

**Date: February 15, 2017**  
*Date Minutes Approved: March 6, 2017*

TOWN CLERK

## **BOARD OF SELECTMEN MINUTES**

2018 NOV -1 AM 10:10

**Present:** Theodore J. Flynn, Vice Chair (ACTING CHAIR); and Shawn Dahlen, Clerk

DUXBURY, MASS.

**Absent:** David J. Madigan, Chair

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

### **I CALL TO ORDER**

The meeting was called to order at 6:30 pm in Open Session in the Town Hall (Mural RM).

### **II \*6:30 PM EXECUTIVE SESSION – King Caesar Fund for cases: 2017-01 (PM) and 62760 (BF).**

Upon convening, Mr. Flynn moved that the Board go into Executive Session to Discuss matters regarding the King Caesar Fund, *[specifically cases 2017-01 (PM) and 62760 (BF)]*, which are of a confidential nature, as the fund's purpose is to provide medical relief for the financially-needy residents of Duxbury, in accordance with Mass. General Laws Chapter 30A, Section 21, and then to adjourn immediately afterwards.

As Acting Chair, Mr. Flynn declared the need for the business of the King Caesar Advisory Committee to be discussed in an Executive Session due to medical confidentiality laws.

Second by Mr. Dahlen. ROLL CALL VOTE:

At 6:45 pm, having completed the business of the Executive Session, the Selectmen reconvened the Open Session. Mr. Flynn announced that the Board would be taking some of the agenda items out of order, with the review and adoption of the revised Aquaculture Rules and Regulations will be taken up at or shortly after 7:01 pm.

### **III OPEN FORUM - nothing was brought forward.**

### **IV NEW BUSINESS**

**7:01 PM Discussion pertaining to the Review and Adoption of Revised Aquaculture Rules and Regulations (recessed from Monday, January 30th) --Postponed until later in the meeting at the time indicated.**

#### **Discussion and review of Common Victualler license for new Dunkin Donuts**

Mr. Dahlen moved that the Board of Selectmen approve a Common Victualler's license for Dunkin Donuts located at 1518 Tremont ST, Duxbury MA, subject to completion of all appropriate application materials and payment of the appropriate fee. Second by Mr. Flynn. VOTE: 2:0:0.

**Discussion and review of seasonal population with respect to seasonal liquor license quota**

Mr. Dahlen moved that the Board of Selectmen certify to the Alcohol Beverage Control Commission, based on information from the Assessor and the Town Clerk, that the estimated temporary resident total population as of July 10, 2017 will be 17,613. (Current population of 16,060 plus an estimated increased summer population of 1,553 = 17,613.) Second by Mr. Flynn. VOTE: 2:0:0.

**Discussion pertaining to March 2017 Annual Town Meeting (ATM) Warrant – Article Review and Board recommendations. Presentations may be made by article proponents of at least the following:**

**2017 ATM Article 6 - Capital Budget**

Town Manager René Read made sure the Selectmen had copies of the ATM and STM Warrants. He said that the Selectmen are being asked to support Article 6 in concept. He explained that requests were made by the department heads for each project. The requests were reviewed by the Town Manager, Fiscal Advisory Committee (FAC), and Finance Committee (FinCom). He mentioned that they are in agreement regarding all requests with the exception of one. On page 20, he mentioned that the exception was the request for the Council on Aging for funding of a schematic design. Both he and the FAC were in agreement to support the request of \$185,000. The FinCom were not prepared to support the request at this time. They had some other thoughts about it and questioned the need for it at this time. At a meeting this morning the COA Board was apprised of their options at Town Meeting when the Capital Budget is presented.

Mr. Dahlen moved that the Board of Selectmen support 2017 ATM OR STM Art. 6 Capital Budget, as presented, including the \$185,000 as request by the COA for the Senior Center expansion schematic design phase only. Second by Mr. Flynn. VOTE: 2:0:0.

Before the vote, Mr. Dahlen explained that the requested funding is the amount needed to hire an architect, pay for a schematic design, cover the cost of incorporating any feedback, and get construction cost estimates for funding in a future year.

**2017 ATM Article 7 - Small Equipment and Minor Services**

Mr. Read said that this is the article is often called “Capital light,” which is anything that falls below the \$15,000 threshold (of items in the Capital Budget).

Mr. Dahlen moved that the Board of Selectmen support Article 7 (Small Equipment and Minor Services) in the amount of \$129,180, as requested and as recommended by the Town Manager. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 ATM Article 45 - Citizen’s Petition - Amend Zoning Bylaws – Article 400**

This is a Citizen Petition submitted by Mr. Matthew Tedeschi. Mr. Read asked the Selectmen to postpone review and voting on this article as neither Mr. Tedeschi nor his legal counsel were present this evening. Both will be contacted in hope that they can come to the next Selectmen’s meeting on Monday, February 27<sup>th</sup>.

**Discussion pertaining to March 2017 Special Town Meeting Warrant – Article Review and Board recommendations. Presentations may be made by article proponents of at least the following:**

**2017 STM Article 1 - Supplemental Appropriations**

The Town Manager explained that this is a customary article that enables to the Town fund items needed in the current fiscal year. He said that current additional expenses are \$100,000 of which \$10,000 personal services (staffing hours) and \$90,000 for supplies (salt) under the Snow and Ice budget.

Mr. Dahlen moved the Board of Selectmen support 2017 STM Art. 1 –Supplemental Appropriations, as presented in the amount of \$100,000. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 2 - Unpaid Bills**

Mr. Read said approval of this article allows for the payment of outstanding bills during Which total just under \$15,000. Mr. Flynn asked what the outstanding bill of approximately \$10,000 from Billingsgate Associates was for. There was some speculation that it may either be related to investigative cost or equipment costs, but since he was not sure Mr. Read said he would find out.

Mr. Dahlen moved the Board of Selectmen support 2017 STM Art. 2 - Unpaid Bills, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 3 - Fund Collective Bargaining Agreements**

According to Mr. Read this article will fund the collective bargaining agreements with the Patrolmen, Firefighters, School Teachers, Laborers, and the Dispatchers. There is a six group for which settlement has not been reached yet, but settlement may be received by Town Meeting.

Mr. Dahlen asked what the settlement contract with the Teachers was in terms of percentages. Mr. Read did not have that information immediately available but said he would find out and would let the Board know.

Mr. Dahlen moved that the Board of Selectmen approve (2017 STM Art 3 - Fund Collective Bargaining Agreements) funding of the collective bargaining agreements, which have been signed by the Board of Selectmen and School Committee (if appropriate) for the total amount. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 4 - CPC: Conservation Land Purchase**

Mr. Read said this article is for the funding of a conservation land purchase of about 18 acres for \$252,000 of CPA funding.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art 4 - CPC: Conservation Land Purchase for the purchase of property in the amount of \$252,000, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 5 -Percy Walker Pool Enterprise Fund and 2017 STM Article 6 - Revoke the Provisions of the M.G.L.'s Pertaining to the Percy Walker Pool**

After a brief discussion it was agreed to postpone both STM Articles 5 and 6, which have to do with the Percy Walker Pool until additional information is available. The Selectmen also indicated that they would like an update on the step taken regarding the marketing of the pool.

**2017 STM Article 7 - CPC: Allocations and 2017 STM Article 8 - PEG Access and Cable Related Fund Acceptance**

Mr. Read asked that the Board postpone action on STM articles 7 and 8, and the Board agreed to do so.

**2017 STM Article 9 - Fire Pumping Engine Funding**

Mr. Read said that this is an article for the purpose of paying off the remaining balance of \$200,000, which was borrowed for the purchase of the fire pumping engine. The funding is coming from free cash.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art. 9 - Fire Pumping Engine Funding, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 10 - North Hill Country Club Court Judgment Funding**

Mr. Read said that this article in the amount of \$435,000. We had alerted the voters about this back in the fall (at the Special Town Meeting). This will be the final payment with the funds coming from free cash.

Mr. Dahlen mentioned this could be thought of as a transfer of funds, as we borrowed the money at Special Town Meeting and now we are paying that out of free cash.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art 10 - North Hill Country Club Court Judgment Funding, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 11 - Special Education Reserve Fund Acceptance**

Mr. Read explained that this article would establish a special education reserve fund, which would be a big help to the schools to plan for the unanticipated costs that sometimes come with the arrival of special needs students. He said it would be in the amount of \$400,000 to be paid for with free cash. It is considered an "acceptance" as you are accepting the provisions of the Mass. General Law.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art 11 - Special Education Reserve Fund Acceptance, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**2017 STM Article 12 - Pension Reserve Fund**

This article would allow for the transfer in the amount of \$50,000 to the Pension Reserve Fund from free cash.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art **12 - Pension Reserve Fund**, as presented, in the amount of \$50,000. Second by Mr. Flynn. VOTE: 2:0:0.

### **2017 STM Article 13 - Other Post-Employment Benefits**

Mr. Read mentioned this is an annual article sometimes referred to as the OPEB (Other Post-Employment Benefits) article. The amount is \$300,000. would come from free cash.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art 13 - Other Post-Employment Benefits, as proposed. Second by Mr. Flynn. VOTE: 2:0:0.

### **2017 STM Article 14 - Stabilization Fund**

Mr. Read said that this allows for a transfer of \$100,000 into the Stabilization Fund from free cash.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art. 14 - Stabilization Fund, for \$100,000 as presented. Second by Mr. Flynn. VOTE: 2:0:0.

### **2017 STM Article 15 - Accrued liabilities and compensated absences fund**

Mr. Read said this article is also being funded with free cash in the amount of \$100,000.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art. 15 - Accrued liabilities and compensated absences fund, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

### **2017 STM Article 16 - Application of Bond Premium**

Mr. Read referred to the explanation in the warrant: "Any premium received by the Town upon the sale of any bonds or notes approved by this vote, less any premium applied to the payment of the costs of issuance of such bonds or notes, may be applied to the payment of costs approved by this vote, thereby reducing the amount authorized to be borrowed to pay such costs by a like amount."

Mr. Dahlen said if Mr. Madigan were present he could explain it better, but essentially it taking the extra bonus money the Town receives when the bonds are sold and then applying it on a uniform basis.

Mr. Dahlen moved that the Board of Selectmen support 2017 STM Art 16 - Application of Bond Premium, as presented. Second by Mr. Flynn. VOTE: 2:0:0.

**Vote to Re-Open March 2017 Annual Town Meeting Warrant, if needed** – This was not needed.

**Sign Annual Town Meeting and Special Town Meeting Warrants** – have been done.

### **7:01 PM Discussion pertaining to the Review and Adoption of Revised Aquaculture Rules and Regulations (recessed from Monday, January 30th)**

As it was now after 7:01 PM the Board opened the continuation of the hearing regarding the review and adoption of the revised Aquaculture Rules and Regulations. Mr. Dahlen explained he had requested the hearing be continued as he had concerns about an aquaculture grant license being issued to a corporation or Limited Liability Company (LLC), versus to an individual. He further explained that he was

fine with a license that meets all the criteria being issued to an individual so that the person could have it for life; unless they transfer it or give it up to the next eligible person. Whereas a license held by a corporation or LLC, could go on perpetually, i.e., for any number of lifetimes as long as the corporation or LLC was a Duxbury resident.

Mr. Dahlen said he subsequently learned that there is only one current aquaculture grant holder, who is operating under an LLC; all the rest were issued to individuals. He spoke with the individual who has the license under an LLC and suggested that he has an amendment that is a reasonable way of letting that person continue to hold the license as an LLC, to in effect grandfather his situation, but not to allow for any new licenses to be issued to corporations or LLC.

As an example Mr. Dahlen mentioned a friend, who holds several patents as an individual, but his business operates as an LLC.

Mr. Dahlen moved that the Board of Selectmen approve and adopt the Town of Duxbury Shellfish Aquaculture Grant Regulations ("Grant Program") effective March 1, 2017 subject to Town Counsel adding in the appropriate spot the following amendment:

All new or renewed licenses approved by the Board of Selectmen shall be solely in the name of an individual, in accordance with Section 4A, and not in the name of a corporation or LLC, except an existing license held in the name of a corporation or LLC may be renewed or transferred for the current holder or a family member subject to the provisions of Section 4A.

Second by Mr. Flynn. VOTE: 2:0:0 (Mr. Madigan was absent.)

## **V TOWN MANAGER'S REPORT**

Mr. Read reported on the following item:

### **Planning Board's Feb. 8th Meeting - The Battelle Proposal**

Mr. Read said that he recently learned that there was a problem with the live broadcast of the Feb. 8<sup>th</sup> Planning Board meeting during which the Battelle proposal was discussed. Apparently, the audio was working, but there was a glitch and the video portion was not airing properly. The broadcast problems have been resolved. So anyone who would like to see the presentation, it can be view at [www.pactv.org](http://www.pactv.org). Click on WATCH, then the "On Demand" tab and then "Show More." You will see the Duxbury Planning Board: 2/08/17 meeting, and can click on it to run the presentation. On Demand programs can be watched on a computer at your convenience 24 /7.

## **VI COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION**

### **Zoning Board of Appeals**

Mr. Dahlen moved to appoint Emmett Sheehan to the Zoning Board of Appeals to fill a term due to expire on 6/30/2017. As a comment Mr. Dahlen said: Emmett Sheehan has served as an Associate member for several years. Paul Boudreau's recent resignation left a vacant seat so the ZBA has requested Emmett's appointment to fill the seat. Second by Mr. Flynn. VOTE: 2:0:0.

**Zoning Board of Appeals –Associate**

Mr. Dahlen moved to appoint Erin MacGregor to the Zoning Board of Appeals as an Associate member for a term to expire on 06-30-17. As a comment, Mr. Dahlen mentioned that a couple of the Associate members have recently had to step back from taking an active role and with the elevation of Emmett Sheehan to a full member, the ZBA had requested the appointment of Erin MacGregor as an Associate to help with the case load. Second by Mr. Flynn. VOTE: 2:0:0.

**VII ONE-DAY LIQUOR LICENSE REQUESTS - none**

**VIII EVENT PERMITS –none**

**IX MINUTES**

**Executive Session Minutes: none**

**Open Session Minutes: 10/03/16 Selectmen’s minutes-DRAFT**

Approval of the 10/03/16 Selectmen’s minutes-DRAFT was postponed until a future meeting as Mr. Flynn was not at that meeting and therefore should not vote on the approval of the minutes.

**X ANNOUNCEMENTS**

Mr. Dahlen read the following announcements:

**1) Town Meeting Warrants:**

The Annual Town Meeting and Special Town Meeting Warrants have been posted to the Town News column on the Town website.

**2) CPC Annual Public Meeting:**

The Community Preservation Committee will hold its annual public hearing on Thursday, February 16<sup>th</sup> at 8:15 AM in the Mural RM. At that time the CPC will present the CPC articles to be voted on at Town Meeting. This is a time for the public to hear about the proposed articles requesting CPC funding and to provide feedback.

**3) Subscribe to News Feature on Town Website:**

To sign up to receive emergency notices, public notices, Annual Town Meeting information or agenda / minute notices from some of the Town boards and committees, go to the Town website ([www.town.duxbury.ma.us](http://www.town.duxbury.ma.us)) and click on “Subscribe to News” in the left toolbar. A dialog box will open in which you provide your email address and check the items you are interested in receiving from the list. You will receive an email confirming your interest in subscribing. In order to protect your privacy, you MUST reply to this email in order to receive postings from the list. This is a receive-only, subscriber list. You may remove your name from it or change your subscriber selections at any time.

**NOTE:** The Annual Town Meeting information is new, so previous subscribers must edit their selections to receive those notices.

**4) TABLE RESERVATIONS FOR TOWN MEETING:**

If you or your organization is interested in reserving a table to display information at the Duxbury Town Meeting, please contact the Board of Selectmen office (Ext. 5402). Tables are limited and will be assigned on a first-come, first-serve basis with preference given to Duxbury organizations.

**5) Presidents' Day**

The Town Hall will be closed on Monday, February 20, 2017 in observance of the Presidents' Day holiday.

**6) Next Scheduled Selectmen's Meeting is on: Monday, February 27, 2017.**

**XI ADJOURNMENT**

At approximately 7:30 pm., Mr. Dahlen moved that the Board adjourn the meeting. Second by Mr. Flynn. VOTE: 2:0:0.

Minutes respectfully submitted by: C. Anne Murray

***LIST OF DOCUMENTS FOR 02-15-17 SELECTMEN'S MEETING (Open Meeting documents are located in the Selectmen's office files. Executive Session materials)***

1. *Agenda for 02-13-17\* Selectmen's Meeting - \*Noted that meeting would be postponed until Wednesday, February 15, 2017 in the event of inclement weather. As there was a storm closure on February 13<sup>th</sup> the meeting took place on February 15<sup>th</sup>.*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
  - a. *7:01 PM Discussion pertaining to the Review and Adoption of Revised Aquaculture Rules and Regulations (continued from Monday, January 23 & 30<sup>th</sup>): Copy of the Town of Duxbury Shellfish Aquaculture Grant Regulations "Grant Program" adopted by the Duxbury Shellfish Advisory Committee on January 11, 2017.*
  - b. *Discussion and review of Common Victualler (CV) license for new Dunkin Donuts: Coversheet with Suggested Motion; copy of the CV License to be signed;*
  - c. *Discussion and review of seasonal population with respect to seasonal liquor license quota; Coversheet with explanation of MGL Chap. 138, Sect. 17 – Seasonal Population Estimate and appropriate form to be signed and submitted to the ABCC.*
  - d. *Discussion pertaining to March 2017 Annual Town Meeting Warrant – Article Review and Board recommendations: Copy of the 2017 ATM Warrant.*
  - e. *Discussion pertaining to **March 2017 Special Town Meeting Warrant** – Article Review and Board recommendations: Copy of the 2017 STM Warrant and STM Articles-Fund Amounts and Sources spreadsheet.*
4. *Town Manager's Report: 02-15-17 Town Manager's Report*
5. *APPTS./Re-APPTS/RESIGNATIONS: 02-15-17 Appointment/Re-appointments Sheet*
6. *ODLLs – no documents*



7. *EVENT PERMITS: no documents*
8. *MINUTES: 10-03-16 Selectmen's Minutes-DRAFT*
9. *ANNOUNCEMENT: Suggested Announcements for 02-15-17*

