

Date: May 3, 2021

Date Minutes Approved: 08/23/2021

TOWN CLERK

2021 AUG 24 PM 2:56

BOARD OF SELECTMEN

OPEN SESSION MINUTES
DUXBURY, MASS.

Present: Amy M. MacNab, Chair; Fernando Guitart, Vice Chair; Cynthia Ladd Fiorini, Clerk; Theodore J. Flynn; and Michael McGee

Absent: None

Staff: René Read, Town Manager; John Q. Adams, Finance Director; and Susan Kelley, Town Clerk

Others: Attorney Adam Costa, Special Counsel

CONVENED IN OPEN SESSION (*via remote participation of the Board members and staff*)

I. CALL TO ORDER This meeting was called to order at approximately 7:00 pm. *This Open Meeting is being conducted remotely consistent with Governor Baker's Executive Order of March 12, 2020, due to the current State of Emergency in the Commonwealth due to the outbreak of the COVID-19 Virus. In order to mitigate the transmission of the COVID-19 Virus, we have been advised and directed by the Commonwealth to suspend public gatherings, and as such, the Governor's Order suspends the requirement of the Open Meeting Law to have all meetings in a publicly accessible physical location. Further, all members of public bodies are allowed and encouraged to participate remotely. The Order, which you can find posted on our agenda, allows public bodies to meet entirely remotely so long as reasonable public access is afforded so that the public can follow along with the deliberations of the meeting. This meeting convened via Zoom video conference produced and recorded by PACTV, and viewed live on the Duxbury Government Access Channels – Verizon 39 or Comcast 15; or visit www.pactv.org/duxbury for Duxbury programming, replays and on-demand.*

II PLEDGE OF ALLIGIANCE

III OPEN FORUM PUBLIC COMMENTS: No official "open forum" as these are remote meetings. No public comments via phone calls or emails were received during this meeting.

Ms. Ladd Fiorini asked to recognize Mr. Wendell Cerne and Sustainable Duxbury for holding a Litter Sweep on Saturday. The volunteers accumulated over 1200 lbs. of litter. All were thanked for their efforts.

IV OLD BUSINESS

Continued discussion regarding Event Permit Application – St. John's Snug Harbor Market (this was taken out of order and discussed after the Open Meeting Law discussion)

This matter was continued in order to obtain more information from and to discuss with the organizer and public safety officials. Ms. Kelley Carroll and Ms. Mary Steinke were in attendance as the organizers and representatives of the Church of St. John. Chief Kevin Nord from the Fire Department and also a Police Department representative were also in attendance to answer any public safety questions.

Ms. Carroll stated that Father Daniel had an idea to start a farmers' market in order to reach out to the community and to bring the community into St. John's. This market was one of the ways to do that. She mentioned that they started with an online shopping market (Snug Harbor Market), which is growing gradually and that the Snug Harbor Farmers' Market will be the outdoor market. Ms. Carroll added that they started planning a little bit late and a lot of the farmers were already committed, so they didn't expect to be very busy. They will also have food trucks at each of the markets. Ms. Carroll recognized that the Selectmen's biggest concern was the parking and pointed out that the parking plan includes a very long driveway with 17 spaces for parking nearest the street at beginning of the driveway, which provides distance between the cars and vendors. Ms. Carroll also confirmed that they have permission to park at Pilgrim Church. Historically at St. John's they have had to deal with parking issues and have held large memorial services and weddings with no problems or complaints from neighbors. Mr. Guitart asked if the abutters have been notified of this event. Ms. Carroll said that she did not, but agreed to reach out to the abutters to notify them of this continued event.

Ms. Ladd Fiorini moved that Ms. Kelley Carroll, as a representative of The Church of St. John the Evangelist, is granted an Event Permit for their Snug Harbor Market event to occur on every Saturday beginning May 8, 2021 through November 20, 2021 (except July 3 and September 4) and located at 410 Washington Street, from 10:00am to 3:00pm, contingent upon the conditions of the permit.

Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

V NEW BUSINESS

7:01 p.m. Public Hearing for Aquaculture Additional Acreage Application for William Driver

Open Public Hearing

Ms. Ladd Fiorini moved that the Board of Selectmen open and recess the advertised public hearing for review and approval of Aquaculture Additional Acreage Application regarding: F. William Driver until after the Open Meeting Law Complaint discussion and Old Business/Event Permit taking agenda items out of order. *Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye*

Discussion pertaining to Open Meeting Law Complaint – presented by Attorney Adam Costa

Attorney Adam Costa, Special Counsel regarding the Webster Point Village matter, was in attendance and provided the following summary:

Following receipt of the Board's "Notice of Breach" of the parties' settlement, and by correspondence dated March 18, Attorney Ian Bagley wrote on behalf of Webster Point Village, LLC, both to the Board and to me, with allegations that the Open Meeting Law had been violated at the Board's March 1 meeting. Attorney Bagley's letter was not properly filed with the Town Clerk nor did it include the requisite Open Meeting Law Complaint Form. I responded to Attorney Bagley on April 9, advising him of these procedural errors; but also, as a courtesy but also in the interest of correcting the misstatements made, addressing much of the substance of the letter and explaining that the Board had indeed fully complied with the Open Meeting Law.

Seeking to rectify the above errors in procedure and wishing to further argue that the Board's executive session on March 1 was unlawful, Attorney Bagley sent yet another letter to the Board, to the Town Clerk and to me, dated April 13. Such letter included the proper Open Meeting Law Complaint Form; and, accordingly, the Board is required to follow statutory and regulatory procedures to respond to it. (940 CMR 29.05(5) states that "[w]ithin 14 business days after receiving the complaint... the public body shall meet to review the complaint's allegations; take remedial action, if appropriate; and send to the complainant a response and a description of any remedial action taken.") But the complaint is now untimely, in my opinion, for the reasons described in my draft response. I ask that the Board authorize me to finalize and send that response to Attorney Bagley with a copy, as required, to the Attorney General's Office.

Ms. Ladd Fiorini moved that the Board of Selectmen authorize Attorney Adam J. Costa to submit a response to Attorney Bagley's letter of April 13, 2021 with a copy, as required, to the Attorney General's office. *Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye*

Re-Convening of Public Hearing regarding Driver

Ms. Ladd Fiorini moved that the Board of Selectmen re-convene the advertised public hearing for review and approval of Aquaculture Additional Acreage Application regarding: F. William Driver. *Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye*

Discussion

Mr. Alan Hoban, Chair of the Shellfish Advisory Committee, was in attendance to speak to this matter. The Shellfish Advisory Committee held a posted/public meeting on April 6, 2021 to discuss the applicant's additional acreage. The applicant was required to provide a detailed presentation to the Committee, and there was public participation. The Committee voted to recommend that the Board of Selectmen approve the Aquaculture additional acreage application up to three years pending all Federal State and local reviews and approvals. Mr. Driver has an existing grant (approx. one acre) and wants to expand to the allowable three acres.

Ms. MacNab stated that there is a moratorium and asked if it was because of space. Mr. Hoban stated that the moratorium went into existence in 2007 as the result of a deliberate process, and the establishment of the Duxbury Bay Management Commission to look at all uses. The Selectmen initiated a study and that led to the adoption of an Aquaculture Management Plan in 2009. The moratorium is for new grants. The expansion of up to three acres for existing license holders is allowed. Ms. MacNab commented that she wonders about the fairness of this plan. Mr. Hoban responded that the deliberate process years ago took into account the uses on the bay and the environmental conditions of the bay. The DBMC has been the leading authority. The SFAC is an advocacy committee supportive of the industry. This industry has thrived in the bay with the support of the community. Mr. Hoban added that it does need a balanced overview like the deliberate process that happened years ago and also to be carefully managed due to environmental, biological, and navigable issues. He continued to say that back in 2006-2007 it took almost two years to develop a

management plan and remarked that it is important to understand all those inputs in making a determination regarding the moratorium.

Motion

Ms. Ladd Fiorini moved that the Board of selectmen approve the additional acreage(s) of F. William Driver of 502 Chandler Street for Aquaculture Lease # 0693-2 for three (3) years.

Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Abstained

Close Public Hearing

Ms. Ladd Fiorini moved that the Board of Selectmen close the advertised public hearing.

Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

Discussion regarding Cemetery Department request to use Mayflower Cemetery Perpetual Care Fund – presented by Robert Hayes

Mr. Chip Locketti, Cemetery Superintendent, and Mr. Robert Hayes, Chair of Cemetery Trustees, were in attendance. Mr. Hayes explained that the Cemetery Department is requesting approximately \$30,000 from the Mayflower Cemetery Perpetual Care Fund to cover the cost for the renovation and improvement of the buffer area at the northwest corner of the gravesite area surrounded by Cherry Ave, Wood Ave, Magnolia Ave, and Willow Ave for the improvement and embellishment of Mayflower Cemetery. He also mentioned that the Cemetery Trustees, at their meeting on April 6, 2021, voted and approved using a portion of the fund's interest to cover this expense.

Ms. Ladd Fiorini moved that the Board of Selectmen approve the use of a portion of the interest from the Mayflower Cemetery Perpetual Care Fund to fund the requested improvements at an estimated cost of \$30,000. *Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye*

Review of Library Trustees' Presentation

Ms. Martha Dennison, Vice Chair, and Mr. Lester Lloyd, Chair, of the Duxbury Library Trustees were in attendance along with Denise Garvin, Library Director. Ms. Dennison began by stating that the approval of three new library associates will provide them with the opportunity to expand their hours and increase their offerings. She presented the Selectmen with their Duxbury Library Study 2021 – a collaborative and thoughtful strategic study of Duxbury Free Library operations and services looking inward, outward and forward. The focus was on community engagement, identifying best practices, incorporating the state's MAR (Municipal Appropriation Requirement), leveraging community resources to ensure efficiencies, and identifying actions to operative a vibrant, inclusive, accessible, cost-efficient, community-centric public library to serve our community for years to come. They are looking for people and organizations to participate with input. They will provide the study to be presented next year at Town Meeting in order to align services with budget priorities.

The presentation was both thorough and informative. The Selectmen thanked the Trustees and Ms. Garvin for their efforts and time with this extensive study.

Review and vote recommendations on the following ATM Warrant Articles:

Article 4 – Funding of Salaries

Ms. Ladd Fiorini moved to recommend approval of 2021 Annual Town Meeting Article 4 – Funding of Salaries, as presented. Seconded by Mr. Flynn

Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. Guitart – Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

Article 5 – Operating Budget

Ms. Ladd Fiorini moved to recommend approval of 2021 Annual Town Meeting Article 5 – Operating Budget, as presented. Seconded by Mr. Flynn

Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. Guitart – Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

Article 6 – Capital Budget (on hold – no vote)

Article 15 – Powder Point Bridge Repairs (on hold – no vote)

Article 18 – Duxbury Beach – Dune Restoration Project

Ms. Ladd Fiorini moved to recommend approval of 2021 Annual Town Meeting Article 18 – Duxbury Beach – Dune Restoration Project, as presented. Seconded by Mr. Flynn

Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. Guitart – Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

Discussion regarding Diversity, Equity & Inclusion Steering committee - Town Manager's recommendations - (added)

Mr. Read began by describing the membership of this proposed committee as follows:

School Committee	1 member
School Administration	1 member
HR Director – Jeannie Horne	1 member
Library	1 member
Police Department	1 member
Interfaith Council	1 member
Duxbury For All	1 member
Board of Selectmen	1 or 2 members (?)
Planning Department – Val Massard	1 member
Senior Center – Joanne Moore	1 member
At-Large	3 members
ZBA	?
Additional At-Large	? (2 members)

Mr. Read stated that At-Large members must file a Talent Bank form with the Selectmen's office by Wednesday, May 5, 2021. Those applicants would then be interviewed by two (2) Selectmen and the HR Director with interview questions to be approved by the HR Director, Jeannie Horne. Then the

entire Steering Committee, along with the selected at-large applicants, would be brought forward to the Selectmen for consideration and appointment at the Monday, May 24, 2021 meeting.

Mr. Flynn stated that he was fine with one Board of Selectmen member and would like one ZBA member on the committee. Mr. McGee suggested that we should keep all five at-large members. Mr. Guitart commented that the intent of this group was basically to plan for the summit and then disband and agrees with the list of members. Ms. Ladd Fiorini remarked that 16 members is an unwieldy number given the purposes Mr. Guitart has set out – planning a summit event. She suggested staying with 13 members. Mr. Guitart agreed to stay with the original 13 members as proposed with members of the ZBA and other at-large members attending the summit. Mr. Read asked if that was the consensus of the Board. Further discussion ensued regarding the number of members resulting in the final decision of a 13 member committee.

Mr. Guitart moved to approved the 13 Member DEI Steering Committee. Seconded by Mr. Flynn

Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

VI TOWN MANAGER'S REPORT

The Duxbury Mall

The Duxbury Mall will re-open on Wednesday, May 12th subject to the following guidelines:

There will be strict enforcement of the 15-minute rule

Since the state's mask order says that if people are in a public place and cannot socially distance themselves, they have to wear a mask outside. More often than not, the Mall is nearly impossible to remain socially distant thus, masks will be required by patrons...even if it's to "just drop something off quickly"

While visiting, please be respectful of others to and do your best to stay 6' feet apart

It's been over a year since The Mall has been open to the public. We know that some people may have been saving some of their treasures to be brought there for some time but we ask that patrons not overwhelm the area by bringing everything into it at once. It would be most appreciated if the flow of items onto the Mall could be spread out over time.

We are not opening the Book Shack at this time but hope to be able to do so based on future DPH guidelines.

Duxbury Beach

Currently there are approximately 22 pairs of Piping Plovers on Duxbury Beach and 7 nests. Based on the locations, it appears that the 1st crossover may close the last week of May or first week of June.

Since a lot can happen between now and the expected hatch dates, we will be sure to keep the public informed as more information becomes available.

VII COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS None

VIII ONE-DAY LIQUOR LICENSE REQUESTS - None

IX EVENT PERMITS None

X MINUTES None

XI ANNOUNCEMENTS

- 1) Next Scheduled Selectmen's Meeting will be on Monday, May 10, 2021 at 7:00pm.

XII ADJOURNMENT

Ms. Ladd Fiorini moved that at approximately 9:38p.m., the Board of Selectmen adjourn.

Seconded by Mr. Flynn Roll Call Vote: Mr. Flynn-Aye; Ms. Ladd Fiorini-Aye; Mr. McGee-Aye; and Ms. MacNab-Aye

Minutes submitted by Nancy O'Connor

LIST OF DOCUMENTS

- 1) Agenda
- 2) Event Permit – Snug Harbor Market
- 3) Public Hearing Documentation re: Driver
- 4) Open Meeting Law Documentation
- 5) Cemetery Trustee documentation
- 6) Library Trustees' Presentation
- 7) ATM Warrant
- 8) Town Manager's Report
- 9) Announcements

