

Date: November 5, 2018

Date Minutes Approved: November 19, 2018

TOWN CLERK

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DUXBURY, MASS.

BOARD OF SELECTMEN MINUTES

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

Absent: (none)

Staff: René J. Read, Town Manager; 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

Mr. Larry Dullea of East Pine Road came forward regarding issues and concerns about the seawall and to clarify an inaccurate quote in the *Clipper* last week attributed to him about the Town Manager. Mr. Dullea read an extensive prepared statement, which provided references to some past handling of situations regarding the seawall and his concerns for any delays in responding to repairs of the seawall.

III NEW BUSINESS

7:01 p.m. Public Hearing: 2019 Aquaculture Float Applications (aquaculture float area, DBMS upweller float area, and federal anchorage float area license applications)

Mr. Madigan moved that the Board of Selectmen open the aquaculture float license public hearing advertised in the *Duxbury Clipper* on October 24, 2018 regarding aquaculture float license applications from the aquaculture grant holders named in the notice. Second by Mr. Dahlen. VOTE: 3:0:0.

Harbormaster Jake Emerson presented the license information on his behalf of Mr. Al Hoban, Chair of the Shellfish Advisory Committee (SAC). Mr. Emerson mentioned this is the annual float application renewal process to allow for aquaculture activities to be on floats in designated areas (i.e., if the designated aquaculture float area in Snug Harbor, in the DBMS Upweller floats area, and in the federal anchorage float area) and to be considered part of the leasees' onsite grants. He noted that a maximum of 32 floats are allowed, but currently there are 20. A memorandum from Mr. Hoban, Chair of the SAC, was provided to the Selectmen indicating that the SAC did hold a public meeting on October 17, 2018 for review / discussion of the float applications, and the SAC voted to recommend to the Board of Selectmen that they approve the float applications.

It was asked if there was anyone in the audience who wanted to comment, but no one indicated that they wanted to speak.

Mr. Madigan moved that the Board of Selectmen approve the float license applications submitted by the following applicants:

Arthur Bennett, William Bennett, Mark Bouthillier, Brad Doyle, Scott Doyle, Michael George, Stephen Gilbert, Joseph Grady, Christian Horne, Robert Knecht, Benjamin Lloyd, Victoria

Lloyd, John McCluskey, William McCormick, Donald Merry, Gregory Morris, Christopher Phillips, Peter Prime, Charles White, Brian Zec

and, as required by MGL 130 sec 57-68, grant permission to conduct activities as outlined by the Management Plan- (Designated Aquaculture Area, Federal Anchorage, DBMS Upweller– AQUACULTURE FLOAT) pending all Federal, State, and local reviews and approvals. Second by Mr. Dahlen. VOTE: 3:0:0.

Mr. Madigan moved that the Board of Selectmen close the aquaculture float license public hearing advertised in the Duxbury Clipper on October 24, 2018 regarding aquaculture float license applications from the aquaculture grant holders named in the notice. Second by Mr. Dahlen. VOTE: 3:0:0.

7:02 p.m. Hearing regarding usage of the Millennium Green for Tree Lighting on 11/25/18 and approval of Event Permit

The Chair announced the next item as the hearing as listed above.

Mr. Madigan moved that the Board of Selectmen grant to Mr. Paul Brogna, as a representative of the Duxbury Rotary Club, an event permit for the Annual Tree Lighting and Celebration, to be held on the Millennium Town Green on Sunday, November 25, 2018 from 1:00 PM to 7:00 PM, subject to the conditions on the permit. Second by Mr. Dahlen. VOTE: 3:0:0.

Discussion and review pertaining to new utility pole on Marshall Street

Mr. Madigan explained that this item of business is regarding a petition received from Verizon and NStar (d/b/a Eversource Energy) regarding a new pole to be placed on Marshall Street.

[Editorial Note: A pole hearing was held at 9:00 a.m. on November 1, 2018 in the Town Manager's office for which notifications were sent to the abutters by certified mail. In addition, legal notice of the hearing was published in the Duxbury Clipper.]

Mr. Madigan moved that the Board of Selectmen authorize the installation of one (1) new pole on Marshall Street, with the condition that Verizon New England, Inc. and/or NStar Electric Company (d/b/a Eversource Energy) contact the Duxbury Department of Public Works at least 48-hours prior to the commencement of the project along with other conditions that may be requested by the Board of Selectmen. Second by Mr. Dahlen. VOTE: 3:0:0.

**7:05 PM The Board will convene as Water and Sewer Commissioners for the following:
*Amended Water and Sewer Commitment (#1-FY2019) and
Water and Sewer Commitment (#2 –FY2019)***

MOTION TO ADJOURN AS SELECTMEN & 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. Second by Mr. Dahlen. VOTE: 3:0:0.

1. Amended Water & Sewer Commitment #1 of FY19-A:

Mr. Madigan moved that the Board of Water & Sewer Commissioners instruct the Treasurer to collect the following **amended** charges for water and sewer:

Water Usage	\$1,078,961.09
Sewer Usage	\$ 14,333.02

TOTAL	\$1,093,294.11
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for Water and Sewer Commitment #1 of FY19A.
Second by Mr. Dahlen. VOTE: 3:0:0.

2. Authorize Water & Sewer Commitment #2 of FY19:

Mr. Madigan moved that the Board of Water & Sewer Commissioners instruct the Treasurer to collect the following charges for water and sewer:

Water Usage	\$1,010,526.30
Sewer Usage	\$ 89,221.50

TOTAL	\$1,099,747.80
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for Water and Sewer Commitment #2 of FY19.
Second by Mr. Dahlen. VOTE: 3:0:0.

ADJOURNED AS WATER & SEWER COMMISSIONERS & RECONVENED AS SELECTMEN

Mr. Madigan 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 reported on the following items:

1. Financial Update from Finance Committee

Mr. Read introduced Mr. Nathaniel Taylor, a member of the Finance Committee, who was present to provide a brief update to the Selectmen regarding the work of the Committee. Mr. Taylor mentioned:

- The departmental budget reviews are going forward week by week. The Finance Committee is almost through all the Town Departments and will be meeting with the School Committee next week.
- Several items to be mindful of that could impact the budget:
 - Labor costs are increasing; including minimum wage increasing.
 - A potential IT consolidation that might have some additional costs.
 - All seven (7) union contracts are ending this year so those will have to be negotiated for funding in the next fiscal year.
 - Seawall costs were covered from the Stabilization Fund, and the Stabilization Fund will need to be replenished.

2. Government Financial Officers Assoc. Certificate of Achievement for Excellence in Financial Reporting (CAFR)

Mr. Read mentioned that he had received notification from the Government Financial Officers Association (GFOA) that the Town's comprehensive annual financial report (CAFR) for the fiscal year ending 2017 qualifies for the GFOA's Certificate of Achievement for Excellence in Financial Reporting. So this relates to John Madden's, the former Finance Director, tenure. The Certificate of Achievement is the highest form of recognition in government accounting and financial reporting, and its attainment represents a significant accomplishment by a government and its management.

3. Seawall Funding Conference Call - 11/1/18 – 2:00 p.m.

Mr. Read passed out a summary of the conference call he had with Thad J. Leugemors, PMP, Mitigation and Recovery Section Chief, State Recovery Coordinator with MEMA among others. Mr. Read read the summary the gist of which was:

- a. That the Town is currently tracking several funding sources regarding seawall repair funding, including funds from a \$1.5 million dollar environmental bond bill; \$1 million dollar grant and \$2 million dollar bond; and the FEMA reimbursement.
- b. The ownership of the seawall has now raised questions regarding who might be the appropriate applicant for the combination \$1 million dollar grant /\$2 million dollar bond. The Town has asserted that the seawalls are State owned. This may now be a problem because the State grant can't be awarded to the State. The conclusion was that all the participants on the conference call agreed that it made sense to have FEMA's legal department make a determination on who would be the eligible applicant. We advised MEMA of our need for a quick turnaround time as we have warrant deadlines for our March town meeting.
- c. The Town is still moving forward to process all applications, but the question of ownership needs to be resolved before the funding can be issued.

Mr. Flynn asked how the armoring did through the recent storm. Mr. Read said that there was some settling but that was expected. Beyond that the armoring held up.

Ms. Sheila Spellman, a Duxbury resident who resides near the seawall, said she understood there is a question of the ownership of the seawall, but the Town was to maintain the wall. So she asked how that would come into play. Mr. Read responded by saying that during the conference call, they did ask if maintenance records were kept. He checked with DPW Director Peter Buttkus, who confirmed such records were kept. So the records are being gathered to be provided. In follow up remarks Ms. Spellman referred to past documents that indicated the seawall was 50% owned by the State, 25% owned by Plymouth County and 25% owned by the Town. Mr. Read confirmed that and said the Town has done its 25% of the work and how that will be assessed is to be determined. Ms. Spellman also wanted to know that if funds were to be appropriated for repairs of the seawall, would it have to be an article on a Town Meeting warrant. Mr. Read said yes, the appropriation of funds does require it to be an article to be acted on at a Town Meeting. The \$4.5 million that is needed will require a borrowing by the Town, which would require it to be voted on at a Town Meeting and appear as a ballot question. However the question of ownership needs to be resolved before those steps are undertaken. Mr. Read did confirm that there has been consistency to this point through several Town Counsels and the DCR that the seawall is State-owned, but now that FEMA has come into the picture it is being questioned again. There was a brief

hypothetical discussion between the Town Manager, Selectmen, and Ms. Spellman. At the end of the conversation, Ms. Spellman expressed her concern that the process will drag out for a long time so that nothing could be done and that would not only be disastrous for the homeowners, but also would be a loss of tax revenue for the Town. Given that she requested that the Town maintain its focus on this matter.

Mr. Dahlen asked if Town Counsel had ever been asked if a homeowner could do work on the wall or in front of the wall, and if not he suggested that question be asked. His suggestion was, that even though there would be a permitting issue, if a permit could be issued, then the permitting authority might not be concerned with who is doing the work, but rather with the type of work to be done. Mr. Read said he would ask the question.

Mr. Flynn asked the audience what they felt about the outcome of the recent storm. Ms. Spellman responded that:

- In Marshfield the new seawall did what it was intended to do. She said the added height to that wall did help.
- In Duxbury the places which were more heavily armored stood up better. In the less armored areas the armoring stone did shift more seaward. She did note that this was a very fast moving storm unlike the major one of last March.
- At the access points, steel plates braced with armoring stone are in place and those held up.

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION

Resignations:

Mr. Madigan announced the following resignations:

Mr. Matthew Ali resigned from the Duxbury Beach Committee, which is a moderator-appointed committee. His term is until 06-30-21. This is a moderator-appointed committee.

Ms. Kathy Cross resigned from the Sidewalk and Bike Path. She has been on the Committee for a number of years and was the Chair. Her term was until 06-30-20, and an appointee for the seat has been recommended.

Shellfish Advisory Committee -Appointment

Mr. Madigan moved to appoint Mr. Craig Bloodgood to the Shellfish Advisory Committee for a term to expire on 06-30-21. Second by Mr. Dahlen. VOTE: 3:0:0.

Sidewalk and Bike Path Committee - Appointment

Mr. Madigan moved to appoint Mr. David J. Kelly to the Sidewalk and Bike Path Committee to fill an unexpired term due to expire on 06-30-20. Second by Mr. Dahlen. VOTE: 3:0:0.

VI ONE-DAY LIQUOR LICENSE REQUESTS -none

VII EVENT PERMITS

11/25/18 Holly Days

Mr. Madigan moved that the Board of Selectmen grant to Ms. Anne Antonellis, as Holly Days Chairman for the Duxbury Business Association, an Event Permit for the Holly Days Celebration, to be held on Sunday, November 25, 2018 from Noon to 4:00 PM, subject to the conditions on the permit. Second by Mr. Dahlen. VOTE: 3:0:0.

VII MINUTES

Executive Session Minutes: None

Open Session Minutes: 10-15-18 Selectmen's Minutes- Draft

10-25-18 Selectmen's Minutes –Draft

Mr. Madigan moved that the Board of Selectmen approve the 10-15-18 and the 10-25-18 Selectmen's Minutes, as presented. Second by Mr. Dahlen. VOTE: 3:0:0.

03-06-17 Selectmen's Minutes –Draft

05-22-17 Selectmen's Minutes –Draft

Mr. Madigan moved that the Board of Selectmen approve the 03-06-17 and the 05-22-17 Selectmen's Minutes, as presented. Second by Mr. Dahlen. VOTE: 3:0:0.

05-15-17 Selectmen's Minutes -Draft

Mr. Madigan moved that the Board of Selectmen approve the 05-15-17 Selectmen's Minutes, as presented. Second by Mr. Dahlen. VOTE: 2:0:1. (*Mr. Madigan abstained as he was not present at that meeting.*)

IX ANNOUNCEMENTS

Mr. Madigan made the following announcements:

1. State Election:

The State Election will be held on Tuesday, November 6, 2018. The Duxbury polls are at the Lt. Timothy J. Steele Athletic Building, 130 Saint George Street, Duxbury, and the polls will be open from 7:00 A.M. to 8:00 P.M.

2. Transfer Station Veterans' Day Closure

In observance of Veterans' Day, the Transfer Station will be closed on Sunday, November 11, 2018 and will reopen for business on Wednesday, November 14, 2018 at 8:00 a.m.

3. Town Hall Veterans' Day Closure

The Town Hall will be closed on Monday, November 12th in observance of Veterans' Day.

4. Next Selectmen's Meeting is on: Monday, November 19, 2018.

X ADJOURNMENT

At approximately 7:45 pm, Mr. Madigan moved that the Board adjourn. Second by Mr. Dahlen.
VOTE: 3:0:0.

Minutes prepared by: C. Anne Murray

LIST OF DOCUMENTS FOR 11-05-18 SELECTMEN'S MEETING (DOCUMENTS LOCATED IN THE SELECTMEN'S OFFICE FILES.)

1. *Agenda for 11-05-18 Selectmen's Meeting*
2. *OPEN FORUM: no documents*
3. *NEW BUSINESS:*
 - a. *7:01 p.m. Public Hearing: 2019 Aquaculture Float Applications:*
 - b. *7:02 p.m. Hearing / Event Permit regarding usage of the Millennium Green for Tree Lighting on 11/25/18:*
 - c. *New utility pole on Marshall Street.*
 - d. *Water and Sewer Commissioners for the following: Amended Water and Sewer Commitment (#1-FY2019) and Water and Sewer Commitment (#2 –FY2019)*
4. *TOWN MANAGER REPORT: GFOA notification of CAFR award and handout regarding Seawall Funding Conference Call of 11-01-18.*
5. *ODLL - none*
6. *EVENT PERMITS: For each of the following events 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.*
 11-25-18 Holly Days
7. *SUGGESTED ANNOUNCEMENTS for 11-05-18.*
8. *MINUTES: OPEN SESSION MINUTES: Suggested Motion and Drafts of 10-15-18 and 10-25-18 Selectmen's Minutes –Draft and 03-06-17 Selectmen's Minutes –Draft; 05-15-17 Selectmen's Minutes –Draft; and 05-22-17 Selectmen's Minutes -Draft*