

**Date: February 11, 2019**

**Date Minutes Approved: April 22, 2019**

TOWN CLERK  
2019 APR 25 PM 3:34  
OPEN SESSION MINUTES  
DUXBURY, MASS.

**BOARD OF SELECTMEN**

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

**Absent:** None

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

**CONVENED IN OPEN SESSION –**

**I. CALL TO ORDER** The meeting was called to order at approximately 7:00 p.m.

**II. OPEN FORUM** Nothing brought forward.

**III. NEW BUSINESS**

***7:00pm Water & Sewer Commissioners***

**Motion to Adjourn as Selectmen and Convene as Water & Sewer Commissioners**

Mr. Madigan moved that the Board of Selectmen adjourn the meeting as Selectmen in order to meet as the Water & Sewer Commissioners, with the intent of re-convening as Selectmen afterward.

Seconded by Mr. Dahlen Vote: 3:0:0

**Discussion regarding Duxbury Bay Maritime School Additional Sewer Allocation**

Mr. Pat Brennan, Amory Engineers, spoke on behalf of DBMS. He stated that DBMS is constructing a new rowing center where the old tin shed was located adjacent to Mattakeesett parking lot. He continued to say that he consulted with Health Agent Tracy Mayo regarding daily water usage, who suggested annual monitoring of water usage, which the school is amenable to.

Mr. Madigan moved that the Board of Water & Sewer Commissioners 1) approve an additional sewer flow allocation for DBMS of 485 GPD (53-45) for a total allocation of 2,029 GPD and 2) to determine and set the cost of the purchase of additional sewer flow allocation.

Seconded by Mr. Flynn Vote: 2:0:1 (Shawn Dahlen abstained)

**Motion to Adjourn as Water & Sewer Commissioners and re-convene as Selectmen**

Mr. Madigan moved that the Board adjourn their meeting as Water & Sewer Commissioners and re-convene as Selectmen. Seconded by Mr. Dahlen Vote: 3:0:0

**7:01pm – Public Hearing - Review of personnel policies – presented by Jeannie Horne**

Ms. Horne stated that she is bringing changes that were voted on at 2018 Annual Town Meeting. Some of the changes are housekeeping such as changing the word “Plan” to “Policies,” fixing typos and outdated dates no longer necessary. She continued to ask the Selectmen to review the changes tonight and vote on the changes at their meeting on February 25, 2018. Ms. Horne also mentioned that the Finance Committee voted and approved unanimously.

**Review and vote on the following Annual Town Meeting Warrant Articles:**

**Article #4 Funding of Salaries**

Ms. Horne stated that the change includes increasing salary maximums for non-union Grades 1 – 10. Mr. Madigan asked why we are increasing maximums. Ms. Horne replied that as part of regular maintenance, salary ranges are evaluated to make sure appropriate and to keep up with related changes in our economy.

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #4 regarding Funding of Salaries in the amount of \$135,000, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #12 Amend General Bylaws - Facilities for Medical Marijuana Treatment Facilities and Article #13 Amend Zoning Bylaw - Medical Marijuana Treatment Center**

Ms. Valerie Massard, Planning Director, began by stating that medical marijuana was legalized in 2012, and in 2012, Duxbury voted in favor of treatment centers on State ballot Question #3. Ms. Massard provided a Power Point presentation outlining how medical marijuana is regulated and defined differently from non-medically prescribed marijuana. She further stated that Duxbury currently has no local regulations, which makes local control limited. She is recommending that Duxbury creates a zoning overlay district to manage the location of medical marijuana treatment center facilities, and through zoning, define buffers, hours of operation, and locations of the most desirable places the use could locate and define what permits and licenses are required locally. She also indicated that a ban was initially proposed by the Planning Board; however, indications are that the Attorney General will not support a ban as other towns have been overturned by the Attorney General. A copy of Ms. Massard's presentation is located in the Selectmen's files.

Mr. Read then asked the Selectmen to delete this article along with Article 13 from the warrant when they re-open the warrant later in the meeting.

**Article #14 Amend Zoning Bylaw - Medical Marijuana Overlay District**

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #14 regarding Amend Zoning Bylaw – Medical Marijuana Overlay District, as presented.

Seconded by Mr. Dahlen Vote: 3:0:0

**Article #24 Amend Zoning Bylaws – Flood Hazard Areas Overlay District**

Ms. Massard stated that initially FEMA was ok with the flood maps, but now FEMA is not ready. She asked the Selectmen to either IP or remove this article from the warrant.

**Article #25 Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.3**

Ms. Massard said that this request is to go from six to twelve months and to fix typos, timing changes and date of receipt to office.

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #25 regarding Amend Zoning By-Laws – Article 600 – Demolition of Historically Significant Buildings – 609.3, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #26 Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.2 Definitions**

Ms. Massard stated that this request has to do with the demo delay permit expiring after two years. The applicant must exercise their right within two years, otherwise, have to come back. And this permit would run with the land, not with the owner.

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #26 regarding Amend Zoning By-Laws – Article 600 – Demolition of Historically Significant Buildings – 609.2 Definitions, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #27 Amend Zoning By-Laws - Article 425 Intensity and Dimensional Regulations for All Neighborhood Business Districts Section 425.1 Number 5 Entitled “Lot Area, Frontage, Depth Dimensions and Coverage”**

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #27 regarding Amend Zoning By-Laws – Article 425 Intensity and Dimensional Regulations for All Neighborhood Business Districts Section 425.1 Number 5 Entitled “Lot Area, Frontage, Depth Dimensions and Coverage,” as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #28 Amend Zoning By-Laws - Article 400 – Use, Intensity, Dimensional and Coverage Regulations for All Districts, Section 425.1 Intensity and Dimensional Regulations for All Neighborhood Business Districts, Number 4, Lot Dimension for NB-1 and NB-2**

Ms. Massard said that in review of this article, there was a typo in last year’s warrant, so this request is to fix that error.

Mr. Madigan moved that the Board of Selectmen support the 2019 ATM Article #28 regarding Amend Zoning By-Laws - Article 400 – Use, Intensity, Dimensional and Coverage Regulations for All Districts, Section 425.1 Intensity and Dimensional Regulations for All Neighborhood Business Districts, Number 4, Lot Dimension for NB-1 and NB-2, to fix a typo from last year’s warrant article, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #15 Duxbury Seawall Repairs**

Mr. Read mentioned that Mr. Pat Brennan, Amory Engineers, was in attendance tonight to answer any questions. He further stated that that Finance Committee voted 5-3 in the affirmative and on Friday morning, had a conference call with FEMA. Ms. Betsy Sullivan, Chair of the Finance Committee was also in attendance.

Ms. Sullivan stated that the Finance Committee could not support their decision without more concrete information, a final solution and FEMA money before Annual Town Meeting voted to support with the condition that we had information. She remarked that there are four solutions: 1) do nothing; 2) Fix it to the condition it was before the event; 3) Fix it with improvements and revetments; and 4) replace entire wall. She continued to say that they determined there is no practicality to Nos. 1 and 4. No. 4 would cost about \$25m, which is only a guess, and she does not feel that the Town has the appetite or ability to fund that.

Ms. Sullivan further mentioned that FEMA takes a long time to approve projects and there are concerns about the length of time to get reimbursement and the availability of funds. She said that she asked FEMA what the Stafford Act provided, and FEMA responded that you need to submit plans to original conditions. If we change from repair and improve, the debate could go on for another 8-12

months, which needs to be approved before we can start. We cannot start repairs until we have that determination. She continued to say that it became apparent that proceeding with what we know we can do in a timely fashion without dragon teeth, we would be able to get an answer from FEMA.

Ms. Sullivan stated that they are looking for guidance from the Selectmen and that we need to know what is covered by FEMA, the Town and betterments and that we need to know before Town Meeting so we can inform people of what they are in for. She continued to say that it makes sense to get this project started because if we wait two more years for improvement plans to be approved by FEMA, if further damage occurred, that would be another project and may hold up the first project.

Mr. Madigan stated that he looked at the numbers from last week and with in-kind costs and betterments to pay the loan, doesn't that get us up to where we want to be?

Mr. Adams responded that the FEMA cost is \$4.6m with revetment at \$1.2m for a total cost of \$5.8m. FEMA will reimburse 75% of the cost which is \$3.4m, then we have a \$1m State grant, so the balance due would be \$1.4m which would be fronted through a temporary BAN and then paid for through betterments at \$.93/1000. He further stated that knowing that we cannot use the State \$2m loan for revetment, it doesn't make sense to take advantage of it.

Mr. Madigan asked if revetment can be paid through betterments. Mr. Adams responded yes, but would need a general obligation loan. Mr. Pat Brennan (Amory Engineers) added that sheet pilings are important because the wall failed due to water washing out under the wall and that the stones would not protect the wall as much as sheet pilings.

Ms. Sullivan further stated that 1) since this was declared an emergency we can apply to restore to pre-event condition; and 2) the program to improve forces us down another path that will take 12 months just for them to say that it's an acceptable program and then has to go through different agencies to get approved. She continued to say that FEMA will reimburse only to repair back to pre-existing condition, and if we decide to add/enhance, that has to go onto a betterment. She also remarked that she needs to tell the voters what they will be responsible for, and if a decision cannot be made, the Finance Committee will ask to IP the article.

There was further back and forth discussion so Mr. Madigan suggested that this be taken up again in two weeks.

**Review and vote on the following Special Town Meeting Warrant Articles:**

**Article #1 - Supplemental Appropriations**

Mr. Adams stated that these supplemental appropriations cover a matching portion of a state grant to replenish the budget, part-time and seasonal salaries, additional trash collection costs/expenses, and four harbor floats that need to be repaired.

Mr. Madigan moved that the Board of Selectmen support the 2019 Special Town Meeting Article #1 regarding Supplemental Appropriations in the amount of \$94,518, as presented.

Seconded by Mr. Dahlen   Vote: 3:0:0



**Article #4 Funding of engineering and design work related to the Powder Point Bridge**

Mr. Madigan moved that the Board of Selectmen support the 2019 Special Town Meeting Article #4 regarding Funding of engineering and design work related to the Powder Point Bridge in the amount of \$85,000.00, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Vote to Re-Open the Annual Town Meeting Warrant**

Mr. Madigan moved that the Board of Selectmen re-open the March 9, 2019 Annual Town Meeting Warrant. Seconded by Mr. Dahlen Vote: 3:0:0

**1.) Sign ATM/STM Warrants (3)**

Mr. Madigan moved that the Board of Selectmen sign the 2019 Annual Town Meeting and Special Town Meeting Warrants. Seconded by Mr. Dahlen Vote: 3:0:0

**2.) Call for Election**

Mr. Madigan moved that the Board of Selectmen directs either of the Constables of the Town of Duxbury to notify and warn the inhabitants of Duxbury who are qualified to vote in the Annual Town Election to vote at Precincts One through Six at the Lt. Timothy J. Steele Athletic Building, 130 Saint George Street, Duxbury, Massachusetts on Saturday, March 23, 2019 from 8:00 A.M. to 8:00 P.M. Seconded by Mr. Dahlen Vote: 3:0:0

**3.) Vote to add ballot question – DPW Facility Bond**

Mr. Madigan moved that the Board of Selectmen vote to add the following ballot question to the Annual Town Elections on Saturday, March 23, 2019:

“Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued in order to obtain engineering and design services for construction of a new Department of Public Works facility, to be located at 878 Tremont Street, also shown as Assessors Map Parcel No. 092-500-016?”

Seconded by Mr. Dahlen Vote: 3:0:0

**4.) Vote to amend article(s) as needed**

**Article #4 – Funding of Salaries**

Mr. Madigan moved that the Board of Selectmen support an amendment of 2019 ATM Article #4 regarding Funding of Salaries – to implement the increases and maximums as noted in the presentation. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #5 – Operating Budget**

Mr. Adams stated that lines 36 and 48 (Salaries) need to be amended due to a payroll error, line 49 (expenses) will be decreased as Federal Storm Water permits will not occur until FY2021; and there will be an increase to line 87 – reserve fund to bring into compliance with our Financial Policies.

Mr. Madigan moved that the Board of Selectmen support an amendment of 2019 ATM Article #5 regarding Operating Budget by increasing Line 36 by \$16,585; by increasing Line 48 by \$4,400; by decreasing Line 49 by \$50,000; and by increasing Line 87 by \$29,015, as presented.

Seconded by Mr. Dahlen Vote: 3:0:0

**Article #6 – Capital Budget**

Mr. Read asked that the Selectmen remove one item from this article for the replacement cost of a weed harvester, which will be covered in another article.

Mr. Madigan moved that the Board of Selectmen support and amendment to 2019 ATM Article #6 to remove \$42,000 for a weed harvester. Seconded by Mr. Dahlen Vote: 3:0:0

**5.) Vote to remove Articles 12, 13 and 24 from the ATM warrant**

Mr. Madigan moved that the Board of Selectmen remove current Articles 12 (Amend General By-laws – Facilities for Medical Marijuana Treatment Facilities), 13 (Amend Zoning Bylaw – Medical Marijuana Treatment Center) and 24 (Amend Zoning Bylaws- Flood Hazard Areas Overlay District) from the Annual Town Meeting Warrant. Seconded by Mr. Dahlen Vote: 3:0:0

**Article #14 – Amend Zoning Bylaw – Medical Marijuana Overlay District**

Mr. Madigan moved that the Board of Selectmen add the overlay district map to 2019 ATM Article #14 regarding Medical Marijuana Overlay District. Seconded by Mr. Dahlen Vote: 3:0:0

Mr. Madigan moved that the Board of Selectmen accept the changes to 2019 ATM Article #14 and accept the overlay district, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**Vote to Close the Annual Town Meeting Warrant**

Mr. Madigan moved that the Board of Selectmen close the March 9, 2019 Annual Town Meeting Warrant. Seconded by Mr. Dahlen Vote: 3:0:0

**IV TOWN MANAGER'S REPORT** Nothing in addition to report

**V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS** - None

**VI ONE-DAY LIQUOR LICENSE REQUESTS** None presented.

**VII EVENT PERMITS** None presented.

**VIII MINUTES**

Mr. Madigan moved to approve the 02/04/19 Selectmen's Open Session Minutes, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

**IX ANNOUNCEMENTS**

**1) Register to Vote for Town Meeting / Town Election:**

If you are not already a registered voter in Duxbury, then the last day to register to vote in the Duxbury annual town election and Annual Town Meeting is Feb. 19.

**2) Presidents' Day Holiday:**

The Town Hall will be closed on Monday, February 18, 2019 in observance of the Presidents' Day holiday. There will be no Selectmen's Meeting that evening.

**3) Next Scheduled Selectmen's Meeting:** will be on Monday, February 25, 2019.

**XI ADJOURNMENT**

At approximately 9:30pm, Mr. Madigan moved that the Board adjourn.

Seconded by Mr. Dahlen. Vote: 3:0:0

*Minutes submitted by Nancy O'Connor*

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*LIST OF DOCUMENTS (documents are kept in the Board of Selectmen files)*

- 1) Agenda*
- 2) Water & Sewer Commissioners Agenda/DBMS documentation*
- 3) Draft – Personnel Policies*
- 4) Draft – Annual and Special Town Meeting Warrants*
- 5) Motion to re-open and then close the ATM Warrant*
- 6) Motions re Election and Ballot question*
- 7) Draft Minutes*
- 8) Announcements*

