

Date: January 25, 2021

Date Minutes Approved: February 1, 2021

TOWN CLERK

2021 FEB -2 AM 10: 03

BOARD OF SELECTMEN

DUXBURY, MASS OPEN SESSION MINUTES

Present: Theodore J. Flynn, Chair; David J. Madigan, Vice Chair; and Amy M. MacNab, Clerk

Staff: René Read, Town Manager; John Q. Adams, Finance Director; and Nancy O'Connor, Executive Assistant

Others: Members of the Finance Committee: Betsy Sullivan, Frank Mangione, Shannon Godden, Fernando Guitart, Jerry Pisani, Nat Taylor, and Friend Weiler were in attendance during the Financial Update. Frank Mangione called to order.

CONVENED IN OPEN SESSION (via remote participation of the Board members and staff)

I. CALL TO ORDER This meeting was called to order at approximately 6:00 pm.
This Open Meeting is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely. The Order, which you can find posted on our agenda, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. For public access – please email at [oconnor@town.duxbury.ma.us](mailto:connor@town.duxbury.ma.us) or call-in at 781-934-1100 x5400 for questions or comments.

This meeting convened via Zoom video conference produced and recorded by PACTV, and viewed live on the Duxbury Government Access Channels – Verizon 39 or Comcast 15; or at www.pactv.org/duxbury. This meeting will then be available via video on-demand on PACTV's website at www.pactv.org.

II 6:00PM – EXECUTIVE SESSION

Ms. MacNab moved we go into Executive Session for the following purposes:

To discuss strategy with respect to pending litigation since an open meeting may have a detrimental effect on the bargaining or litigating position of the public body; and

To consider the purchase, exchange, lease or value of real estate since an open meeting may have a detrimental effect on the strategizing and negotiating position of the Town regarding **761 Temple Street,**

If the Chair so declares, in accordance with Mass. General Laws Chapter 30A, section 21, and that the Board will adjourn and re-convene in Open Session on or about 7:00pm immediately after the completion of this Executive Session.

"Mr. Flynn, as Chair, declared the necessity for an Executive Session to discuss strategy with respect to litigation, as to do so in an Open Session may have a detrimental effect on the Town's litigating position."

Seconded by Mr. Madigan Roll Call Vote: Mr. Flynn-Aye; Mr. Madigan-Aye; Ms. MacNab-Aye

After the business of the Executive Session was concluded, Ms. MacNab moved that at approximately 6:35PM, the Board of Selectmen adjourn the Executive Session and reconvene in Open Session at or around 7:00pm.

Seconded by Mr. Madigan Roll Call Vote: Mr. Flynn-Aye; Mr. Madigan-Aye; and Ms. MacNab-Aye

III. OPEN FORUM/PUBLIC COMMENTS: No official "open forum" as these are remote meetings. No public comments via phone calls or emails were received during this meeting.

Mr. Flynn took a moment to recognize former Selectman Shawn Dahlen who recently passed over the bar on January 23, 2021. Mr. Flynn commented on Shawn's years of volunteer service in Duxbury and his valued involvement in numerous large building projects such as the new police station, fire station, senior center and later addition, and the co-located Middle/High School. He stated that Shawn had been an advocate for this town where he grew up. Mr. Flynn included that he was an avid sailor and wished him "fair winds and following seas". The Selectmen appreciated Shawn for all of his work and being a great member of the Board. Mr. Flynn asked for a moment of silence in remembrance.

IV. NEW BUSINESS

Discussion regarding 2nd Quarter Finance Update – *presented by John Q. Adams, Finance Director*
Mr. Adams presented graphs comparing FY20 and FY21 2nd quarter financials. He first presented the Operating Revenue Comparison at December 31 for FY20 and FY21, which both estimated revenues and actuals were very similar. The second graph showed Local Receipts (without the ROCCC) and adjusted estimated receipts for FY21. Again, comparing both fiscal years showed that we are more than 1/3 of the way to estimated receipts. More discussions ensued, but Mr. Adams remarked that while local receipt revenues are down, we are looking comfortably and the drop off wasn't as initially expected. Ms. Sullivan also added that Mr. Adams' projections were correct and conservative and that it looks better than expected.

Discussions pertaining to enforcement of Rules and Regulations related to Duxbury Beach

Mr. Read began the discussion by reading into the record an email thread which provided answers to several questions as follows:

Hi Cris,

My apologies for the delay in getting this information to you.

I discussed your email with Jake, Chief McDonald and Gordon and their responses are below.

As you will see, additional coverage is needed. That said, I am asking that Chief McDonald have a Special Police Officer cover beach patrols (16 hours per weekend) as described herein. Further, I am asking that Gordon move forward with the suggestions he has offered.

The Board of Selectmen will be discussing this information at their meeting on Monday night to which you are invited.

Regards,

Rene'

Jake has advised me of the following:

As you know the Harbormaster Dept. agreed to assist in the off-season patrols of Duxbury Beach during this transition period. The problem is that what was originally expected has changed. Opening and closing and random patrols as it fit in with our operations is no longer adequate. The biggest issue the beach is facing is that we are still in the midst of a pandemic and the beach draws people in numbers that I have never seen in the offseason. Then add on to it the presence of snowy owls. I need help. Obviously, weekends are the busiest time. I request that the PD beach patrol resume on weekends to help in mitigate. As you recall when the pandemic started the PD beach patrol was brought in early due to the volume of people. I have done my best to answer the questions below (highlighted in yellow).

Follow up: I understand the HM is currently managing the beach. Will the Town stop opening the drive-on portion beach when there is not enough area for vehicles to drive on in designated pathways? When will this be put into place?

Yes we have been monitoring tide and sea conditions daily and will close the crossovers when there is not enough room.

Follow up: Is the (patrol) schedule set now?

The beach is patrolled every 1-2 hours. These patrols generally last 45-60 minutes. The Harbormaster has recommended that the PD beach patrol resume on weekends so that there is someone dedicated to the beach during the busiest times.

Follow Up: Are the driving restrictions now being enforced?

Yes, they are being enforced. Of the "offenders" we run into they are not acting maliciously - they are just unaware they should not be there. As mentioned signage would be helpful but what would be most helpful is to string the areas between the posts with some line or rope as a physical barrier. Even with someone dedicated to the beach if they are trying to keep people out of the dunes away from snowy owls on the back road there is still the potential for someone to drive on the slope of the dune.

Follow up: I explained DBR's position regarding Town's lack of enforcement not using social media and on- site management. If I am on the beach for 3 hours with folks parked in incorrect locations, a patrol should have passed by and asked vehicles to move.

It is my understanding that the PD will be sending out more educational messages via social media.

Also my question regarding why the resident parking lot was closed at 12:30pm on a Sunday was not been addressed. If the town decides not to open a parking lot, social media should be used to alert people.

Yes, moving forward social media will be used to advise of these occurrences. The instance referenced was an oversight.

Chief McDonald has advised me as follows:

Rene, obviously, this issue is as a result of the beach being a very popular location due to the warm temperatures, COVID, owls and general desire of folks wanting to relax. As stated earlier, we used to have a "Mario" down there in the off season but this position was defunded. Jake had originally agreed to open, monitor and do some random patrols at the beach to help with the budget constraints. This has obviously morphed into something bigger than any of us expected and most likely will continue for the foreseeable future.

As an option, below is an estimate of the cost to have a Special Police Officer cover beach patrols (16 hours per weekend) in lieu of the Harbormaster Department through 03/31/2021:

ESTIMATED COST: Special Police Officer Coverage at Beach through Annual Town Meeting

Beach Patrol Officers	Dates	# wks	hrs/wk	COST
*average hourly rate \$21.25	01/23 - 03/31 (weekends)	10	16	<u>\$ 3,400.00</u>

The current available balance in Beach Ops Salaries & Wages is \$27,868.45. If the Harbormaster is unable to perform weekend patrols for the dates listed, this would leave approximately \$24,468.45 available to cover the cost of Beach Ops from 04/01 through 06/30. As a reference, the cost for Beach Rangers during the time period of 04/01 - 06/30/2020 was \$40,063.50.

This will obviously impact the remaining beach budget which according to the historicals from last year will most likely already be in the red, requiring a year end transfer anyway. I'm not sure if there is any remaining Cares Act funding available that we could write off the remaining beach staffing issue to COVID?

If the Special PO position is re-assigned to the beach on weekends, John Carbone will most likely fill the majority of these shifts. John was our "Mario" replacement (part-time basis) who is well versed in the beach and also was doing all of the beach related social media. Sgt. Weiler is immersed in our re-accreditation process as we are six weeks away from our testing, so he is not available to reenter the beach arena.

Gordon has advised me as follows:

Starting the week of 2/15 and maybe sooner I would offer to patrol the beach an hour a day, provided I/we can fit that in on a particular day. This would basically be a month or so of this before the new Beach Operations Manager is in place which I am hoping is very, very soon after the STM. I'd say

90% of the time I would do this, the other 5% of the time perhaps the Assistant Director, Steve Studley would (perform this task). I would keep this to Monday through Friday at this point. I would need access to the vehicle that is coming over to Beach Ops. At minimum it could add 5-10 hours a week of Town patrols/ presence. I would keep my activity to enforcement of beach rules and regs using my interpersonal skills. I also think it might be beneficial to get my feet wet again out there, so to speak.

From: Cris Luttazi <cris@duxburybeachreservation.org>

René -

In your last response below on Monday January 11th at 6:21pm you replied "...I have to leave it to the others on this thread to reply to the majority of this." However I received no response. These issues regarding the breach of lease seems to be a revolving door with no resolution.

Also during last week's BOS meeting, you inadvertently read my questions and gave short replies without noting the reason behind the question. Could you please revisit and answer the questions.

Cris' questions in blue , town responses in black, open issues in green.

- Who decides when off-road beach driving is allowed? Last Friday the area was open for driving though there wasn't enough room for a vehicle to navigate in the driving area.

Answer: Harbormaster staff

Follow up: I understand the HM is currently managing the beach. Will the Town stop opening the drive-on portion beach when there is not enough area for vehicles to drive on in designated pathways? When will this be put into place?

- What is the patrol schedule? There have been none observed on the beach or on the road during several visits.

· **Answer:** Schedule is not set. Stats show between 6 and 8 patrols/day on average over the last 10 days. + EPO patrols.

- Follow up: Is the schedule set now?

- Who is enforcing the beach regulations?

Answer: Harbormaster, PD, and EPO's when present.

Follow Up: Are the driving restrictions now being enforced? Photos have been distributed regarding deliberate and willful driving on the dunes

- How many warnings and citations have been issued in the past 2 weeks?

· **Answer:** 9 Warnings / 0 Citations

- What is the overall plan from the Town to fix these issues? (folks driving purposely on the dunes)

Answer: DBR Should upgrade signage and patrols should be more attentive to the dune issue when they are in the area.

Follow up: I explained DBR's position regarding Town's lack of enforcement not using social media and on-site management. If I am on the beach for 3 hours with folks parked in incorrect locations, a patrol should have passed by and asked vehicles to move

Also my question regarding why the resident parking lot was closed at 12:30pm on a Sunday was not been addressed. If the town decides not to open a parking lot, social media should be used to alert people.

Responses would be appreciated.

Cris

~End of email thread~

Ms. Cris Luttazi, Executive Director of the DBR, thanked Mr. Read for putting the beach back on the agenda as the Town is out of compliance. Ms. Luttazi asked if the patrols are covering the entire leased area.

Mr. Jake Emerson, Harbormaster, replied that they don't have someone dedicated to the beach because it is not in his budget. Mr. Madigan asked if we could get an officer down there.

Chief Steve McDonald responded that they had an officer down there, Officer John Carbone, to assist covering during the winter months.

Ms. Luttazi asked again if the shift coverage patrols the entire leased property. Chief McDonald answered that it is the same patrol schedule, and yes, it does cover the entire area.

Ms. Luttazi stated that there are still issues with people driving on the dunes. Mr. Emerson replied that he put up temporary signage at the crossovers.

Ms. Sullivan commented that if someone is caught purposefully driving across the dunes, then that person should lose their beach sticker. Ms. Luttazi added that the dune is to protect the coastline of Duxbury and that one wheel track can take out the grass that holds the dune in place.

Mr. Flynn then asked what else is missing to be in compliance. Ms. Luttazi said more patrols with more visibility to bring awareness and then people would be less likely to break the rules along with enforcing the pamphlet as it is a 12 month lease so there should be 12 months of enforcement.

Ms. Luttazi also made another request to have one point person at the Town to address issues. She continued to say that we need to ensure that DBR and the Town are ready by April and that the pamphlet needs to be updated. She asked who will be taking on that task.

Mr. Gordon Cushing, Recreation Director, commented that he could take on the point person responsibility. Chief McDonald also added that they are still the contact person, namely Lt. Chubb, but that it may make sense for Gordon to get his feet wet (the Beach Operations position will be under the direction of Mr. Cushing). Mr. Read stated that it should happen with both departments.

Ms. MacNab added that DBR needs assurances that these enforcements and provisions of the permit, in order to allow for recreational purposes, are provided to them for the State by showing presence on the beach and enforcing the rules. She remarked that we are in a transition period while hiring a

Beach Ops person so Gordon offering to be the point person is a good idea. Mr. Madigan pointed out that Gordon is going to be the supervisor so he should be the contact and work with the Police Department as he will have to know how to enforce the pamphlet.

Ms. Luttazi explained that she would like to keep scheduled meetings with Gordon as there are a lot of items for conservations in order to start the season, as long as everyone is in agreement to have Gordon as the contact person. Mr. Flynn confirmed that Gordon should be the point person.

In conclusion, Mr. Read asked if that covers everything we need to do. Ms. Luttazi replied yes.

Chief McDonald suggested that the DBR and the Recreation Department, during their annual training process, get de-escalation training for their beach employees. He stated that he does not have the capacity to train, but that he would find out information. Ms. Luttazi said that they do have conflict training, but that is not the same and it would be helpful to bring in professional de-escalation training.

V. TOWN MANAGER'S REPORT

Prejudice Free Duxbury

Last week our office received a request from Karen Wong on behalf of Prejudice Free Duxbury asking that the Board of Selectmen consider making a public statement with a commitment to diversity, inclusion and justice. Other towns, our South Shore State Representatives and Senator O'Connor have made similar statements. If the Board agrees, I would be happy to schedule this for a discussion during a meeting in February and invite Ms. Wong and the folks from Prejudice Free Duxbury – the timing would certainly be appropriate since February is also African-American History Month. The Selectmen were in agreement.

ATM and STM

Saturday, March 13, 2021

Sunday, March 14, 2021

The facility (the gym) is available and the School Supt. and Facilities Director are both OK with its use. Counsel is also available. Masks and safe social distancing will both be required.

Articles:

30 ATM

10 STM

Shawn Dahlen

I've asked that the flags here in town be lowered to half-mast in honor of his passing. He was a giant in this community, he left a positive mark on it for many generations to come and he will be missed by everyone who knew him.

I could always call on him at any point of the day and ask him a question about anything and he was never too busy to take the time carefully explain his perspective. I always enjoyed our pre-meeting conversations here in my office that almost always had more to do with the history of Duxbury, the people in this community and various goings-on around town.

He was a great boss and a good friend and I will truly miss him. I'm sure the entire Duxbury community conveys our sincerest condolences to the Dahlen family and we are grateful they shared him with us.

A quote comes to mind when I think of Shawn and seems apropos:

"There are good ships and wood ships, ships that sail the sea, but the best ships are friendships, may they always be."

VI. COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

Ms. MacNab moved that the Board of Selectmen appoint or re-appoint as follows:

<u>Board / Committee</u>	<u>Appointment/Re-appointment/Resignation</u>	<u>Term</u>
<u>Council on Aging</u>	<u>(Cheryl Ross – Chair)</u>	
John McCluskey	Re-Appointment (T-2)	6/30/2023
Kevin Mullins	Re-Appointment (T-2)	6/30/2023
John Rutkowski	Re-Appointment (T-2)	6/30/2023
Ninky Savage	Re-Appointment (T-2)	6/30/2023
Cheryl Tufankjian	Appointment (T-1)	6/30/2023
Kenneth Beeby	Appointment as Alternate (T-1)	6/30/2023
Marie Keefe	Appointment as Alternate (T-1)	6/30/2023

Seconded by Mr. Madigan. Mr. Flynn-Aye; Mr. Madigan-Aye; Ms. MacNab-Aye

Alternative Energy Committee **(Lew Segall-Chair)**

Lynn Smith Resignation

We thank Ms. Smith for her service and wish her well.

The following boards/committees have available seats:

<i>Alternative Energy Committee</i>	-	<i>two seats</i>
<i>Design Review Board</i>	-	<i>one Alternate seat</i>
<i>Duxbury Bay Mgmt Commission</i>	-	<i>two seats</i>
<i>Nuclear Advisory Committee</i>	-	<i>one seat</i>
<i>Sidewalk & Bike Path Committee</i>	-	<i>one seat</i>
<i>Zoning Board of Appeals</i>	-	<i>one Associate member seat</i>

If anyone is interested in volunteering on a board or committee, you are encouraged to fill out a Talent Bank form, which can be found on the Town's website under the Forms & Documents tab.

VII ONE-DAY LIQUOR LICENSE REQUESTS - None

VIII EVENT PERMITS - None

IX MINUTES

Ms. MacNab moved that the Board of Selectmen approves the 1/11/2021 and 01/12/2021 Selectmen's Open Session Minutes, as presented.

Seconded by Mr. Madigan. Mr. Flynn-Aye; Mr. Madigan-Aye; Ms. MacNab-Aye

X ANNOUNCEMENTS

1) Waiting Lists for Commercial Mussel & Razor Clam Licenses:

Waiting lists for Commercial Mussel and Razor Clam Licenses have been moved to the Harbormaster's Office for interested residents. A reminder for those individuals already on the Waiting Lists for Commercial Mussel and Razor Clam Licenses must renew their application annually within the month of January.

2) The following offices will be on the ballot for the election on March 27, 2021:

two Selectmen for a term of three years
one Selectman for a term of two years
one Assessor for a term of three years
one School Committee Member for a term of three years
one Planning Board Member for a term of five years
two Library Trustees for a term of three years
one Housing Authority Member for a term of five years

Please email Town Clerk, Susan Kelley, at kelley@town.duxbury.ma.us to request nomination papers. 50 signatures of registered voters that have been certified by the town clerk are required to appear on the ballot. Nomination papers are due back to the Town Clerk by Friday, February 5th.

3) Voting by Mail for Annual Town Election:

The State Legislature extended the Vote by Mail option for town elections scheduled prior to March 31. Anyone wishing to cast a ballot by mail may download an application from the Town Clerk's page on the website or pick up a form at the back door of Town Hall, sign and return. Ballots will be mailed to voters as soon as they are available – typically 3 weeks before the election.

4) 2021 Dog Licenses and Beach/Conservation land walking permits are now available. Payment can be made online, via the town clerk's drop box behind Town Hall or US mail.

5) 2021 Annual Street List/Census forms have been sent. Please review the information, sign the form and return it to the Town Clerk. This census is not the same as the federal census that was completed last fall. The information is used to compile the annual list of residents and to update the voter registration files.

6) Next Scheduled Selectmen's Meeting will be on Monday, February 1, 2021 at 7:00pm.

XI BONUS SHELLFISH (month of February, 2021)

Ms. MacNab moved that the Board of Selectmen declare a temporary Bonus Shellfish Season for:

- 1) the commercial harvesting of softshell clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment B & C)
- 2) the commercial harvesting of quahog clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment A & C)
- 3) the recreational harvesting of Soft Shelled Clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment D)

Seconded by Mr. Madigan. Mr. Flynn-Aye; Mr. Madigan-Aye; Ms. MacNab-Aye

XII ADJOURNMENT

Mr. Madigan moved that at approximately 8:12 PM, the Board of Selectmen adjourn.

Seconded by Ms. MacNab Roll Call Vote: Mr. Flynn-Aye; Mr. Madigan-Aye; and Ms. MacNab-Aye

Minutes submitted by Nancy O'Connor

LIST OF DOCUMENTS

- 1) Agenda*
- 2) Executive Session motion (materials kept separately)*
- 3) Documents related to 2nd quarter financial update*
- 4) Documents related to beach enforcement*
- 5) Committee appointments and resignation*
- 6) Minutes*
- 7) Announcements*
- 8) Bonus Shellfish*