

**Date: November 15, 2021**

**Date Minutes Approved: December 6, 2021**

TOWN CLERK

2021 DEC -7 AM 10:12

**BOARD OF SELECTMEN**

DUXBURY, MASS. **OPEN SESSION MINUTES**

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

**Absent:**

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

**Others:** Steven Dunn, Assessor; Jamie MacNab and Nancy Reed – Board of Assessors; Jake Emerson, Harbormaster; Dick Brennen, Chair, Shellfish Advisory; Chris Sherman; Joe Pierce; Joe Grady, Conservation Administrator; Shirin Everett, Esq. (KP Law); Chief Kevin Nord; Deputy Chief Rob Reardon; Rev. Dr. Catherine Cullen and Marie Villarin (both for Executive Session only)

**CONVENED IN OPEN SESSION (*In-person in the Mural Room and via remote participation*)**

**I. CALL TO ORDER** This meeting was called to order at approximately 6:30 pm.  
*Pursuant to Chapter 20 of the Acts of 2021, this meeting will be conducted in person and, as a courtesy, via remote means in accordance with applicable law. Please note that while an option for remote attendance and/or participation is being provided as a courtesy to the public and board members, the meeting/hearing will not be suspended or terminated if technological problems interrupt the virtual broadcast, unless required by law. Members of the public who wish to watch the meeting may do so by viewing the Duxbury Government Access Channels – Verizon 39 or Comcast 15. Viewers can visit [www.pactv.org/duxbury](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.*

**II PLEDGE OF ALLIGIANCE**

**III EXECUTIVE SESSION**

Ms. Ladd Fiorini moved we go into Executive Session for the purpose of:

Discussing the King Caesar Fund cases, which are of a confidential nature, as the fund's purpose is to provide medical relief for the financially-needy residents of Duxbury, if the Chair so declares that an open meeting may have a detrimental effect due to medical confidentiality in accordance with Mass. General Laws Chapter 30a, Section 21; and upon completion of this Executive Session to reconvene in Open Session at or about 7:00 PM

*Ms. MacNab, as Chair, declared that the necessity for an Executive Session regarding the King Caesar Fund cases due to medical confidentiality.*

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

***Discussion regarding King Caesar Fund Matters***

When the business of the Executive Session was completed, Ms. Ladd Fiorini moved to adjourn the Executive Session and reconvene in Open Session on or about 7pm.

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

**IV OPEN FORUM PUBLIC COMMENTS**

No comments from the public.

**V NEW BUSINESS**

***7:05pm – Tax Classification Hearing – presented by Steve Dunn, Assessor***

***Note: Ms. MacNab recused herself from this hearing and left the room as she is related to a member of the Board of Assessors.***

Ms. Ladd Fiorini moved that the Board of Selectmen open the public hearing regarding Tax Classification. *Seconded by Mr. Flynn*

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

Mr. Dunn presented an overview of the tax values by class (residential, commercial, industrial and personal property), new growth, tax levy & debt, classifications and allocations, residential factors, open space discounts, residential and small commercial exemptions and a summary of the Fiscal 2022 values. *Note: his complete presentation can be found on the Assessors page on the Town's website.*

Ms. Ladd Fiorini moved that the Board of Selectmen vote to adopt a single tax rate for FY2022 by setting a residential factor of one and to also authorize and allow Stephen Dunn, Director of Assessing, to sign the LA-5 online in the DOR Gateway system on the Selectmen's behalf.

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

Ms. Ladd Fiorini moved that the Board of Selectmen close the public hearing regarding Tax Classification. *Seconded by Mr. Flynn*

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

*At the conclusion of this hearing, Ms. MacNab returned to the meeting.*

***7:10pm – Aquaculture License Renewals for Christopher Sherman and Joseph Pierce***

Ms. Ladd Fiorini moved that the Board of Selectmen open the advertised public hearings for review and approval of Aquaculture Applications regarding Christopher Sherman and Joseph Pierce aquaculture lease renewals. *Seconded by Mr. Flynn*

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

Mr. Dick Brennen, Chair of the Shellfish Advisory Committee, stated that they held a posted, public meeting on 10/20/21, and the committee voted to recommend that the Board of Selectmen approve the Aquaculture renewal applications up to ten (10) years pending all Federal, State and local reviews and approvals.

Both applicants addressed the Selectmen stating that they have worked in this industry in Duxbury for many years. This is the first ten year renewal for each applicant having received their respective licenses as transfers. Mr. Emerson confirmed that license transfers are for three years, then with a ten year renewal after that time.

There was also discussion regarding water quality issues and the Selectmen are encouraging the Duxbury Bay Management Commission to discuss at a future meeting. Mr. Emerson stated that he will see that it is on their next meeting. The Selectmen also urged coordination with other towns – Plymouth and Kingston – to work cooperatively on the water quality issues in the bay.

Ms. Ladd Fiorini moved that the Board of Selectmen approve the renewal of Christopher Sherman, 942 Tremont Street for Aquaculture lease license #NAE-2006-1837, for 10 years; and

Ms. Ladd Fiorini moved that the Board of Selectmen approve the renewal of Joseph Pierce, 459 Union Street for Aquaculture lease license #2409-1, for 10 years.

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

Ms. Ladd Fiorini moved that the Board of Selectmen close the advertised public hearings for review and approval of Aquaculture Renewal Application for Christopher Sherman and Joseph Pierce.

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

***Discussion regarding Closing Documents relative to Keene Street Land Swap with A.W. Perry***

Mr. Read read the background as follows:

*This is a land swap between the Town of Duxbury/Conservation and AW Perry to swap town-owned land on Keene Street with land owned by AW Perry on Union Street.*

*This has already been approved at the following Town meetings:*

- 1. March 9, 2019 Annual Town Meeting – Article 19 – Disposition of Town Owned Land - Keene Street; and*
- 2. May 15, 2021 Special Town meeting – Article 12 – Eminent Domain Taking for Title-Clearing Purposes and for the Purpose of Acquiring a 19.39 Acre Parcel of Conservation Land*

Attorney Everett confirmed that the taking by eminent domain is for title clearing purposes and that AW Perry has paid \$14,000 (est. value of the 3+ acres) to cover expenses in the event a claim arises within the next three years. Mr. Grady provided a map of both parcels showing that the 19+ acre parcel abuts current conservation property.

Mr. Ladd Fiorini moved (a) pursuant to the vote taken under Article 12 of the May 15, 2021 Special Town Meeting, to take by eminent domain, for title-clearing purposes and for the purpose of acquiring conservation land in exchange, the Town-owned landlocked parcel of land containing 3.5 acres, more or less, and identified by the Assessor's as Parcel 025-500-006, to execute the Order of Taking, and to award damages in the amount of \$14,000 for said taking to the persons identified in Exhibit B of the Order of Taking; (b) pursuant to the vote taken under Article 19 of the March 9, 2019 Annual Town Meeting, to execute a deed, conveying said taken property to A.W. Perry, Inc.; and (c) to approve of the Conservation Commission's acceptance of a 19.39-acre parcel of land located on Union Street from A.W. Perry, Inc. for conservation of natural resources and passive recreation purposes under the provisions of G.L. c. 40, §8C.

*Seconded by Mr. Flynn      Vote: 5:0:0*

***Discussion regarding October Storm Operations***

Chief Nord began by providing feedback regarding the storm. He said that he was asked if any storm expenses could be recouped. Chief Nord said that he is working with the State, as the State may provide a declaration for funding, but has not heard yet.

Ms. MacNab mentioned that Chief Nord's concern was that Eversource's representative was delayed and communication could have been better. He felt that Eversource was slow out of the gate and didn't start seeing crews until Thursday into Friday and was slow in getting roads opened up for emergency access. Mr. Guitart asked if Chief Nord was going to sit down with Eversource to go over this after-action review to come up with a plan of action to resolve these concerns or do we need to get Eversource to attend a Selectmen's meeting regarding steps for the next time. Chief Nord replied that they do communicate their unhappiness during the storm and with our Blue Sky rep who we deal with directly. We all answer to the public, and we were all pretty frustrated with this storm. He added that it could have been a bigger mess if there was added snow and weather.

The Selectmen commended all of public safety and the DPW for their work during this storm. Mr. McGee felt that the Eversource representative should come before the Board of Selectmen now that the storm is over and to also discuss what was left behind. Mr. Buttkus added that Eversource has a good hazardous removal program and that they have a good relationship. He stated that the frustration was with the ground work and that they were slow to open roads. Mr. Buttkus said that they have the equipment to remove debris so Eversource could have been more helpful with checking the lines so that DPW could remove the trees in order to clear the roads – especially for emergency access. He recognized that Eversource doesn't go up in the bucket trucks during high winds, but that Eversource could be working on the ground to determine if power lines are still live.

Several business owners from the Duxbury Marketplace were in attendance. Ms. Susan Turley of the Depot Street Market, stated that small businesses won't survive if they don't get priority for these businesses. She mentioned that she lost about \$10,000 in product and also lost several days of sales. Ms. MacNab said that when they meet with the Eversource reps they can include business owners. Ms. Kim Panton of Rock Paper Scissors supported the Selectmen in getting Eversource to respond. Ms. Christen Allocca of D'Orazios stated that she had been there for 21 years and that this is not the first time there was a slow response.

There was more discussion resulting in Eversource being asked back to a Selectmen's meeting to discuss the Town's concerns. Mr. McGee also recognized Mr. Read for his continued communications during the storm.

***Discussion regarding amendment to Home Rule Petition regarding H.3937 – An Act relative to the Selectboard of the Town of Duxbury***

Mr. Read stated that Mr. Cole Angley, Staff Director in Rep. Cutler's office, reached out to Ms. O'Connor. This amendment will allow the Selectboard (once the Governor signs into law) to amend the Town's General By-laws by majority vote to change the name of both the Board and the Members throughout the General By-laws, in accordance with Section 1 of the Bill. This will keep the name of the Board and the Members consistent with the special legislation throughout the General By-laws.

Ms. Ladd Fiorini moved that the Board of Selectmen approve the amendment to H3937, An Act relative to the Selectboard of the Town of Duxbury, by striking out SECTION 2 and inserting in place thereof the following section:

“SECTION 2. Notwithstanding Sections 21 and 32 of Chapter 40 of the General Laws or any general or special law to the contrary, the Selectboard of the Town of Duxbury may amend the General By-laws of the Town by majority vote to revise all references to the Board of Selectmen and its Members to Selectboard and Selectboard Member, respectively, in accordance with Section 1.”

*Seconded by Mr. Flynn      Vote: 5:0:0*

***Annual Liquor License Renewals***

Ms. Ladd Fiorini moved that the Board of Selectmen renew the following liquor licenses as presented on the attached list for the year 2022, subject to satisfactory inspections by the Municipal Services Department, Board of Health, and Fire Department, receipt of all renewal requirements and payment of all funds/fees owed to the Town of Duxbury, as well as any additional conditions imposed by the Board of Selectmen as the Local Licensing Authorities.

*Seconded by Mr. Flynn      Vote: 5:0:0*

**VI TOWN MANAGER'S REPORT**

Mr. Read mentioned that budget work continues and is the primary focus. He also said that PACTV can produce the Finance Committee meeting recordings, which can be viewed via on-demand.

Mr. Read stated that we received notification earlier this month that MEMA was releasing \$779,963.43 (90% of the \$866,626.03) balance requested for reimbursement regarding the seawall construction. He said that this will be applied to reduce the amount of betterments and will also require special legislation to be added at an upcoming Town Meeting. Mr. Read also sincerely thanked Ms. O'Connor for all of her work on this project. Mr. Flynn also added that the seawall residents hired a consultant, Mr. Chris Spillman, and would like to see his invoice somehow reimbursed. Ms. O'Connor confirmed that there was one more category to submit reimbursement for administrative costs and that she had already discussed this with Mr. Spillman.

Ms. MacNab asked if Mr. Read had heard from Rep. Cutler regarding grant money for PFAS testing and as part of the record wanted to thank him for his efforts on this. Mr. Read was going to look into this further.

Ms. MacNab then asked about PFAS testing at our old capped landfill because PFAS is not currently being tested. Mr. Buttkus stated that he is working with Weston & Sampson (they do our current testing at the transfer station for gas monitoring and water sampling) and will discuss this with them along with McNeil dump testing. Ms. MacNab commented that there are concerns as to where the PFAS is coming from and stated that it is prudent to get this tested. There were also discussions regarding who the prior owners of the McNeil site were.

## **VII COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS**

Ms. Ladd Fiorini moved that the Board of Selectmen appoint or re-appoint for the following:

<b><u>Board / Committee</u></b>	<b><u>Appointment/Re-appointment/Resignation</u></b>	<b><u>Term</u></b>
<b><u>Alternative Energy Committee</u></b>		
Douglas Carver	FY22 Appointment	06-30-2024
Elika Dadsetan-Foley	FY22 Appointment	06-30-2024
<b><u>Duxbury Cultural Council</u></b>		
Alison Arnold	FY22 Re-Appointment	06-30-2024
Brooke McDonough	FY22 Re-Appointment	06-30-2024
Craig Bloodgood	FY22 Appointment	06-30-2024

*Seconded by Mr. Flynn Vote: 5:0:0*

### **The following boards/committees have available seats:**

<i>Design Review Board</i>	-	<i>one Alternate seat</i>
<i>Duxbury Bay Mgmt Commission</i>	-	<i>two seats</i>
<i>Duxbury Seawall Committee</i>	-	<i>one seat</i>
<i>Nuclear Advisory Committee</i>	-	<i>one seat</i>

*If anyone is interested in volunteering on a board or committee, you are encouraged to fill out a Talent Bank form, which can be found on the Town's website under the Employment & Volunteering tab.*

## **VIII ONE-DAY LIQUOR LICENSE REQUESTS**      **None**

## **IX EVENT PERMITS**      **None**

## **X MINUTES**

Ms. Ladd Fiorini moved to approve the 10/25/21 and 11/8/21 Selectmen's Open Session Minutes, as presented. *Seconded by Mr. Flynn Vote: 5:0:0*

## **XI ANNOUNCEMENTS**

- 1) Next Scheduled Selectmen's Meeting will be on Monday, November 22, 2021 at 7:00pm in the Mural Room.
- 2) Town Hall will be closed on Thursday & Friday – November 25 & 26 for the Thanksgiving Holiday.

## **XII BONUS SHELLFISH (Month of December)**

Ms. Ladd Fiorini moved that the Board of Selectmen declare a temporary Bonus Shellfish Season for:

- 1) The commercial harvesting of softshell clams for the month of DECEMBER. Regulations as attached. (Please see Attachment B & C)
- 2) The commercial harvesting of quahog clams for the month of DECEMBER. Regulations as attached. (Please see Attachment A & C)

*Seconded by Mr. Flynn Vote: 5:0:0*

## **XIII ADJOURNMENT**

Ms. Ladd Fiorini moved that the Board of Selectmen adjourn at approximately 9:00 p.m.

*Seconded by Mr. Flynn Vote: 5:0:0*

*Minutes submitted by Nancy O'Connor*

### ***LIST OF DOCUMENTS***

- 1) *Agenda*
- 2) *Executive Session motion*
- 3) *Documentation regarding Tax Classification Hearing*
- 4) *Documentation regarding aquaculture license renewals*
- 5) *Closing documents – Keene Street land swap*
- 6) *Documentation regarding Home Rule Petition*
- 7) *Documentation regarding Annual Liquor License Renewals*
- 8) *Committee appointments*
- 9) *Minutes*
- 10) *Announcements*
- 11) *Bonus Shellfish documentation for the month of December*

