

Date: December 2, 2019

Date Minutes Approved: December 16, 2019

TOWN CLERK
DEC 17 PM 3:14
OPEN SESSION MINUTES
DUXBURY, MASS.

BOARD OF SELECTMEN

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

Absent: Shawn Dahlen, Clerk

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

Others: This is a joint meeting held in the Ellison Room at the Senior Center with members of the Finance Committee, Fiscal Advisory Committee, CPC and Conservation Commission.

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**

Discussion regarding Chapter 61A property – 0 East Street

Mr. Read began the discussion by reading his memo into the record as follows:

“Dear Members,

As you will see in the information prepared for this evening’s meeting, the Conservation Commission, Community Preservation Committee and Planning Board have recommended that the Board of Selectmen exercise their Right of First Refusal for the Loring Bogs parcel located at 0 East Street (please see the attached memos stating this in addition to plan depicting the property).

Further, the CPC and Conservation Commission have requested that the Selectmen call a Special Town Meeting (which would be necessary to meet the statutory time requirements should the Board wish to exercise the right of first of refusal within the requisite 120 day timeframe) and the CPC has offered to provide the necessary funding for the purchase.

Timing here is a critical issue and there are several questions that play into this discussion and decision (this is not an all-inclusive list):

*Based on the Purchase and Sales Agreement, the purchase price is \$739,900.
A 2017 appraisal estimated the market value of the property was \$326,000.
Does the Town want to purchase this property?*

If so, what is the funding mechanism?

Is the Town willing to hold a Special Town Meeting to do so?

What are the permitted uses for this property (either by right or Special Permit)?

If the Town doesn't purchase the property, what could become of it?

For these reasons (and others that may arise from this evening's conversation), this item is on the Board's agenda along with an agenda item to allow the Board to open a warrant for a Special Town Meeting (should that be the Board's desire) which would occur on Thursday, January 9, 2020. If it is decided not to hold a Special Town Meeting, we'll simply drop the item from the agenda.

Since, if a Special Town Meeting were to be called and a warrant containing (at least one) article would be included in it, and there are several other bodies that would ultimately need to weigh in on this, we have posted for the Finance Committee and Fiscal Advisory Committee in order to provide for the opportunity for everyone to weigh in on this on the same evening."

Mr. Read then turned over the discussion to Joe Grady, Conservation Agent.

Mr. Grady began by reading his memo into the record as follows:

"In October the Town received notification of intent to sell a parcel of land presently classified under Mass. General Laws Chapter 61A as agricultural. Under Chapter 61A the Town has the Right of First Refusal. The Town has the option to match the terms of the purchase and sale agreement within 120 days and purchase the property.

The Conservation Commission and the Community Preservation Committee are asking the Selectmen to schedule a Special Town Meeting in order to meet the time requirements and allow the town to pursue the purchase of this land. Town Counsel has reviewed the notice and advised us that moving forward with a Special Town Meeting before February 18th 2020 is our only option if we wish to purchase this land.

For many years this land has been identified as a priority to purchase for open space purposes. The 38-acre site sits directly across the street from the Town owned Duxbury Bogs, a very popular walking area, and it has very similar terrain, open cranberry bogs surrounded by woodland. To the rear the land directly abuts a large wetland called Meeting House Swamp owned by the Conservation Commission in the Tree of Knowledge section of Duxbury. These Loring bogs link existing holding along the Central Greenbelt. This Green Belt plan was laid out in 1969 and still guides our open space acquisition strategy today. Water flows through the parcel which is the headwaters to the South River. The entire property is in the Aquifer Protection Zoning District which recharges our drinking water supply. Presently the land is cultivated as a series of 16-acre cranberry bogs which includes 7 acres of high yield Stevens vines.

Protection of this land as open space aligns with several goals in the recently approved 2017 Open Space and Recreation Plan Goal 1, Protection of the Town's Drinking Water Supply, Goal 2, Preservation of Duxbury's Unique Character, and Goal 3 Protection and Enhancement of Natural Resources and Ecosystems.

The open cranberry bog is part of Duxbury's unique character and protecting the South River and creating linkage to existing conservation holding is protecting and enhancing Duxbury's Natural Resources and Ecosystems.

We hope you will allow us to move forward with protection of this land."

Mr. Madigan asked if we would have someone farm the bogs. Mr. Grady responded that while the cranberry market is not good, it is possible to extend agreements with the current growers. Mr. Grady also mentioned that the seller (current owner) would like to retain the water rights of the reservoir.

Ms. Holly Morris, Chair of the Conservation Preservation Committee and member of the Conservation Commission, stated that Mr. Loring (current owner) has previously approached the Town on various occasions, but we didn't have sufficient funds at that time. She continued to say that now we have a purchase & sale agreement, which gives the Town the right of first refusal, but that we have a deadline requiring vote at a town meeting, we have a limited amount of money in the CPA account, and we may need to borrow. She further stated that in addition, the Temple Street property is still there, but if we don't respond to these challenges (40B), then our ability to protect Duxbury would be eroded. Ms. Morris remarked that in 2014, the CPA surcharge was reduced to 1%, and that there is a current Citizens' Petition to increase it back to 3%, which would help to control development and also to hire a consultant to address our growing needs. She then encouraged the Selectmen on behalf of the CPA to exercise their right of first refusal.

Mr. Madigan asked why we would have to borrow. Ms. Morris answered that the rates are low, they have borrowed before, and that there are other items in the wings.

Mr. Jim Lampert, Fiscal Advisory Committee, mentioned that it appears that the P&S is written to protect the Loring's ability to grow cranberries and then asked if it was the Town's goal to have this land used like the East Street Bogs. Mr. Grady replied that that he cannot guaranty that the Town can bring in a farmer due to the cranberry industry being in a tough position, but essentially the use would be the same.

There were continued discussions regarding the seller's request to retain water rights and also a utility easement, and whether or not someone could build on the bogs or just the upland areas. Further discussion ensued regarding the timeline for making a decision, and if it was decided to purchase this property, a special town meeting vote was needed before the 120-day notice deadline. Ms. Betsy Sullivan, Finance Committee Chair, stated that she didn't think there was enough information to make a decision at this meeting especially in relation to the items the owner wants to keep.

The general consensus was that this was not a clean deal, and there were concerns regarding the seller maintaining water rights and a utility easement that need to be looked into further. Mr. Madigan suggested that this discussion be revisited at the Selectmen's meeting scheduled for January 6, 2020 in order to get questions answered.

Discussion pertaining to Special Town Meeting (January 2020)

No discussion as possible Special Town Meeting was changed to February 10, 2020. This will be discussed by the Selectmen at their meeting on January 6, 2020.

Vote to Open Warrant for Special Town Meeting and Call for Articles (if necessary)

No vote taken and no call for articles.

Discussion, review and approval of Annual Licenses (Common Victualler, General, Auto)

Mr. Flynn moved that the Board of Selectmen renews the following class II auto, common victualler, and general licenses as presented on the attached list for the year 2020, subject to satisfactory inspection by the Municipal Services Department, receipt of all renewal requirements and payment of all funds/fees owed to the Town of Duxbury. Seconded by Mr. Madigan Vote: 2:0:0

IV TOWN MANAGER'S REPORT None presented

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS None

VI ONE-DAY LIQUOR LICENSE REQUESTS None

VII EVENT PERMITS None

VIII MINUTES

Mr. Flynn moved to approve the 11/18/19 Selectmen's Executive Session Minutes, as presented, with the contents to remain confidential until the need has passed. Seconded by Mr. Madigan Vote: 2:0:0

Mr. Flynn moved that the Board of Selectmen approves the 11/18/19 and 11/25/19 Selectmen's Open Session Minutes, as presented. Seconded by Mr. Madigan Vote: 2:0:0

IX ANNOUNCEMENTS

Next Scheduled Selectmen's Meeting will be on **Monday, December 16, 2019.**

X ADJOURNMENT

At approximately 8:30 pm, Mr. Flynn moved that the Board adjourn. Seconded by Mr. Madigan
Vote: 2:0:0

Minutes submitted by Nancy O'Connor

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

- 1) *Agenda*
- 2) *Documentation regarding 0 East Street including Joe Grady's presentation*
- 3) *Motion to Vote to Open Warrant/Call for Articles*
- 4) *Documentation regarding Annual License Renewals*
- 5) *Minutes*
- 6) *Announcements*