

Date: March 5, 2018

Date Minutes Approved: March 26, 2018

TOWN CLERK

2018 MAR 30 AM 11:39

DUXBURY, MASS.

BOARD OF SELECTMEN MINUTES

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

Absent: (none)

Staff: René J. Read, Town Manager; John Madden, Finance Director (Retired), John Q. Adams, new Finance Director and C. Anne Murray, Administrative Assistant

I CALL TO ORDER

The meeting was called to order at 7:00 PM in the Mural Room at the Duxbury Town Hall.

II OPEN FORUM

On behalf of the Board Mr. Flynn extended congratulations to the DHS Girls' Swim Team for earning its second-straight State title.

Mr. Read introduced and welcomed Mr. John Q. Adams, Duxbury's new Finance Director. He also offered his congratulations and best wishes to Mr. John Madden on his retirement.

III NEW BUSINESS

Discussion pertaining to Powder Point Bridge

Mr. Read began this item of business by reading a prepared statement. The statement was an overview of the work done on the bridge including the notifications made by the Town to C. White Marine, Inc. (C. White) and its insurer, Endurance American Insurance Company within the guaranty period that the FPR wraps had failed or deteriorated; the Town's hiring of Simpson Gumpertz & Heger, Inc. (SGH), a forensic engineering firm; the Town's attempts to negotiate with the parties (C. White and Quakewrap) to resolve the problems; and the subsequent suits and countersuits filed. At this time, the lawsuit (Town of Duxbury vs. C. White Marine, Inc. and Endurance American Insurance Company v. Quakewrap, Inc.) is in the discovery phase. The case is expected to go to trial during the summer of 2019.

Mr. Read then introduced Ms. Ros (Rosalind) Imbaro, an engineer and Senior Project Manager from SGH, who has been involved in the investigation regarding the bridge work. He explained that Ms. Imbaro was present to update the Board of the findings and the recommendations. He noted the update was important as Town Meeting action will be required on Article 1 of the Special Town Meeting and the information will affect the dollar amounts.

Ms. Imbaro's comments were a verbal overview of the information provided in an email regarding the Powder Point Bridge Repair Estimates and Engineering Cost Estimates, a copy of which was in the Selectmen's packets.

Ms. Imbaro said that back in 2002 the Powder Point Bridge was rated for 4 tons (by MassDOT) when it was determined that a number of piles were damaged. The rating had not been updated since, so SGH examination was to assess the repairs that were done and the capacity of the remaining piles.

SGH's assessment is that the wraps are not helping and are making it hard to fully assess the situation as far as what is happening on the inside of the wraps. She suggested that the wraps should be removed, and the Town Counsel's asked for an estimate of the cost for removing all the wraps.

Ms. Imbaro said the tasks they discussed and estimated budget were as follows:

1. To put together a report with the update of the 2017 inspection results.	\$11,000.
2. To prepare a conceptional pile replacement cost estimate.	\$ 7,000.
3. To prepare a pile removal cost estimate.	\$ 9,500.
4. Determine capacity of 2007 channel beam repair.	\$ 3,000.
5. Perform site visit and determine current capacity of necked piles	\$15,000.
6. Further development and preliminary design repair options	\$13,000.
TOTAL:	\$58,000.

Her comments got into some of steps that would be involved in each of the above tasks.

Regarding the preliminary results of the addendum report, Ms. Imbaro reported that approx. 25% of the wraps are in worse condition between the inspections of 2015 to 2017.

With regard to the conceptual repairs, there were two options suggested. Both options involve installing (driving or drilling) new steel piles adjacent to the existing wood piles.

Option 1: To drill five (7-8" diameter) new mini-piles between the bent cap beams immediately adjacent to the existing wood piles and to support the existing wood cap beams on the new steel piles.

Construction Cost Est. : \$4.5 million to \$5 Million with
Engineering & Permitting Costs: \$100,000.- \$200,000.

Option 2: To drill three new (14 -16") steel pipe piles approx.. 1.5 ft. west (or east) of the existing wood bents and install new steel beams with each span of the bridge to reset on the new bent caps.

Construction Cost Est.: \$3.5 million to \$4 Million with
Engineering & Permitting Costs: \$100,000.- \$200,000.

She said that the bridge is posted for 4 tons right now. The repair that was done brought the actual rating up to about the 8 tons limit. She feels the bridge can continue as is for the next two years, which would allow time for a more long-term, formal plan to be put together.

Mr. Read mentioned that this is going to mean a proposed increase of \$265,000 for engineering costs and an additional \$35,000. in legal costs for payment of Special Counsel Robert Garrity, Esq.

There was brief discussion regarding what a repair might look like in the future with respect to bridge closures and funding of it, but all of those factors would need to be looked at more closely.

Liquor License Change of Manager – Osborn’s Country Store

Mr. Flynn moved that the Board of Selectmen, acting as the Local Licensing Authority, approve the Change of Manager to Barbara J. Sanders, for Osborn’s Country Store, Inc., located at 632 Summer Street, License #00012-PK-0300. Second by Mr. Madigan.

Before the vote it was made clear that the only change being made was to the manager of record on the liquor license; no changes to the days of operation or hours. VOTE: 3:0:0.

Seasonal Off-Premises Liquor License Renewal and discussion regarding request to extend license – Duxbury Package Store, Inc.

Explanation: Seasonal Liquor Licenses are effective from April 1 through November 30, unless extended by the Local Liquor Authority (LLA) to January 15th. That extension was granted to Duxbury Package Store, Inc. in 2017, and the owners have again asked for a Seasonal Liquor License with the extension to January 15, 2019. Owners of the Duxbury Package Store were present in case the Selectmen had any questions.

Mr. Flynn moved that the Board of Selectmen, as the Local Licensing Authority, approve and renew the Seasonal Off-Premises All Kinds of Alcohol Beverages license issued to Duxbury Package Store, Inc. (License #: 00046-PK-0300) effective from April 1, 2018 through January 15, 2019, subject to satisfactory inspection by the Town, submission of all required documents, and payment of all funds/fees owed to the Town of Duxbury, and to the conditions on the license. Second by Mr. Madigan. VOTE: 3:0:0.

Mr. Madigan mentioned that in the past when approving the Seasonal Liquor License the Board did not automatically grant the extension because there was another liquor store in the area. That store is no longer in the area.

Seasonal On-Premises Liquor, Common Victualler and Parking License Renewals – Duxbury Beach Park 2

Mr. Dahlen recused himself from this item of business (as he is a Director of the Duxbury Beach Park, Inc. which leases Duxbury Beach Park 2.)

Mr. Flynn moved -----move that the Board of Selectmen, as the Local Licensing Authority, approve and renew the following **Seasonal On-Premises Wine & Malt Beverages License** issued to **Duxbury Beach Park 2 (License #: 00034-RS-0300)** for the calendar year **2018**, subject to satisfactory inspection by the Town, submission of all required documents, and payment of all funds/fees owed to the Town of Duxbury, and to the conditions on the license.

Acceptance of Gift: Vehicle for Police Department

In the Selectmen’s packet was an email from Police Chief Clancy explaining that for a number of years the Tufankjian family, who own the Toyota of Braintree Dealership, have donated vehicles to the

Duxbury Police Department. Every 3-4 years they deliver a new van and the Police Department returns the previous van which they remarket. The Tufankjian family has made another donation this year, and he requested that the Selectmen accept the donation.

Mr. Flynn moved that the Board of Selectmen accept with gratitude the donation of a 2018 Toyota Sienna van (approximate value: \$32,000) by the Tufankjian Family's Toyota of Braintree Dealership to the Duxbury Police Department. Second by Mr. Madigan. VOTE: 3:0:0.

IV TOWN MANAGER'S REPORT

Town Manager René Read mentioned the following:

1. Discussion pertaining to March 2018 Annual Town Meeting Warrant – Article Review and Board recommendations

Town Manager Read mentioned that in his preparation for Town Meeting he found that there are still about 5 articles that the Selectmen had not voted on, and he requested that they do so tonight. The remaining articles are: Article 13 –Rezoning the Island Creek Oysters' property on Washington ST; Article 22 –GSC's proposed amendments to Reconsideration; Article 24 – GSC's proposed establishing an Audit Committee; Article 26 Historical Commissions Transferability of a Demolition Permit; and Article 47 Historical Commission's Extension of the Demolition Delay timeframe.

[Editorial Note: Annual Town Meeting is abbreviated as ATM, and Special Town Meeting is abbreviated as STM.]

2018 ATM Art. 13 - Citizens' Petition – Amend Zoning By-Laws – Proposal to Re-Zone Former Battelle Memorial Institute Property from Residential Compatibility (RC) To Neighborhood Business 1 (NB1)

Mr. Flynn moved that the Board of Selectmen support 2018 ATM Art. 13 – Citizen's Petition amending Battelle from RC to NB1. Second by Mr. Madigan.

Before voting Mr. Madigan asked if the Planning Board had taken a position. Mr. Read said that the Planning Board did vote to support a revised concept. He explained the two houses on the street (front of the property) will remain in the RC zone and the remainder would be changed to NB1. Mr. Dahlen added they will leave a 50' strip between the houses and then 100 ' frontage to allow for one business lot on the rest of the property between the last historic house and Bayside. VOTE: 3:0:0.

2018 ATM ART. 22 -Amend General Bylaws – Reconsideration

Mr. Flynn moved that the Board of Selectmen support **2018 ATM ART. 22** – Reconsideration. Second by Mr. Madigan.

A brief discussion clarified that initially the recommendation was that the Finance Committee would be the deciding body, but after further review that was changed and it will be up to the Moderator to determine if there is sufficient new information for reconsideration. That change resolved the concerns Mr. Madigan had with this article. VOTE: 3:0:0.

2018 ATM Art. 24 -Amend General Bylaws – Add New Section 6.16

Mr. Flynn moved that the Board of Selectmen support an amendment to the General Bylaws, 2018 ATM Art. 24, adding a new section 6.16 Creation of an Audit Committee. Second by Mr. Madigan.

Mr. Read said the Audit Committee is to be made up of two members from the Finance Committee and one member from the Fiscal Advisory Committee. Mr. Flynn added that this is basically formalizing what currently exists. VOTE: 3:0:0.

2018 ATM Art. 46 - Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.2 Definitions

This is the article in which the Historical Commission is proposing to not allow the transferability of a demolition permit from one property owner to another.

Mr. Flynn moved that the Board of Selectmen support 2018 ATM Art. 46 to Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.2 Definitions.

The Finance Committee and the Planning Board voted against it. Mr. Dahlen indicated that he is against it because it devalues someone's existing house. In the past a previous owner could say they were willing to sell their house to you, but you (the prospective new owner) go to the various boards and get your approvals and when you get your approvals and then you know what you can do. But with no transferability then the new owner would have to start again. It was mentioned that a permitted lot is always worth more than a non-permitted lot. So there is a dollar value associated with knowing what you can do.

Second by Mr. Madigan. VOTE: 1:2:0 (*aye- Madigan; nays –Dahlen and Flynn*)

Before continuing Mr. Flynn asked about the status of a few other articles.

1. He asked if the Finance Committee had not taken a position on Sr. Center Expansion? Answer: --Mr. Read said the bids have not come in yet.
2. He asked if Finance Committee had taken a position of the LHDC's article?
Answer: The Finance Committee is waiting for signed letters from the homeowners to know exactly what residences and how many will fall within the article. A vote should be taken before ATM.

The Board returned to a discussion about the transferability of the demolition delay article before continuing.

2018 ATM Art. 47 - Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.3 Procedures

This is the article in which the Historical Commission is proposing to extend the demolition delay from six months to 12 months.

Mr. Flynn moved that the Board of Selectmen support 2018 ATM Art. 47 - Amend Zoning By-Laws - Article 600 - Demolition of Historically Significant Buildings - 609.3 Procedures. Second by Mr. Madigan.

The Finance Committee voted not to support Article 47, which seeks to extend the demolition delay period on historically significant homes from six to 12 months. VOTE: 0:3:0.

2. Weather Update:

Mr. Read mentioned that during the recent inclement weather the Town has been using various forms of social media to get messages out. The Fire Department uses Twitter. We use the Town's website when we can. He also mentioned that on Facebook on "Duxbury Helping Duxbury" updates are posted. So he encouraged people on Facebook to sign onto that site. He said that Reverse 911 calls will be made but they do realize that when the power goes out most phone services don't work (but you can sign up to receive text messages to your cellphone).

Beyond that he mentioned the following:

- As of this afternoon Eversource reported that 20% of the homes in Duxbury are still without power. There are 43 Eversource crews in Duxbury working to restore power. It is anticipated that number will be down to 5 % by midnight.
- All roads should be accessible by morning, except Gurnet Road due to the flooding.
- School will be open tomorrow.
- The Steele building was open last night and this evening from 5-8 pm so residents could use the showers. The Police Department provided coverage at the facility.
- Last night the Senior Center was open for several families to get out of the cold, and that was done with the help of the Fire Department staff.
- Duxbury Beach is closed.
- A travel ban was placed on Friday night at 8 PM and was lifted at 10 AM on Saturday.
- A Spaghetti Dinner for the Duxbury Community will be held tomorrow night from 5-7 pm at the Senior Center and residents are encouraged to come. Come enjoy a hot meal and conversation.
- Wednesday and Thursday Town Officials will be assessing the upcoming weather forecasts and making additional preparations. Updates will be provided via social media.

3. Seawall Collapse:

Mr. Read said that this morning at 9 AM he went with Mr. Butkus and Mr. Grady to inspect the seawall on the Duxbury/Marshfield line area. At the time what he saw was significant cracking and shifting of the seawall. He then mentioned that following high tide at 2 PM, sections of the seawall had collapsed. He passed out photos of the situation to the Board of Selectmen. Mr. Read said the Town is in extreme repair mode, and using emergency procurement regulations the Town is filling the landward side of the seawall so that large amounts of riprap (boulders) can be brought in to shore up the seawall from the incoming waves. The crew will be backfilling the landward side at 3 AM with expectation of working on the seaward side tomorrow morning with the low tide.

The first part of the repair, near the stairs, was at an estimated cost of \$75,000. He said the Town will be assessing the other portions and additional costs as we go. We have notified our legislators of the situation, and have notified MEMA and FEMA to initiate the process for funding help. He mentioned the Town Manager's Office had received numerous calls today, and he wanted to assure residents that the Town is aware of the issues and actively working on it.

Mr. Dahlen mentioned from his experience when seawall issues came up in the past that this situation is complicated by the fact that nobody (i.e., not the abutting property owners, the State, the Federal government, nor the Town) takes ownership of the seawall.

4. Budget Update:

Mr. Read reported that the budget remains out of balance regarding the school budget figures. He mentioned he had a meeting with Finance Directors Mr. John Madden and Mr. John Adams, Superintendent Dr. John Antonucci and School Business Manager David Proule. They discussed the Town providing an influx from free cash into the SPED fund an amount of \$92,350. The Town felt that balance could be achieved with that, but that offer has not been accepted. They will be discussing the offer at the School Committee meeting on Wednesday. Hopefully the recommendation will be accepted but if it is not, then we might be looking at a Special Town Meeting in the fall as the entire budget will have to be re-opened.

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION -none

VI ONE-DAY LIQUOR LICENSE REQUESTS None presented

VII EVENT PERMITS

03/31/18 Friends of the COA 5th Annual Half Marathon

Mr. Flynn moved that the Board of Selectmen grant to Mr. John Heinstadt, as a representative of the Friends of the Council on Aging, permission to hold the 5th Annual Duxbury Half Marathon to raise money for the Alzheimer's Respite Program, on Saturday, March 31, 2018 at 7:00 AM (with a 7:30 AM race start), beginning and ending at the Duxbury Senior Center, 10 Mayflower Street, contingent upon the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

06/02/18 Best Buddies Challenge

Mr. Flynn moved that the Board of Selectmen grant permission to **Paul Curley**, as representative of the Best Buddies Challenge Hyannisport, and participants in the 19th Annual Best Buddies Challenge bicycle ride to be held on Saturday, June 2, 2018 to travel through Duxbury and to use the Duxbury Senior Center as a rest stop, contingent upon the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

06/30/18 Cape Cod Getaway MS Bike Ride

Mr. Flynn moved that the Board of Selectmen grant permission to the National Multiple Sclerosis Society (Greater New England Chapter) to conduct a portion of their 34th annual Cape Cod Getaway MS Bike Ride in the Town of Duxbury on Saturday, June 30, 2018, contingent on the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

07/04/18 DEF July 4th Road Race

Mr. Flynn moved that the Board of Selectmen grant permission to Ms. Amanda Crowley, as a representative of the Duxbury Education Foundation, is granted permission to hold a road race on Wednesday, July 4, 2018, beginning at 7:00 AM (registration) with the race to be from 8:00 AM to 12:00 PM as described in the application materials, and contingent upon the conditions on the permit. Second by Mr. Madigan. VOTE: 3:0:0.

VIII MINUTES Executive Session Minutes: *None*
Open Session Minutes: 02/12/18 Draft minutes

Mr. Flynn moved that the Board of Selectmen approve the 02-12-18 Selectmen's Open Session Minutes as presented. Second by Mr. Madigan. VOTE: 3:0:0.

IX ANNOUNCEMENTS

Mr. Flynn read the following announcements:

1) Government Study Committee Article Presentation

You can still see the Government Study Committee's Article Presentation on pactv.org through the Video-on-Demand feature. The program runs about a half hour and is a good overview of the Government Study Committee articles to be presented at Duxbury's Annual Town Meeting.

2) Tables for Town Meeting - Last Call

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 boards and committees and civic organizations.

3) Duxbury's Annual Town Meeting

Duxbury's Annual Town Meeting will begin at 9 AM on Saturday, March 10, 2018 at the Performing Arts Center, 73 Alden ST. All registered Duxbury voters are encouraged to attend.

4) Duxbury's Annual Town Election

The Duxbury Annual Town Election will take place on Saturday, March 24, 2018. The polls will be at the Lt. Timothy J. Steele Athletic Building, 130 Saint George Street and will be open from

8 AM to 8 PM. Please show your support for the local candidates by voting.

- 5) **Next Scheduled Selectmen's Meeting is on: Monday, March 26, 2018** (unless a brief meeting is necessary before the start of the Annual Town Meeting.)

X BONUS SHELLFISH SEASON for March, 2018

Mr. Flynn moved that the Board of Selectmen declare a temporary Bonus Shellfish Season for:

the **commercial** harvesting of **quahog clams** for the month of **March, 2018** in accordance with posted Attachments A & B.

XI ADJOURNMENT

At approximately 8:23 pm, Mr. Flynn moved that the Board adjourn. Second by Mr. Madigan.
VOTE: 3:0:0.

Minutes prepared by: C. Anne Murray

LIST OF DOCUMENTS FOR 03-05-18 SELECTMEN'S MEETING (DOCUMENTS LOCATED IN THE SELECTMEN'S OFFICE FILES.)

1. *Agenda for 03-05-18 Selectmen's Meeting*
2. *OPEN FORUM:*
3. *NEW BUSINESS:*
 - a) *Discussion pertaining to Powder Point Bridge: Handout "Duxbury vs. C. White Marine, Inc. and Endurance American, Inc. Company v. Quakewrap, Inc." and 02-23-18 email from Rosalind Imbaro of Simpson Gumpertz & Heger "Powder Point Bridge Repair Estimates and Engineering Cost Estimate".*
 - b) *Liquor License Change of Manager – Osborn's Country Store: Suggested motion for change of hours, draft license, and application with Vote of the BD of Directors of Osborn's Country Store, Inc.*
 - c) *Seasonal Off-Premises Liquor License Renewal and discussion regarding request to extend license – Duxbury Package Store, Inc.: suggested motions for regular seasonal license and extension of seasonal license, letter of request for Seasonal License including the extension, Feedback from Police Chief and Director of Municipal Services, and draft Seasonal License(s).*
 - d) *Seasonal On-Premises Liquor, Common Victualler and Parking License Renewals – Duxbury Beach Park 2: Suggested motions drafts, draft license,*
 - e) *Acceptance of Gift: Vehicle for Police Department: Suggested Motion 02-14-18 email from Chief Clancy, donation letter from Mr. David Tufankjian of Toyota of Braintree, RMV paperwork.*
4. *TOWN MANAGER REPORT: none*
5. *BOARD AND COMMITTEE APPOINTMENTS/ RE-APPOINTMENTS: none*
6. *ODLLs: none*

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7. *EVENT PERMITS: Packets including the draft permit, application, and department feedback for each of the following events: 03/31/18 Friends of the COA 5th Annual Half Marathon; 06/02/18 Best Buddies Challenge; and 07/04/18 DEF July 4th Road Race*
8. *SUGGESTED ANNOUNCEMENTS for 03-05-18*
9. *MINUTES: 02/12/18 Selectmen's Minutes -Draft*
10. *BONUS SHELLFISH SEASON for March, 2018*