution as it would not just address noise from a crowing rooster, but from other sources as well; for example the braying of mules or squawking of peacocks or other sources.
- Roosters are not needed if the intention is the production of eggs. Roosters are only needed for reproduction, so if it is not a breeding operation there is no need to keep a rooster.

Mr. Flynn said that he knows that although a formal complaint has not been made there is another recent situation of a rooster disturbing the peace in the Cross Street area. Mr. Chandler responded that he would encourage residents who have a rooster or other farm issue to bring it to the Agricultural Commission as the members would like to intercede to try to resolve any issues amicably.

Members of the Board and the Town Manager also discussed the following with the Nees:

- That going forward the ACO will be instructed to let the Agricultural Commission know a complaint has been received and to work with them on addressing the issue in a more timely manner.
- With respect to noise there are three remedies regarding noise complaints depending on the circumstances:
 1. Grievance filed through the Agricultural Commission
 2. Animal Control for dog issues.
 3. Board of Health for rooster issuesAlthough Duxbury does not have a local noise ordinance there are state regulations with regard to many basic noise issues.
- There is a timing issue because any bylaw change requires review by the Planning Board and their deadline for scheduling hearings is December 23rd. Submitting a bylaw change now, after the article deadline, might not allow for sufficient time for the required hearings and legal review.
- The problem with changing the bylaw is that it would have to go through the Attorney General's Office for approval.
- The Board of Health (BOH) has greater flexibility in dealing with issues. It was pointed out that the BOH actions are based on objective findings (decibel readings from the lot line) vs subjective measures. In response to a question regarding what the BOH remedies are, the Selectmen and Town Manager did not have an immediate answer, but the Town Manager said he would discuss the matter with the Health Agent to gain a better understanding of what remedies the BOH might have. He will then update the Board.
- A suggestion was made to determine whether authority could be given to the ACO to issue fines or other enforcement measures versus having to amend the Right to Farm Bylaw.
- In full disclosure, the Nees were informed that any resident has the right to put forth a citizens' petition with the appropriate signatures. They were cautioned, however, that experience has shown that citizens' petitions, which are received later in the process and without having gone through a full public vetting, have a greater chance of failing.
- The Town Manager did indicate he would ask legal counsel for a review of the proposed bylaw amendment provided by the Nees for a determination of whether there were any legal issues with it.
- All were sympathetic to the Nee's experience and agreed that the matter should not have taken that long to resolve, but the consensus was that all are hopeful that earlier reporting and intervention will prevent a similar situation from occurring again.

Mr. and Mrs. Thomas Nee, who brought the situation to the Board's attention, advocated that the Right to Farm bylaw should be amended. In doing so, some of the points they made were as follows:

- They stressed that they are not opposed to farming, but suggested that no one should have to put up with the situation they experienced from April 2015 to September 2015.
- Although there was only one complaint, they suggested that others in the neighborhood were also affected, but didn't know where to complain or what could be done about it or were afraid to file a complaint.
- The Right to Farm bylaw provides a process, but does not include a remedy. So they strongly advocated for the bylaw to be amended to include specific enforcement language and provided proposed language for such an amendment.
- To their knowledge, there are no regulations that would prevent this situation from occurring again.

- That a crowing rooster is really no different than a barking dog situation and for barking dogs the ACO does have the authority to issue fines.
- Kingston has banned roosters in their town. Mr. and Mrs. Nee were not advocating for that extreme.

Mr. Madigan moved that the Board of Selectmen make a recommendation that the Town Manager investigate other options concerning agricultural noise and not update the Right to Farm bylaw at this time. Second by Mr. Dahlen. VOTE: 3:0:0.

Discussion pertaining to the Declaration of Surplus Property regarding Alpha Smart word processing keyboards from the School Department

Mr. Madigan moved that the Board of Selectman declare as surplus 194 Alpha Smart word processor keyboards as listed from the School Department in order to allow these items to be sold or disposed of, as further detailed in Scott Lambiase's email of November 30, 2015, with any funds received from the sale of said items be returned to the general fund. Second Mr. Dahlen. VOTE: 3:0:0.

It was mentioned that the equipment to be disposed of has been discontinued and is outdated.

IV CONTRACTS

Discussion and review of contract with the Collins Center regarding IT Organization Review (added)

Mr. Madigan moved that the Board of Selectmen approve and authorize the Chair to execute the Professional Service Agreement between the Town of Duxbury and UMass Boston, represented by the Edward J. Collins, Jr. Center for Public Management, to review, study, and make recommendations regarding the Information Technology (IT) management and operations of the Town and the School District for a total cost of \$15,000. Second by Mr. Dahlen.

Before voting, Mr. Dahlen asked if this was with respect to the discussion about a consolidation of Town and School Information Technology (IT) Departments. Mr. Read confirmed it was. He added that at the 2015 Annual Town Meeting Article 31 authorized \$30,000 for this purpose, but they were able to negotiate the price to \$15,000 with the focus of the study to be looking for potential cost-sharing and saving.

The Selectmen then voted on the above motion. VOTE: 3:0:0.

V. TOWN MANAGER'S REPORT

Mr. Read reporting on the following items:

1. 2016 Annual Town Meeting (ATM) Warrant:

The 2016 ATM Warrant was opened on October 5th and the deadline for articles was December 1st. Mr. Read said that approximately 37-38 articles have been received for the 2016 ATM Warrant. A discussion and review of draft list of ATM/STM 2016 Warrant Articles is planned for the December 14, 2015 Selectmen's Agenda.

2. Budget Review:

The Finance Committee has completed most of the budget review and is expected to be voting on the budget line items during their meetings this week.

3. FEMA Update:

A joint meeting for Duxbury, Marshfield, and Scituate residents was held last week. Leslie Fields of the Woods Hole Group (WHG), the towns' consultant, provided an explanation of the FEMA flood map changes. Mr. Read mentioned that the towns had requested an extension to the comment period, but it was denied. The deadline was Sunday, December 6, 2015 and an appeal was made by the WHG, on behalf of the towns, by the deadline.

Mr. Read said that there will be an article on the 2016 ATM Warrant calling for approval of the FEMA maps because even if the final maps have not been issued, we have been advised that the maps will have to be accepted because if they are not homeowners won't be able to get flood insurance.

Mr. Read mentioned that Mr. Dahlen had attended the meeting and could perhaps provide additional information.

Mr. Dahlen added that the presentation was very helpful in covering topics like "What are and are not velocity zones." He explained that when the initial appeal was filed Duxbury did not appeal all the maps. Only one transect out of about 40 was reviewed and appealed. FEMA agreed with WHG's modeling, which took wave dissipation into consideration. FEMA's new model did not allow for the dissipation of waves. Since FEMA did agree with the WHG's modeling, the focus now is to try to get FEMA to work more cooperatively with the Town to fix all the maps, and then issue the final maps. If that doesn't work, then the Town could have the WHG work on filing an appeal of each of the maps. It is hoped that FEMA will cooperate as this would be a less expensive route for the Town to take.

Mr. Flynn questioned how it was that FEMA did not take the wave dissipation into consideration. The response given was that a good explanation was not given, but it was noted that FEMA does subcontract the map preparation to other companies, who might not be as familiar with the area. Mr. Dahlen mentioned FEMA adopted new parameters or policies. As an example he mentioned that under FEMA's new thought process seawalls, dams and dikes are no longer considered as a seawall, dam or dike, unless the structure is certified as such. He provided a couple of local examples of areas (i.e., Dike Road in Marshfield and Eagle's Nest Bridge in Duxbury) where this would have an effect.

VI. COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION -none

VII 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.]

VIII EVENT PERMITS - None presented

IX MINUTES

Executive Session Minutes:

Open Session Minutes: 11/23/15 Selectmen's minutes-DRAFT

Mr. Madigan moved that the Board of Selectmen approve the 11/23/15 Selectmen's Open Session Minutes, as presented. Second by Mr. Dahlen. VOTE: 3:0:0.

X ANNOUNCEMENTS

Mr. Madigan read the following announcements:

1. Nomination Papers for March Annual Town Election:

Nomination Papers to run for office in Duxbury's Annual Town Election on March 26, 2016 may be obtained at the Town Clerk's office at Town Hall. The Election Ballot will contain the following offices:

Selectman	–one for a term of three years
Moderator	–one for a term of one year
Town Clerk	–one for a term of three years
Assessor	–one for a term of three years
School Committee	–two for terms of three years
Planning Board	–two for terms of five years
Library Trustee	–two for terms of three years
Duxbury Housing Authority	–one for a term of five years

Certified signatures of fifty (50) registered voters are required for a candidate to appear on the ballot. The deadline for submitting Nomination Papers to the Town Clerk's office is Monday, February 8, 2016 at 5 PM.

Mr. Dahlen announced that he will be running for re-election for a third term. He added that he feels it is an honor to be a Selectman in this community and to work as part of the team that makes Duxbury work so well. He expressed his appreciation for the Town administration and the group of residents, who volunteer their time, and the combination is what makes Duxbury so special.

- 2. Next Scheduled Selectmen's Meeting:** The next Selectmen's meeting will be on Monday, December 14, 2015.

XI ADJOURNMENT

At approximately 7:46 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 12-07-15 SELECTMEN'S MEETING ON NEXT PAGE

LIST OF DOCUMENTS FOR 12-07-15 SELECTMEN'S MEETING (DOCUMENTS LOCATED IN THE SELECTMEN'S OFFICE FILES).

1. *Agenda for 12-07-15 Selectmen's Meeting*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
 - ***Right to Farm Bylaw update:*** *Memorandum from Jeffrey Chandler, Chair of Agricultural Commission, regarding the Commission's review and recommendation and copy of the 09-04-27-15 Grievance Letter from Ms. Audrey Nee and others.*
 - ***Declaration of Surplus Property regarding Alpha Smart word processing keyboards:*** *Email from Scott Lambiase dated November 30, 2015 and suggested motion.*
4. *CONTRACTS: Coversheet with explanation and suggested motion and copy of contract.*
5. *TOWN MANAGER REPORT (Potential Items): none*
6. *COMMITTEE APPOINTMENTS-RE-APPOINTMENTS /RESIGNATIONS: none*
[ODLL and Event Permits -For each the packet included the ODLL /Event application and other details provided about the event, results of the department feedback received, and a drafted ODLL or Event Permit incorporating the conditions indicated.]
7. *ONE-DAY LIQUOR LICENSE REQUESTS: --none*
8. *EVENT PERMITS: --none*
9. *MINUTES: Coversheet with suggested motion and 11-23-15 Selectmen's Minutes- Draft*
10. *SUGGESTED ANNOUNCEMENTS: 12-07-15 Suggested Announcements.*