

Date: July 15, 2019

Date Minutes Approved: August 26, 2019

TOWN CLERK

2019 AUG 28 AM 8:23

DUXBURY, MASS.

BOARD OF SELECTMEN

Present: Mr. Madigan, Chair; Mr. Flynn, Vice Chair; and Mr. Dahlen, Clerk

Absent: None

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

Others: Jeannie Horne, HR Director; and Fred Dupere, Esq. (Labor Counsel – Executive Session Only)

CONVENED IN OPEN SESSION –

I. **CALL TO ORDER** The meeting was called to order at approximately 6:00 p.m.

II. **6:00 PM – EXECUTIVE SESSION**

VOTE TO ENTER EXECUTIVE SESSION

Mr. Flynn moved that we go into Executive Session to discuss strategy with respect to collective bargaining since an open meeting may have a detrimental effect on the Town's bargaining position, if the Chair so declares, 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. Madigan declared that the necessity for an Executive Session is to discuss strategy with respect to collective bargaining, as to do so in an Open Session may have a detrimental effect on the Town's bargaining position.

Mr. Flynn seconded the motion.

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

ADJOURNED EXECUTIVE SESSION & RE-CONVENED IN OPEN SESSION

At approximately 6:55 p.m., after completing the business of the Executive Session, Mr. Dahlen moved that the Board adjourn the Executive Session and immediately re-convene in Open Session at approximately 7:00pm. Mr. Flynn seconded the motion.

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

III. **OPEN FORUM** Nothing brought forward.

IV. NEW BUSINESS

Swearing in of two new Firefighters and Recognition of Years of Service

Fire Chief Kevin Nord announced that two new firefighters were to be sworn in. Town Clerk Susan Kelley swore in new Firefighters Steve Maccini and Kevin Heath. Town Manager René Read presented their new badges. Mr. Maccini's badge was pinned by his father. Mr. Heath's father also pinned his badge. Chief Nord continued to honor and recognize four more firefighters for their years of service. Firefighter/EMT William "Buzz" Wadsworth was honored for his 20 years of services and his participation in the honor guard. Chief Nord then recognized and honored Captain Brian Monahan for his 20 years of service. Captain Monahan is an EMT, a shift commander and part of the SCUBA dive team. Next Chief Nord honored Captain Rob Reardon for his 20 years of service and for graduating from the Executive Fire Officer Program, which is a four year program based in Maryland. Lastly, Chief Nord recognized and honored Captain John Guilderson, who officially retired on July 14, 2019, for his 40 ½ years of service. Congratulations and applause was given to all.

7:01pm Public Hearing re: Review of Personnel Policy Changes presented by Jeannie Horne

Open Public Hearing:

Mr. Dahlen moved that the Board of Selectmen open the public hearing regarding Review of Personnel Policy Changes. Seconded by Mr. Flynn Vote: 3:0:0

Ms. Jeannie Horne, HR Director, stated that she met with the Finance Committee on July 11, 2019 and reviewed proposed changes to the Personnel Policies. She continued to say that the Finance Committee approved of the proposed change on Page 10. Ms. Horne further mentioned that the Finance Committee suggested that the Selectmen postpone review, to a later date, the proposed change on Page 20, which would impact future, not current, merit. (A copy of the Personnel Policies is in the Selectmen's files or can be found on the HR page of the Town's website.)

(Note: No vote was taken by the Selectman as the vote to adopt changes is scheduled for their next meeting on July 29, 2019.)

Close Public Hearing:

Mr. Dahlen moved that the Board of Selectmen close the public hearing. Seconded by Mr. Flynn Vote: 3:0:0

7:05pm Public Hearing re: Liquor License – Change of Location for Cellar d'Or

Open Public Hearing:

Mr. Dahlen moved that the Board of Selectmen open the public hearing regarding Change of Location for Cellar d'Or Wine & Spirits. Seconded by Mr. Flynn Vote: 3:0:0

Explanation: The Alcoholic Beverages Control Commission ("ABCC") requires approval from the Board of Selectmen as the local licensing authority for a Change of Location. Gupta Enterprises, Inc., d/b/a Cellar d'Or Wine & Spirits is applying for a Change of Location for their All Alcoholic Beverages Retail Package Store License from their current location of 35 Depot Street to a new location at 46 Depot Street (Brothers Marketplace).

Mr. Sverge Gupta and Megan Smith, Esq. were in attendance. Attorney Smith stated that Mr. Gupta will remain the license holder, and he is moving to a larger space and a better business opportunity. She further stated that he will be operating inside the market, but will have separate checkout, separate employees and separate storage/private locker.

Mr. Dahlen moved that the Board of Selectmen, acting as the Local Licensing Authority, approves the Change of Location for Gupta Enterprises, Inc., d/b/a Cellar d'Or Wine & Spirits License #00028-PK-0300 from 35 Depot Street to 46 Depot Street, as presented. Seconded by Mr. Flynn Vote: 3:0:0

Close Public Hearing:

Mr. Dahlen moved that the Board of Selectmen close the public hearing. Seconded by Mr. Flynn Vote: 3:0:0

Discussion pertaining to Duxbury Beach: Parking issues and ORV closure

Parking Issues: Town Manager René Read asked the police department to provide an update. Sergeant Friend Weiler stated that there have been complaints regarding the non-resident red sticker holders parking in the resident lot. He further explained that this is the first year taking over the beach and there has been a transition process from Harbormaster to Police. In order to improve the situation, he stated that there is improved signage, someone circulating the parking lot and 93 tickets have already been given.

Resident Ms. Traci Quintin stated that the last couple of weeks have been great, but two weeks ago there were a lot of red stickers in the residential parking lot, and she asked if they could be towed. Mr. Madigan responded that the beach operations have moved from Harbormaster to Police so there is an enforcement adjustment due to transition. Ms. Quintin suggested that maybe someone could be at the beginning of the bridge and also suggested raising the ticket price. Sergeant Friend Weiler replied that there is no room at the west end of the bridge and confirmed that the tickets are now up to \$50.

Resident Diane McMann stated that she has lived in Duxbury for 36 years, thanked the police department for their tremendous job over the last couple of weeks, but she mentioned that she is still concerned that when the over sand portion opens up and when non-residents reach maximum capacity, that the problem will begin again (with non-residents parking in the resident lot). She asked for better deterrents, stated that there are dogs on the beach and no enforcement or fines given, and also mentioned that trash is overflowing. Sgt. Weiler responded that they do cite people with dogs on the beach.

There were more back and forth discussions about concerns and issues at the beach and also discussions related to suggested remedies of same. The Police Department will continue enforcement and Mr. Madigan stated that he is happy that enforcement has stepped up.

ORV Issues: Mr. Read continued discussions regarding the sticker policy and those seeking refunds because of the over sand closure and why refunds were given in 2013.

Here is Mr. Read's response to why refunds were given in 2013:

"The circumstances in 2013 were different than they are today – in short, in 2013, the primary concern was that purchasers of beach stickers believed they should have received notification of the potential of a beach closure prior to its closing and some purchasers were unclear that the stickers were non-refundable.

More specifically, on May 29, 2013, this office was notified that due the locations of several piping plovers/nests/broods, the decision to close the beach (from on/about June 1st to on/about June 15th) was made by the Harbormaster's Department (who at that time ran the beach operations) and Duxbury Beach Reservation (the owner of the beach). This decision was made under the guidelines of the Beach Management and Habitat Conservation Plan (which has been in place since 1991) and pursuant to Federal and state regulations. On that same date, the Board of Selectmen were notified of the need for the closure and advised that this item would be discussed at their next meeting, June 3rd, 2013. On June 3rd, I made a public announcement at BOS meeting explaining closure and predicting beach would reopen July 15.

As a result of the timing of the notification of the need to close the beach, a full refund was offered to those persons who had purchased a beach sticker on May 29, 2013, through June 3, 2013, since these dates coincided with the dates that the Town knew the beach would be closing and the date on which the public was given notice of said closing.

Since that time, the Town created an advance notification process (via social media, Town websites, radio, handout leaflets, etc.) by providing periodic updates regarding the presence of birds on the beach, potential parking limitations/restrictions, possible closures, suggestions for timing arrival at the beach to help patrons obtain a parking space, and a number of other informational components to make sure stickers purchases have as much information as possible before purchasing a sticker. This advance notification process has been in place for the last six years and was in use at the time of this most recent closure.

Additionally, the Town updated the point-of-sale information on both the hard copy and online applications to make sure that prospective sticker purchasers clearly understood that the stickers are non-refundable and that limitations to beach access (including closures) could occur. Both the sticker and the application itself state that "stickers are non-transferable and non-refundable" and with every sticker purchased, the Town requires that the purchaser sign (either electronically or with a wet signature) a statement which reads, "by purchasing a resident beach sticker(s) and signing this application, I understand and acknowledge responsibility as a permit holder to abide by the Duxbury Beach rules and other applicable laws. I further acknowledge that limitations may be imposed by the Harbormaster or the Town with regard to the number of vehicles allowed on the beach, the maximum capacity for ORVs on the beach is 500 (250 in-resident/250 resident), and that possession of a permit does not guarantee to park. I understand that the privileges associated with the permit(s) will be revoked due to a violation of noted rules and/or laws by me or my designated parties. I understand and agree that stickers are non-transferable and non-refundable." Also, the pamphlet that accompanies a purchased sticker states, "be advised that the ORV portion of Duxbury Beach, at times, may not be accessible during high tides. The ORV Portion can be closed for many other reasons, including protected species activity, rip currents and/or shark sightings." That same document, under General Beach Regulations, further notes that:

1. All beach users must comply with all federal, state, and local laws along with terms and conditions, including policies, re-quests or instructions from the Duxbury Police Department Beach Operations Division personnel, Endangered Species personnel, Police Officers, or other authorized agency or department personnel.

2. When endangered species are present on Duxbury Beach, no person, their animal or vehicle shall disturb or attempt to disturb the endangered species in any way and/or fail to adhere to the direction and instruction of the Duxbury Police Department Beach Operations Division personnel or Endangered Species personnel, Police Officers,

And finally, the Motor Vehicle Beach Regulations portion of the pamphlet states that "further restrictions may be imposed on the number of vehicles permitted on the beach property at one time for public safety, access management, and endangered species management."

Mr. Read stated that this is the Town's position and no refunds will be given.

Ms. Cris Luttazi, Executive Director of the Duxbury Beach Reservation, addressed the bird species and the regulations protecting them. She presented a slide show indicating the species protection status and permits held by DBR for both the piping plover and the least tern as well as the protection zones (piping plover chicks 200m/nestings 50m; least tern chicks 100 yds/nestings 50 yds). Ms. Luttazi explained in detail the setback regulations for each species as well as scenarios that would cause the beach to be closed. For more detail, a copy of Ms. Luttazi's presentation is in the Selectmen's files.

Discussion pertaining to Alternative Energy Committee's mission and upcoming initiatives

Ms. Jessica Williams, member of the Alternative Energy Committee, was in attendance to provide the Selectmen with an update on the committee's initiatives. She began by stating that the committee was instrumental in achieving the Green Communities status and that they are investigating different options to save the Town money by using alternative energy sources. She continued to say that they are currently looking at aggregate power using green options, solar canopies, charging stations, resiliency and Mass Solarize (for grant from state to provide discounts to residents for installing on their roofs). Ms. Williams continued to say that their charge is broad enough to investigate a variety of ideas and to bring forward the good ideas. She also remarked that they feel their current purpose/mission statement already encompasses their ideas, and Mr. Flynn agreed. She further mentioned that they want to connect better with staff by either periodically going to meetings or have staff attend theirs. Mr. Madigan suggested meeting with Valerie Massard (Planning Director) by inviting her to meetings or just meeting with her. Ms. Williams replied that they would contact Ms. Massard.

Discussions regarding public safety recommendations from Highway Safety and Sidewalk & Bike Path Committees

Mr. Paul Brogna of the Highway Safety Committee stated that the committee met last Thursday afternoon and will be meeting again to take a more definitive position. He continued to say that if Town Meeting adopts provisions to 25mph then a definite procedure to follow should be implemented as it should not be an arbitrary process. He suggested that the safety, legal and engineering viewpoints should be reviewed by experts and ultimately to the Selectmen to be adopted formally on a street by street basis. Mr. Read mentioned that he would ask Town counsel regarding a procedure. Mr. Dahlen also stated that DPW will be trimming shrubbery to improve site lines, which Mr. Read confirmed that written notice was provided. Mr. Madigan also included that they need to discuss jumping off Blue Fish River Bridge. Mr. Brogna responded that new flashing signs have been installed and that his committee plans to discuss at a future meeting.

Mr. Tom Nee of the Sidewalk & Bike Path Committee stated that he will be attending the upcoming Planning Board meeting regarding Alden Street sidewalks. He continued to say that the Safe Routes to School funding may help fill in the sidewalk gaps along Washington Street. Mr. Nee further mentioned that there is a 501(c) 3 committee set up to accept donations, which was formed years ago, and is still active. The next topic Mr. Nee discussed was the survey for the one month trial of the one-way around Powder Point and King Caesar. He stated that the Facebook poll was in favor at 83%, but that it was hard to know who those people were. He continued to say that he received responses from 25 out of 40 residents on Powder Point for a total of 18 opposed and 7 in favor and that residents of King Caesar provided only 1 in favor and 12 opposed. Mr. Nee felt that this was a good idea as the mission of the committee is to increase pedestrian walk ways and over time make it easier for people to walk or ride their bikes and asked the Board to strongly consider it. Mr. Dahlen replied that he had received many emails in opposition. Mr. Read also responded that Facebook would be hard to verify and that he had not heard anything positive. Mr. Flynn remarked that, with all due respect to the committee, the idea of making Powder Point a one-way is a non-starter as there would be a concern for public safety access and increased speeding.

Discussion pertaining to stop lights at on and off ramps for Exit 10

Mr. Read provided the following update from Valerie Massard, Planning Director:

MDOT District 5 office was kind enough to offer support to advance this project in the TIP if we were to receive a grant to advance the engineering costs for signalization and improvement of the Exit 10 on/off ramps at Route 3 last year. While the town of Duxbury applied, with a letter of support from Kingston, to the Housing Choice Initiative, the grant was not funded.

Ms. Massard recently met with Tom Calter, Town Administrator in Kingston, about what next steps the two towns could take to advance the engineering, given the need for local engineering to leverage moving this project forward from 25% design stage, and in light of the fact that the town line runs through the interchange. At the staff level, the Towns of Kingston and Duxbury have committed to meet, hopefully with all of the above officials involved, to update the estimated costs, timing and necessary studies, and to cooperatively budget phased engineering to be shared between the two towns, approaching the 2020 Spring Town Meetings with the first phase of funding. Ms. Massard intends to coordinate a meeting of the folks above, and including the planners/highway managers in each town, to hammer out a more detailed phased scope and timeline so that we can hammer out the specifics in the near future.

Mr. Brogna mentioned that over the last 30 years we have had two roundabouts built with 100% state funding and that Exit 10 is on a state highway, which was discussed back in 2009 regarding zoning for Island Creek and has been sitting for ten years. He continued to say that we can live with the state system or have the town fund engineers, design in accordance with state standards, and then hopefully get reimbursed by the state.

Discussion, review and vote on proposed Special Town Meeting articles

Mr. Dahlen moved that the Board of Selectmen support the August 12, 2019 Special Town Meeting Article 1 Acceptance of Section 17C Of Chapter 90 of the General Laws, as presented.

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

Mr. Dahlen moved that the Board of Selectmen support the August 12, 2019 Special Town meeting Article 2 Acceptance of Section 18B of Chapter 90 of the General Laws, as presented.

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

Vote to Close the Special Town Meeting Warrant

Mr. Dahlen moved that the Board of Selectmen close the August 12, 2019 Special Town Meeting Warrant. Seconded by Mr. Flynn Vote: 3:0:0

Discussion pertaining to Municipal Relief Transfers – Finance Director, John Adams

Mr. Dahlen moved that the Board of Selectmen approve the FY19 Municipal Relief Transfers, as presented. Seconded by Mr. Flynn Vote: 3:0:0

Discussion pertaining to Chapter 61A land – Temple Street

Note: Both the Conservation Commission and the Planning Board have voted to recommend that the Selectmen do not exercise their right of first refusal. Duxbury Affordable Housing Trust is also not interested in this property.

Mr. Sherm Hoyt suggested that the Selectmen delay their decision since the Town has 120 days to respond. Mr. Dahlen responded that the CPC cannot come up with \$2.2m, and Mr. Madigan also reiterated that the funds are not available especially given the change in the amount given to the CPC.

Mr. Dahlen moved that the Board of Selectmen do not exercise their right of first refusal for the Chapter 61A portion of Parcel A and Lots 1, 2 and 3 located at 761 Temple Street and shown on a plan entitled “Plan of Land in Duxbury, Mass” dated December 4, 2017 by South Shore Survey Consultants, Inc., the Chapter 61A portion containing approximately 13.08 acres, more or less, which are identified as Assessor’s Parcel ID Nos. 037-022-003, 037-022-002, and 037-022-000.

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

V TOWN MANAGER’S REPORT – Nothing additional to report.

VI COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

Mr. Flynn moved that the Board of Selectmen appoint or re-appoint the following Board/Committee members with terms to expire as indicated: Seconded by Mr. Madigan Vote: 3:0:0

<u>Duxbury Cultural Council</u> -	“Kris” (Kristine) Brennen (appointment)	Term to expire 6/30/20
	Alison Arnold (appointment)	Term to expire 6/30/21
	“Tony” (James A.) Kelso (appointment)	Term to expire 6/30/22

<u>Municipal Commission on Disability</u> -	Patty Cristoforo (re-appointment)	Term to expire 6/30/22
	Patricia Randall (re-appointment)	Term to expire 6/30/22

<u>Registrar of Voters</u> -	Susan C. Kelley (re-appointment)	Term to expire 4/1/22
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South Shore Recycling Cooperative - Peter Buttkus (re-appointment) Term to expire 6/30/22
Gary Glazier (appointment) Term to expire 6/30/22

Town Historian - James A. ("Tony") Kelso (re-appointment) Term to expire 6/30/22

VII ONE-DAY LIQUOR LICENSE REQUESTS

09/07/19 Duxbury Beach Reservation 100th Anniversary Celebration

Mr. Dahlen moved that Ms. Cris Luttazi, Executive Director and as a representative of the Duxbury Beach Reservation, Inc., is granted a One-Day All Alcoholic License to hold their 100th Anniversary Celebration on Saturday, September 7, 2019 at Blakeman's – Duxbury Beach, from 6:00 p.m. to 11:00 p.m., contingent upon the conditions of the license. Seconded by Mr. Flynn Vote: 3:0:0

09/28/19 Grand Tasting and 10/19/19 Oktoberfest - Duxbury Food & Wine Festival

Mr. Dahlen moved that Ms. Marie Van Slyck, as a representative of the Duxbury Food & Wine Festival, is granted a One-Day Wine & Malt License for the "Festival Grand Tasting" on Saturday, September 28, 2019 located at Blakeman's/Duxbury Beach Park, from 3:00 PM to 6:00 PM

And

A One-Day Wine & Malt license for "Oktoberfest" on Saturday, October 19, 2019 to be held at Camp Wing, 119 Myrtle Street, from 4:00 PM to 8:00 PM, both contingent upon the conditions of the licenses. Seconded by Mr. Flynn Vote: 3:0:0

VIII EVENT PERMITS

07/20/19 Chestnut Street Grille Fundraising Event

Mr. Dahlen moved that Ms. Emily Walker, as representative of the Chestnut Street Grille, is granted an Event Permit for entertainment at a fundraising event to benefit Multiple Myeloma to be held on Saturday, July 20, 2019 from 5:00pm to 9:00pm, subject to the conditions of the permit. Seconded by Mr. Flynn Vote: 3:0:0

IX MINUTES

Executive Session Minutes: None presented

Open Session Minutes: 6/17/19 and 6/24/19 – Drafts

Mr. Dahlen moved that the Board of Selectmen approve the 06/17/19 and 06/24/19 Selectmen's Open Session Minutes, as presented. Seconded by Mr. Flynn Vote: 3:0:0

X ANNOUNCEMENTS

1. Last Day to Register to Vote:

The last day to register to vote for Special Town Meeting is Tuesday, July 23, 2019. The Town Clerk's office will be open late until 8:00pm on Tuesday, July 23, 2019 for voter registration.

2. Next regularly scheduled Selectmen's meeting will be on Monday, July 29, 2019.

XI ADJOURNMENT

At approximately 9:30 pm, Mr. Dahlen moved that the Board adjourn. Seconded by Mr. Flynn

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) Hearing info regarding Personnel Policy*
- 3) Hearing info regarding Cellar d'Or*
- 4) STM Warrant*
- 5) Municipal Relief Transfers*
- 6) Ch 61A Land – Temple Street*
- 7) Committee Appointments/resignations*
- 8) ODLL Requests*
- 9) Event Permit requests*
- 10) Minutes*
- 11) Announcements*

