

Date: September 16, 2019

Date Minutes Approved: September 30, 2019

TOWN CLERK

2019 OCT -1 PM 2:59

DUXBURY, MASS.

BOARD OF SELECTMEN MINUTES

OPEN SESSION MINUTES

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

Absent: -----

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

I. CALL TO ORDER

The meeting was called to order at approximately 6:15 p.m. at the Senior Center (Ellison RM).

VOTE TO ENTER EXECUTIVE SESSION

Upon convening, Mr. Flynn moved the Board of Selectmen go into Executive Session for discussing potential litigation and to consider the purchase, exchange, lease or value of real estate, if the chair declares that an open meeting may have a detrimental effect on the negotiating position of the public body in accordance with Mass. General Laws Chapter 30a, Section 21, and upon completion of the Executive Session to reconvene in Open Session on or about 7:00 PM. Second by Mr. Madigan.

As Chair, Mr. Madigan declared that the necessity for an Executive Session for discussing potential litigation and to consider the purchase, exchange, lease or value of real estate, as having such discussion in an open meeting may have a detrimental effect on the strategizing and negotiating position of the public body.

ROLL CALL VOTE: Mr. Madigan-Aye and Mr. Flynn-Aye. *[Mr. Dahlen arrived after the vote.]*

NOTE: The Selectmen moved to the Walker Room on the second floor for the Executive Session and returned to the Ellison Room for continuation of the Open Session afterward.

RE-CONVENED IN OPEN SESSION

Shortly after 7:00 PM the Chair re-convened the meeting in Open Session in the Ellison Room.

II OPEN FORUM – nothing was brought forward.

III NEW BUSINESS

Recognition and Swearing in of new Fire Department Captains and Firefighters – Chief Kevin Nord

Fire Department staff came forward and the Chair recognized Fire Chief Kevin Nord. Chief Nord explained that the Duxbury Fire Department had two Captains retire this spring. That necessitated an exam and hiring process to fill the positions. He then had newly-promoted Captain Alex Merry and Captain John “Jack” Ahern step forward.

Chief Nord said Captain Alex Merry was hired in 2001 as a call firefighter. In 2005 he became a full-time member of the Duxbury Fire Department and was promoted to Captain in July, 2019. He is a paramedic,

a fire training coordinator, a member of the Plymouth County Technical Rescue Team and a rescue specialist for the FEMA Urban Search and Rescue Team.

The Chief mentioned Captain Jack Ahern was hired as a call firefighter in 2009 and joined the Duxbury Fire Department full-time in 2011. He is a paramedic. He is also a dive master coordinator and a member of the Plymouth County Technical Rescue Team.

Two new Firefighters were then introduced for their swearing in to the Duxbury Fire Department: Firefighter/Paramedic Zachery O'Sullivan and Firefighter/Paramedic Patrick Dwyer.

The Town Clerk conducted the swearing in of the above-named Fire Department personnel.

Following the swearing in each member had his badge pinned on his uniform. With the pinning honors done as follows:

Firefighter/Paramedic Kirsten Piper had the honor of pinning the badge on Captain Merry.
Captain Ahern received his badge from his father, a retired Boston firefighter Captain.
Ms. Kristin Silva had the honor of pinning the badge on Firefighter Zachery O'Sullivan.
Ms. Kelly Dwyer had the honor of pinning the badge on her husband, Firefighter Patrick Dwyer

Chief Nord ended the ceremony by mentioning that each of the candidates stood out during the promotional examination and the hiring process. He added that they are all very deserving and will serve the department and community well.

The firefighters were recognized and welcomed with a standing ovation.

Proclamation: Constitution Week September 17-23, 2019 (Duxbury Chapter Daughters of American Revolution)

Mr. Madigan explain that a request was received from the Duxbury Chapter of the National Society of the Daughters of American Revolution (NSDAR) for a Proclamation in acknowledgment of September 17th-23rd as Constitution Week. Mr. Madigan read the Proclamation, a copy of which is attached to the minutes. He then presented the signed Proclamation to the three representatives from the Duxbury Chapter of the NSDAR, who were present: Ellen Blanchard, Regent; Alison Arnold, Vice Regent, and Tracy McGill, Member.

Discussion pertaining to 761 Temple Street property

Mr. Madigan said that the Board went into Executive Session to discuss the 761 Temple Street property and after discussion the Board has decided to rescind its previous vote of July 15, 2019; the reason being that there was defect in the notification. The Board will be notifying the seller's attorney of this action and making him aware that the Purchase and Sale (P&S) Agreement filed with the Chap. 61A notification was defective. The notification needs to be two separate P&S Agreements one for the Chap. 61A land and the other for the non-Chap. 61A land, with the purchase prices separated as well. Upon proper notification the Board will reconsider the Chap. 61A right of first refusal.

Mr. Flynn moved to rescind the vote taken by the Board of Selectmen on July 15, 2019, whereby the Board declined to exercise the Town's right of first refusal under G.L. c. 61A, §14 to purchase the property located at 761 Temple Street, Duxbury, owned by Nathan R. Harrington, Trustee of Pauline M. Harrington 2003 Trust, and to reconsider said right of first refusal. Second by Mr. Dahlen. VOTE: 3:0:0.

Mr. Madigan outlined the steps going forward. The first would be to notify the seller (via the seller's attorney) of the rescission of the previous vote and the requirements for appropriate notification under Chap. 61A. Upon receipt of the proper notification of a bona fide offer, then the Board will have 120 days to review the right of first refusal. For the benefit of the public, he asked Mr. Read to go over the timeline of events regarding 761 Temple ST as outlined in his memorandum.

Referring to his September 13, 2019 memorandum to the Board, Mr. Read provided the following timeline of events related to the property located at 761 Temple Street:

2003

The Conservation Office started negotiations with the former landowner at which time they tried to preserve the land across from 761 Temple (open fields that were part of the farm). They did not reach an agreement and three single family homes were constructed on that land. Many times since, then they attempted to come up with a project which would preserve the remaining farm located at 761 Temple Street.

2013

Duxbury voters reduced CPC funds from 3% to 1% with all exemptions. This severely limited funding for all land acquisitions.

2017

Several appraisals were prepared relative to the property and attempts were made to negotiate a purchase but once again, they were unsuccessful in reaching an agreement with the owner.

May 28, 2019

Notice of Intent to Sell dated 5/23/19 along with P&S Agreement received in the Selectmen's/Town Manager's office.

May 31, 2019

Aforementioned items were scanned and emailed to Assessors, Conservation and Planning Departments and also to the Duxbury Affordable Housing Trust for their review and recommendation.

June 4, 2019

Conservation Commission met to discuss and recommended that the Board of Selectmen not act on their right of first refusal.

June 12, 2019

Planning Board met and recommended that the Board of Selectmen not act on their right of first refusal.

June 20, 2019

Duxbury Affordable Housing Trust met and recommended that the Board of Selectmen not act on the right of first refusal due to lack of funding.

Based on the recommendations provided, the Board of Selectmen voted to not exercise their right of first refusal.

He noted that the minutes associated with each committee's action, which were public meetings, were attached to his memorandum.

Mr. Read said we will await a bona fide offer to come back to the Town. Upon receipt of such an offer the Town will have 120-days to consider the right of first refusal. In the meantime, the Town will be looking into whether it has the funding to purchase the property, which will entail discussions with staff and the various boards that have funding or other financial avenues to explore.

Ms. Sheila Lynch-Benttinen, 344 West ST, said it was her understanding that under the Chap.61A notification there is the right for the Town to do a transfer to a 501(c) 3 entity and that other entity must be named within the 120-day timeframe. She also mentioned that after the 120 days, the named entity has another 90 days to raise the funds for the purchase. She asked that if the Town determines it does not have the funds to purchase the properties that information should be made known as soon as possible, so other entities have time to pursue the purchase.

Mr. Madigan indicated that the Board was aware of their right to name another entity. Preliminary inquiries were made to some potential entities, but they did not express interest.

Ms. Leslie Hart, 36 Plumfield Lane, spoke on behalf of a group of other interested citizens. She said they are aware of at least one other entity interested in purchasing the property and there may be others. She asked "How would interested parties go about letting the Town know that they are interested in purchasing the property?" Mr. Madigan said they should contact Mr. René Read, Duxbury Town Manager.

Ms. Hart then mentioned that the Selectmen have the right to get an independent appraisal. The original notification set the price at \$2.2 million. She said that amount might have been okay for the entire property, but not just for the Chap. 61A land. She wanted to know if the Selectmen will seek an independent appraisal. Mr. Madigan said that by requiring separate P&S Agreements for the Chap. 61A land versus the non-Chap.61A land the hope is to receive appropriate pricing for the parcels and not to have to do a separate appraisal. Further information and decisions will be based on the proposals received.

Acceptance of donated microfiche machine

Mr. Madigan said that Richard and Nancy Dobbins donated a microfiche machine to the Town Clerk's office. According to the Town Clerk the Town has microfilmed records on file in the vault and the donated microfiche reader will now allow access to those records on site.

Mr. Flynn moved that the Board of Selectmen accept, with gratitude, the microfiche machine generously donated by Richard and Nancy Dobbins. Second by Mr. Dahlen. VOTE: 3:0:0.

7:30 PM Water and Sewer Commissioners: a) Supplement to Commitment #1-FY18
 b) Rescission to Water & Sewer Commitment #3-FY18

Mr. Flynn moved that the Board adjourn their meeting as Selectmen and convene as Water & Sewer Commissioners. Second by Mr. Dahlen. VOTE: 3:0:0.

Mr. Madigan explained that the following are adjustments to FY 2018 Water Commitments, which are necessary for bookkeeping purposes.

Supplement to Commitment #1-FY2018

Mr. Flynn moved that the Board of Water & Sewer Commissioners instruct the Treasurer to issue and collect a supplement to the water service charge for Commitment #1-FY'18 in the amount of \$700.00. Second by Mr. Dahlen. VOTE: 3:0:0.

Rescission of Service Charges to Commitment #3-FY2018

Mr. Flynn moved that the Board of Water & Sewer Commissioners instruct the Treasurer to rescind service charges for Commitment #3-FY'18 in the amount of -\$525.00. Second by Mr. Dahlen. VOTE: 3:0:0.

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

IV TOWN MANAGER'S REPORT

Mr. Read mentioned the following items:

1) Powder Point Bridge Update

The Town recently received the preliminary engineering report regarding the Powder Point Bridge from our consultant, SIMPSON GUMPERTZ & HEGER (SGH), and it is good news. SGH inspected the Powder Point Bridge after the failed wraps were removed. The report indicates SGH do not feel that there are any issues, which will cause the weight limit to be changed. Only one bad pile was discovered. The decking and stringers are in good shape. In November SGH will prepare a bridge repair schedule for the Town. In the interim, the assessment is that the bridge will last another 5 to 10 years with about \$100,000 to \$125,000 in maintenance costs annually.

2) Duxbury Seawall Update

He received an email from Mr. Pat Brennen, the Design Consultant Engineer, regarding the seawall, which contained the following:

“Good news, we received this in an email from Jason (Burtner) at CZM today:

After reviewing the supplemental information provided regarding beach access alternatives for the Duxbury Beach Seawall Project: Phase 1 the agencies believe the alternatives have been sufficiently vetted and that the stairway access, as depicted on sheets 1 and 6 of the 8-29-19 plan revision, can proceed through permitting.”

What that means is we can now move forward with the bid process for the seawall repair work. The bid notification will be sent to the Central Register on September 18th and the bid deadline will be October 9, 2019.

V **COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION**
Alternative Energy Committee - postponed

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

VII **EVENT PERMITS**

09/28/19 Wicked Good Cause – Light up the Night

Mr. Dahlen moved that the Board of Selectmen grant to Ms. Payton Connolly, as a representative of Wicked Good Cause, permission to hold the Wicked Good Cause Light Up The Night event (in support of pediatric cancer) starting from 3:00 pm on Saturday, September 28, 2019, placing luminary bags at participating businesses located in Halls Corner, Snug Harbor, and Millbrook Market areas, contingent upon the conditions on the permit. Second by Mr. Flynn. VOTE: 3:0:0.

10/04/19 DEF Annual Fall Fundraiser – A Whale of a Time

Mr. Dahlen moved that the Board of Selectmen grant to Ms. Tanya Trevisan, as representative of the Duxbury Educational Foundation (DEF), is granted an Event Permit for the DEF Annual Fall Fundraiser “A Whale of a Time” to be held at the Duxbury Bay Maritime School on Friday, October 4, 2019 from 6:30pm to 11:00 pm, subject to the conditions on the permit. Second by Mr. Flynn. VOTE: 3:0:0.

VIII **MINUTES** - none

IX **ANNOUNCEMENTS**

Mr. Dahlen made the following announcements:

1) Senior Tax Work-Off Program

Applications will be accepted from Sept. 15th to Oct. 15th from Duxbury Seniors (ages 65 and over) for the property tax work-off program. The program is limited to 35 individuals. Those accepted use their time and talents working in various Town departments to earn up to \$1,000. in a real estate tax abatement. Apply online at: townofduxbury.appone.com and click on SEARCH to find the Senior Tax Work-Off Program. Questions may be directed to Ms. Chris Coakley at the Duxbury Senior Center.

2) Local Cultural Council Grants Available

The Local Cultural Council (LCC) Program is the largest grassroots cultural funding network in the nation supporting thousands of community-based projects in the arts, humanities, and sciences annually. The Duxbury Cultural Council (DCC) is proud to be one of the many members of this community-funding network and gratefully acknowledges the allocation of \$5800 from the Massachusetts Cultural Council. The grant cycle is open and Duxbury Cultural Council welcomes all artists to apply for a grant online at <https://www.mass-culture.org/Duxbury> no later than October 15, 2019.

3) Board and Committee Open Seats

The following boards and committees currently have open seats and are seeking volunteers:

Duxbury Affordable Housing Trust
Alternative Energy Committee

Nuclear Advisory Committee

Interested Duxbury registered voters are asked to fill out and submit a Talent Bank form. The Talent Bank form is available from the Selectmen's office and on the town website.

4) **Next Scheduled Selectmen's Meeting** will be on Monday, September 30, 2019.

XI ADJOURNMENT

At approximately 7:35 PM Mr. Dahlen moved to adjourn the Board of Selectmen Meeting. Second by Mr. Flynn. VOTE: 3:0:0.

Minutes prepared by C. Anne Murray

LIST OF DOCUMENTS FOR 09-16-19 SELECTMEN'S MEETING (Documents located in the selectmen's office files.)

- a. *Agenda for 09-16-19 Selectmen's Meeting*
- b. *Executive Session: See Exec. Session file and minutes*
- c. *OPEN FORUM: no documents*
- d. *NEW BUSINESS:*
 - 1. *Recognition and Swearing-In of new Fire Department Captains and Firefighters: list of names*
 - 2. *Proclamation: Constitution Week September 17-23, 2019: Prepared Proclamation.*
 - 3. *Discussion pertaining to 761 Temple Street property*
 - 4. *Acceptance of donated microfiche machine: Explanation in email from Town Clerk and Coversheet with suggested motion.*
 - 5. *7:30 PM Water and Sewer Commissioners: Coversheet with suggested motions and paperwork regarding a) Supplement to Commitment #1-FY18 and b) Rescission to Water & Sewer Commitment #3-FY18*
- e. *COMMITTEE APPOINTMENTS/REAPPOINTMENTS - Postponed*
For each of the following ODLL AND EVENT REQUESTS the packet included the Event Permit application and other details provided about the event, route maps, if applicable, results of the department feedback received, and a drafted Event Permit incorporating the conditions indicated
- f. *ONE-DAY LIQUOR LICENSES: none*
- g. *EVENT PERMIT(S):*
09/28/19 Wicked Good Cause – Light up the Night
10/04/19 DEF Annual Fall Fundraiser – A Whale of a Time
- h. *MINUTES:*
 - EXECUTIVE SESSION: none;*
 - OPEN SESSION MINUTES: none*
- i. *SUGGESTED ANNOUNCEMENTS for 09-16-19.*

PROCLAMATION

CONSTITUTION WEEK

SEPTEMBER 17-23, 2019

WHEREAS, The Constitution of the United States of America, the guardian of our liberties, embodies the principles of limited government in a Republic dedicated to rule by law; and

WHEREAS, September 17, 2019, marks the two hundred and thirty-second anniversary of the framing of the Constitution of the United States of America by the Constitutional Convention; and

WHEREAS, It is fitting and proper to accord official recognition to this magnificent document and its memorable anniversary, and to the patriotic celebrations which will commemorate it; and


WHEREAS, Public Law 915 guarantees the issuing of a proclamation each year by the President of the United States of America designating September 17 through 23 as Constitution Week,


BE IT RESOLVED that the Board of Selectmen, does hereby proclaim the week of September 17th through 23rd, 2019 as CONSTITUTION WEEK and asks our citizens to reaffirm the ideals the Framers of the Constitution had in 1787 by vigilantly protecting the freedoms guaranteed to us through this guardian of our liberties.


IN WITNESS WHEREOF, we have hereunto set our hands and caused the Seal of the Town of Duxbury to be affixed this 16th day of September, 2019.



DUXBURY BOARD OF SELECTMEN


David J. Madigan, Chairman


Theodore J. Flynn, Vice Chairman


Shawn Dahlen, Clerk

