

Date: December 17, 2018

Date Minutes Approved: January 7, 2019

TOWN CLERK

BOARD OF SELECTMEN

2019 JAN -9 AM 11:23 OPEN SESSION MINUTES

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

Absent: None

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

Other: Jeff Blake, Esq., KP Law

CONVENED IN OPEN SESSION –

I. CALL TO ORDER The meeting was called to order at approximately 6:30 p.m.

II. 6:30 PM – EXECUTIVE SESSION

VOTE TO ENTER EXECUTIVE SESSION

Mr. Madigan moved that we go into Executive Session to discuss strategy with respect to potential litigation since an open meeting may have a detrimental effect on the Town's litigating position, if the Chair so declares, regarding the following:

Duxbury Seawall

in accordance with Mass. General Laws Chapter 30A, Section 21, and that the Board reconvene in Open Session on or about 7:00 PM.

As Chair, Mr. Flynn declared that the necessity for an Executive Session is to discuss strategy with respect to litigation, as to do so in an Open Session may have a detrimental effect on the Town's litigating position.

Mr. Dahlen seconded the motion.

ROLL CALL VOTE: Mr. Flynn-Aye; Mr. Dahlen-Aye; and Mr. Madigan-Aye

ADJOURNED EXECUTIVE SESSION & RE-CONVENED IN OPEN SESSION

At approximately 7:00 p.m., after completing the business of the Executive Session, Mr. Madigan moved that the Board adjourn the Executive Session and immediately re-convene in Open Session at approximately 7:00pm. Mr. Dahlen seconded the motion.

ROLL CALL VOTE: Mr. Flynn-Aye; Mr. Dahlen-Aye; and Mr. Madigan-Aye

III. OPEN FORUM Nothing brought forward.

IV. NEW BUSINESS

Discussion pertaining to Seawall

Mr. Read stated that Town Counsel (Attorney Jeff Blake) will provide a brief statement.

Attorney Blake informed the audience that they are currently in the process of reviewing ownership. He continued to say that he has reviewed the Special Act, and we do not have a definitive ownership. The Commonwealth paid 50%, the Town 25% and the County 25% to construct the wall. He further stated that there has been resistance from the Commonwealth about ownership and that there may be a warrant article for funding in the spring Town Meeting.

Resident Mr. Larry Dullea of Pine Point Road asked Attorney Blake if he was pursuing the 1939 letter finding that the State did own and maintain.

Attorney Blake responded that we are looking at all information, and unfortunately there are many opinions and the Special Act is not definitive regarding ownership and beyond ownership of the wall who is to maintain the wall and who pays and at what percentages. It is not too clear. He further mentioned that the two documents that are opinions with no legal analysis, with current opinion saying that State does not own.

An unidentified resident asked about the time frame.

Mr. Madigan replied between now and Town Meeting.

Resident Tom Kelley of Ocean Road North asked what the time frame is on the answers.

Mr. Madigan again responded that we are getting answers, but are conflicting and should get answers before Town Meeting.

Mr. Tony Fisher of Pine Street stated that the Town always paid maintenance on the wall and that the State never paid maintenance – why is that different now. There was a part of the wall that fell down and the Town put back up.

Mr. Read answered that the scope of the project now is a multi-million dollar project for which reimbursements can be sought, but we have to put money up front.

Mr. Fisher then remarked that over the last 15 years the Town paid for engineers and no one tried to figure out ownership then, but only now.

Mr. Flynn replied that we received a \$1m grant and a \$2m loan; however, the State won't give money to itself and the county hasn't put in a dime. It's like a Catch-22, and we are trying to work around that.

Resident Libby Carr of Hummock Lane asked how Marshfield is paying for their wall.

Mr. Flynn answered that they own the wall.

Resident Ms. Gail Kelley of Ocean Road North inquired if the Town will keep bringing in rocks as the current rocks moved, and they have already spent thousands of dollars themselves.

Mr. Read replied not at the moment (regarding more rocks). He continued to say that the Town spent \$65,000 at the fall Special Town Meeting. If the rocks need repositioning, the DPW will reposition them. The article would be to spend money to fix the wall including revetment stone.

Ms. Kelley responded – so you will protect our property.

Mr. Read answered that that is for the voters to decide.

Ms. Kelley replied – and if not (if the voters vote down).

Mr. Read said we would then have to find other avenues – borrowing/betterments.

Mr. Larry Dullea approached the podium and mentioned that the sand dropped two feet yesterday and suggested that the Governor evoke an executive privilege given the emergency nature and ask that be pursued.

7:00pm Hearing re: Liquor License Compliance Violation – Cellar d’Or

Police Chief Matthew Clancy reported to the Selectmen that in November they performed compliance re-checks to those establishments who violated a liquor compliance check last May. This establishment was the only one that sold to a minor in November (second violation). Chief Clancy stated that he issued his recommendations to the Selectmen, which under the regulations is a five day minimum suspension, but further suggested days waived provided that the owner install an electronic ID system and get TIPS re-certification for the violating employee (note: this employee has been let go). Mr. Flynn asked if the owner has agreed to the implementation of the electronic ID system, and Chief Clancy replied yes.

Mr. Madigan moved that the Board of Selectmen recommend the following liquor license compliance violation sanctions to Cellar d’Or (Lic #00028-PK-0300):

1. Submit within 45 days a new TIPS training certificate for the violating employee;
2. Submit proof within 45 days of the acquisition and implementation of an electronic identification verification system as approved by the Police Department; and
3. Serve the recommended five (5) days suspension to be completed by March 1, 2019; however, with four (4) days waived provided that the above requirements are satisfactorily completed and verified by the Police Department and Inspectional Services.

Seconded by Mr. Dahlen Vote: 3:0:0

7:01 p.m. Fee Hearing – discussion and review of the following proposed fees:

Harbormaster, Municipal Services, DPW, Finance (Beach Stickers), and Cemetery.

Mr. Madigan moved that the Board of Selectmen open the public hearing regarding Fee Hearing.

Seconded by: Mr. Dahlen Vote: 3:0:0

Harbormaster

Harbormaster Jake Emerson provided a brief description of the six fee changes related to guest moorings, tenders, new waterways special use permit and new tuna buyer charges. Mr. Adams remarked that the Fiscal Advisory Committee voted in favor of these changes.

Mr. Madigan moved that the Board of Selectmen approve the Harbormaster Department Fees as presented, with the new fees to be effective January 1, 2019. Seconded by: Mr. Dahlen Vote: 3:0:0

Later in the meeting Resident Scott Doyle of Abrams Hill and also an oyster farmer remarked that they keep getting hit with fees, that they are small farmers, and would like the Selectmen to take another look at the fees. Mr. Gregg Morris also asked how things are being monitored and where is the money going.

Mr. Emerson responded that we have an aging facility so he looked at fees that we are not getting to raise money for improvements, and that staff would be responsible for monitoring.

Municipal Services

Scott Lambiase, Municipal Services Director, provided a brief overview and informed the Selectmen that he is proposing a 5% increase across the board and that this increase would provide an additional \$27,000 in revenue. Mr. Adams stated that the Fiscal Advisory Committee did not vote in the affirmative on any of these fees as they were waiting on further information. Mr. Flynn asked that Mr. Lambiase reach out to the Fiscal Advisory Committee to go over details.

Mr. Madigan moved that the Board of Selectmen approve the Municipal Services Department Fees as presented, with the new fees to be effective January 1, 2019. Seconded by: Mr. Dahlen Vote: 3:0:0

DPW

Mr. Buttkus, DPW Director, addressed the Selectmen stating that recycling costs have been going up and it's hard to get rid of recyclables. He continued to say that he is proposing a \$20 increase to \$55 (Fiscal Advisory recommended \$55 instead of the initially proposed \$50 in order to breakeven), which is the first time this has been increased since the "Pay as you throw" program started.

Mr. Madigan moved that the Board of Selectmen approve the DPW Department Fees to \$55 per sticker, with the new fees to be effective January 1, 2019. Seconded by: Mr. Dahlen Vote: 3:0:0

Finance – Beach Sticker

Resident Ms. Mary McLean of Uriah's Drive stated that she has enjoyed the beach for years, but now at 90 years old, she has given up driving. She is suggesting (as they do with the Transfer Station) a temporary permit/sticker for her person – since she doesn't have a vehicle - to allow her to still enjoy the beach when her children or others have the opportunity to take her. Both Mr. Adams and Mr. Flynn stated that they would figure this out and will make this happen.

Mr. Adams addressed the Selectmen stating that the proposed beach sticker fee increase is because the Duxbury Beach Reservation is increasing the cost of their lease by \$50,000 to \$800,000 along with increased expenses for trash pickup. This increase would provide approximately \$107,000 in additional revenue.

Mr. Madigan moved that the Board of Selectmen approve the Beach Sticker Fees as presented, with the new fees to be effective January 1, 2019.

Seconded by: Mr. Flynn Vote: 2:0:1 (Mr. Dahlen abstained)

Cemetery

Mr. Bob Hayes (Cemetery Trustees Chair) and Mr. Chip Locketti, Cemetery Director, presented the fee changes to the Selectmen.

Mr. Madigan moved that the Board of Selectmen approve the Cemetery Department Fees as presented, with the new fees to be effective January 1, 2019.

Seconded by: Mr. Dahlen Vote: 3:0:0

Note: Documentation detailing the proposed fee changes are kept in the Selectmen's files.

Mr. Madigan moved that the Board of Selectmen close the public hearing.

Seconded by: Mr. Dahlen Vote: 3:0:0

Presentation by Cris Luttazi from Duxbury Beach Reservation re: beach nourishment

Ms. Cris Luttazi, Executive Director of the Duxbury Beach Reservation, provided information regarding their beach nourishment project restoring the dune between crossovers one and two, which started today. Ms. Luttazi continued to say that this was a recommendation of the Woods Hole Group, as they are taking steps towards the long term health of the beach. The estimated completion date is by March 15, 2019. For more information and updates, visit the Duxbury Beach Reservation's website at www.duxburybeach.com and click on News for Dune Work Update.

Discussion and review pertaining to Regulatory Agreement (RA) for 892 Franklin Street

Mr. Madigan moved that the Board of Selectmen approves the Local Initiative Program Regulation Agreement and Declaration of Restrictive Covenants for Ownership Project for property located at 892 Franklin Street, and authorize the Board of Selectmen Chair to execute, as presented.

Seconded by Mr. Dahlen Vote: 3:0:0

Discussion pertaining to Hazard Mitigation Plan adoption – Valerie Massard, Planner

In order to adopt the Hazard Mitigation Plan in a timely fashion, prior to January 4, and in time to be eligible for federal grant funding for support of emergency generators and for future sea wall repair funding, staff is requesting that the plan be adopted – conditional on staff review and conditional on staff making any and all required changes as requested by FEMA or MEMA in the final approval process, which is anticipated to be completed during December of 2018. The state agency, Massachusetts Emergency Management Agency (MEMA) forwarded the plan to FEMA (the Federal Emergency Management Agency), during the month of November with no requested changes. With this vote, we request that the official certificate be signed so that it can be included in the final approved and adopted plan, which will be recorded with the Town Clerk and posted on the Town's website.

Mr. Madigan moved that there is a Certificate of Adoption from the Board of Selectmen, Town of Duxbury, MA, a Resolution adopting the Town of Duxbury Hazard Mitigation Plan 2018

WHEREAS, the *Town of Duxbury Hazard Mitigation Plan 2018* contains several potential future projects to mitigate potential impacts from natural hazards in the Town of Duxbury;

WHEREAS, duly-noticed public meetings were held by Planning Board on March 22, 2017 and by the Board of Selectmen on November 19, 2018;

WHEREAS, the Town of Duxbury authorizes responsible departments and/or agencies to execute their responsibilities demonstrated in the plan, and

NOW, THEREFORE BE IT RESOLVED that the Town of Duxbury Board of Selectmen adopts the *Town of Duxbury Hazard Mitigation Plan 2018*, in accordance with M.G.L. 40 §4 or the charter and bylaws of the Town of Duxbury. Adopted and signed this date: December 17, 2018

Seconded by Mr. Dahlen Vote: 3:0:0

FY20 Budget Presentation by the Town Manager to the Board of Selectmen

Mr. Read presented the following:

Good evening. Tonight I present to you my FY 2020 budget. The budget that I bring forward tonight is balanced. Every year developing, and more importantly balancing, the budget is no easy task. Each year presents its own set of challenges and this one was no different.

The initial guidelines expressed in the annual budget letter to all departments asked for departmental budgets with salary increases limited to contractual agreements and expenses held to no more than a 2% increase. We understand that this is not always possible in certain situations; and departments want to make clear what they feel they need to provide the expected level of service to the Duxbury taxpayers. This year was no exception.

There are no new positions being recommended in this budget with the exception of one new part-time custodian being funded in the Police Department and a part-time administrative assistant in the Fire Department being increased to full-time. We did not fund the requests of 1 new firefighter, 3 new police officers, a Town Clerk administrative support staff position and host of general expense increases.

Additionally, we eliminated an engineering fee line in Municipal services Department; working with the Library Director, we have begun a process to recalibrate the staffing at the library over a multi-year period; we were able to make a small reduction in our legal expenses line; achieved some savings in the Finance Department due to turnover which will help to fund the outsourcing of payroll operations and made refinements to the Harbormaster coverage in hours and staffing hours.

The decommissioning of the Pilgrim Nuclear Power plant has resulted in a decrease of over \$85,000 in reimbursements that has gone to fund Fire Salaries in Administration and other expenses that we have come to rely upon for emergency management. The Duxbury Beach Reservation has also pulled back on the types of expenses that they will reimburse us for while at the same time still increasing their beach lease by \$50,000. Even with the combined efforts of the Fire Chief and Police Chief, these factors have made funding the Fire and Harbormaster budgets a serious challenge this year.

Taxation

Taxation revenue provides almost 78% of the revenue required to balance the budget.

New Growth peaked to \$923,678 in FY 2017. Since then new growth has decreased over 37% to \$580,235 in FY 2019.

Under the constraints of Proposition 2 ½ which was passed by the voters in 1980, and caps revenue growth at 2.5% of the previous year's tax levy, the amount added to the 2019 and 2020 tax levy will amount to \$1,332,350 and \$1,380,165; respectively. In addition to this amount we received \$580,235 in new growth for FY 2019 and have estimated \$400,000 for FY 2020. The amount of New Growth was estimated at \$450,000 in FY 2019 producing excess levy capacity of \$130,235. This new growth

is additional revenue derived from new construction or improvements to existing property. New Growth is estimated from analyzing fluctuations in Building Permits but is not known to the municipality until long after the budget is set. The period of new home construction for the town of Duxbury is finite as the Town is relatively built out. It is expected that the value of New Growth will settle back down to more historic levels of \$400,000.

State Aid

State Aid makes up 8% of the revenue required to balance the budget.

State funding to the Town of Duxbury continues to remain fairly flat. Overall, the final state aid numbers for FY 2019 provided an increase in State Aid of \$201,419 or 3.25%. Looks can be deceiving, however, when you look at the other side of the ledger. State Aid assessments increased \$93,703 or 18.47% from the prior year. The volatility of Charter School Tuition enrollments account for much of the change on both sides of the ledger.

Over the past five years, State Aid has increased at an average of 2.27% per year. Over that same five-year period, costs assessed to the Town by the State have increased, on average, 8.12% contributing to a five-year average in Net State Aid of only 1.82%.

For purposes of budgeting, we are utilizing the 5-year average on both sides of the ledger for fiscal year 2020.

Local Receipts

Local Receipts account for 11% of the revenue required to balance the budget.

Estimating local receipts has become a much discussed topic over the last year or two. In accordance with The Town of Duxbury financial management policies the town has continued to estimate conservatively to help generate Free Cash at year end in an effort to provide money for capital expenditures as well as to avoid any potential revenues deficits.

For the purpose of budgeting, the Town is basing its local receipts estimate on 88% of the 2018 actual plus estimated increase in fees effective January 1, 2019. This will account for an additional \$659,972 or a 7.83% increase in local receipts over FY 2019.

While 2018 finished strong with an increase in local receipts of 8.5% over FY 2017 the 10-year average in local receipts is still only 2.55%. As motor vehicle excise taxes make up a third of all local receipts, it is imperative to be cognizant of the trend in motor vehicle sales as we head into the 2019 calendar year.

Expenditures

The FY 2020 Budget being presented tonight amounts to \$78,872,085. Additionally, I am presenting a Water Enterprise Fund budget of \$2,586,789. All totaled the appropriations equal \$81,458,977. This is a balance level services budget. The budget includes the level services budget of 3.48% requested by the School Committee and a 2.98% to the rest of the General Fund.

Summary

In summary, the budget being provided tonight is as close to a level services budget as we can get funded with ongoing, renewable revenues. It is based on my recommendations after working closely

with the Finance Director and many department heads. We are confident in our revenue and expenditure projections. This budget, which will be brought before Town Meeting, is balanced.

This budget will utilize other recurring revenue sources other than taxation. Some of the sources that have been used in the past and will most likely continued to be used are Bond Proceeds, Receipts Reserved for Appropriation, Pension Reserve, and Water Enterprise funds, to name a few. We have carefully managed these funds with the intention that they will be available for many years to come.

This budget, while lean, will continue to bring the high quality of services to the residents of Duxbury. Our department heads continue to develop new and creative ideas to maintain services but that is becoming more challenging each year, particularly in the public safety departments.

Each year we make contributions to several Reserves & Trust funds. This year at the Special Town Meeting we intend to fund several of these with over \$600,000 of Free Cash. These include;

- School Special Education Reserve Account
- Pension Reserve Fund
- Stabilization Fund
- OPEB Trust Fund
- Unemployment Fund
- Accrued Liabilities & Compensated Absences Fund

In addition to these contributions, we are committed to reimbursing the \$605,000 that was withdrawn from the Town's stabilization fund at the September 2018 special town meeting.

Capital Improvement Program

This year's Capital requests total \$4,128,667. The General Fund and Water Fund requests are \$2,415,667 and \$1,713,000; respectfully.

Included in the capital requests of the General Fund are \$512,998 of chrome books to fund the 1 to 1 student to technology program. Funding this from Free Cash would certainly result in a hardship for the rest of our capital plan. That is why we are proposing to borrow for this using the flexibility of State House Notes. This will give us the ability to push out the first payment to FY 2021 and at the same time give us the time to work this into our Capital Plan moving forward.

While the Fiscal Advisory Committee is still reviewing submitted projects with their sponsors, I too am going through the same process with the Finance Director. While we recognize the value of all these requests, it is unfeasible to fund them all. It is, however my expectation that we will be able to fund a great many of the requests.

Funding for these requests will come from a number of sources. Free Cash has been the locomotive that drives the train. However, over the years other funds have been utilized to support the program. These sources of funds include, but are not limited to; Tax Levy, Overlay Surplus, Waterways Improvement Funds, Borrowing, and Ambulance Receipts Reserved For Appropriation funds. These funding sources are subject to change as the process moves forward.

Water Enterprise Fund

The operating budget for FY 2020 of \$1,994,256 is approximately 2.1% higher than FY 2019.

The Debt Service budget of \$592,636 is a decrease of 21.7% from FY 2019. The June 4, 2014, debt issue for the Pine Street Water Mains has fallen off the debt rolls.

The discussion of the replacement of PCE pipes is part of an ongoing conversation about a phased approach that would be most likely addressed via an article at Town Meeting requesting borrowing authorization/and or retained earnings.

The Water Department has two capital requests this year above and beyond the usual water mains replacement and PCE pipe replacement ongoing projects. The largest of these projects is the installation of generators at all 8 locations for \$1,217,700 and a Water Department master plan for \$195,300. Funding for these projects will come from Retained Earnings within the Water Enterprise Fund and borrowing.

The Water Enterprise Operating Budget, Debt Service Budget, and Capital Plan can all be funded within the current water rate structure.

Setting the stage for FY2021

Our ability to provide services to the levels citizens expect is an ever-growing challenge. As I mentioned, our public safety departments (Fire, Police and DPW) have been stretched for some time and their ability to deliver their services is a challenge. Also, we are in the beginning stages of negotiating collective bargaining agreements which will need to be funded next year. Dr. Antonucci has carefully explained that the School Department is also faced with a number of challenges for the upcoming year and together, for the next budget year, we believe that we will be able to meet our needs at this most basic level. As I have mentioned in the past, the prospect of an override for the FY21 budget is a very real probability and one that deserves a thoughtful and lengthy discussion. This discussion is already beginning and will certainly be at the forefront of budget development over the next year. In the meantime, I am comfortable with the Town's position at present for FY20 and we will continue to work closely with all of our departments, Boards, Committees and the public as the conversations about funding future years continues.

V TOWN MANAGER'S REPORT

(Presented as the FY20 Budget Presentation)

VI COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS None

VII ONE-DAY LIQUOR LICENSE REQUESTS None

VIII EVENT PERMITS None

IX MINUTES

Mr. Madigan moved that the Board of Selectmen approve the 12/10/18 Open Session Selectmen's Minutes, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

X ANNOUNCEMENTS

1. Holiday Closure Schedule:

The Town Hall will be closing at 1 pm on Monday, December 24 and will be closed all day on December 25. It will also be closing at 4 pm on Monday, December 31 and will be closed all day on Tuesday, January 1.

Check the Town News section and/or the Town calendars on the Town website for other holiday closures of the Senior Center, Duxbury Free Library, Percy Walker Pool and the Transfer Station.

- 2. Next Selectmen's Meeting is on: Monday, January 7, 2019.**
(The Selectmen do not plan to meet on Dec. 24th (Christmas Eve) or on Dec. 31st (New Year's Eve).

The Selectmen wish all the residents of Duxbury and the Town staff a very happy and safe holiday season.

XI BONUS SHELLFISH SEASON (for December 2018)

Mr. Madigan moved that the Board of Selectmen declares a temporary Bonus Shellfish Season for:

- 1) the commercial harvesting of softshell clams for the month of December, 2018 in accordance with posted Attachments B & C.
- 2) the commercial harvesting of quahog clams for the month of December, 2018 in accordance with posted Attachments A & C.
- 3) the recreational harvesting of softshell clams for the month of December, 2018 in accordance with posted Attachment D.

Seconded by Mr. Dahlen Vote: 3:0:0

XII ADJOURNMENT

At approximately 8:45pm, Mr. Madigan moved that the Board adjourn.

Seconded by Mr. Dahlen. Vote: 3:0:0

Minutes submitted by Nancy O'Connor

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

- 1) *Agenda*
- 2) *Executive Session motion*
- 3) *Documentation regarding Liquor License Violation*
- 4) *Documentation regarding Fee Hearing*
- 5) *Presentation by Cris Luttazi from DBR*
- 6) *Regulatory Agreement for 892 Franklin Street*
- 7) *FY20 Budget Presentation documentation*
- 8) *Town Manager's report*
- 9) *Draft Minutes*
- 10) *Bonus Shellfish documentation*
- 11) *Announcements*