

Date: January 23, 2023

Date Minutes Approved: 04/10/2023

TOWN CLERK

2023 APR 11 PM 12:06

DUXBURY, MASS.

SELECTBOARD

OPEN SESSION MINUTES

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

Absent: Fernando Guitart, Chair

Staff: René Read, Town Manager; John Q. Adams (remotely); Nancy O'Connor, Executive Assistant; and Jeannie Horne, HR Director

Others:

CONVENED IN OPEN SESSION (*in-person and via remote participation by Zoom*)

1. CALL TO ORDER This meeting was called to order at approximately 6:30pm. *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. A transcript or other comprehensive record of proceedings will be available as soon as possible after the meeting. 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 for information about Duxbury programming including streaming on Duxbury You Tube, to watch replays and Video on Demand.*

2. PLEDGE OF ALLIGIANCE

3. 6:30PM EXECUTIVE SESSION - Collective Bargaining – DPW MOU

Mr. McGee moved that we go into Executive Session for the following purposes:

Discussing strategy with respect to collective bargaining (DPW) since an open meeting may have a detrimental effect on the litigating and bargaining position of the Town; and if the Chair so declares, in accordance with Mass. General Laws Chapter 30A, section 21, and that the Board will adjourn and reconvene in Open Session on or about 7:00pm immediately after completion of this Executive Session.

“As Vice Chair, Ms. Ladd Fiorini declared that the necessity for an Executive Session to conduct strategy sessions in preparation for contract negotiations as to do so in an Open Session may have a detrimental effect on the Town’s bargaining, strategizing and negotiating position.”

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

After the discussions were completed, Mr. McGee moved that the Selectboard adjourn the Executive Session and re-convene in Open Session on or about 7:00pm.

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

4. OPEN FORUM

Ms. Candace Martin of 59 Gurnet Road, wanted to follow up on next steps for the seawall and permit filing. Mr. Read said that he would get back to Ms. Martin. She also mentioned the State's dam and seawall grant that was opened in December 2022, and the deadline is 2/17/23 to apply. She said that it is offering up to \$3m for structure and felt that we would be eligible because our wall has already failed. She also stated that the grant award does not need to be spent for two years and would like to work on this.

5. NEW BUSINESS

Discussion regarding DPW Memorandum of Understanding

Mr. McGee moved that the Selectboard vote the Memorandum of Understanding by and between the Town of Duxbury and the Duxbury DPW Employees, AFSME 93, Local 1700, as presented, or amended.

Seconded by Mr. Flynn Vote: 4:0:0

Discussion regarding Alden Kindred of America's request for letter of support for their grant application to the Massachusetts Cultural Council Facilities Fund – presented by Desiree Mobed, Executive Director

Ms. Desiree Mobed, Executive Director at the Alden Historic site, is asking for a letter of support as they are applying to the Mass Cultural Council for a grant. This grant would help fund their two-story addition to the Alden barn to create the Center for Living History, which will be used for educational programming and visitor services.

Mr. McGee moved that the Selectboard approve and execute a letter of support to the Mass Cultural Council for their consideration of the Alden Kindred of America's grant request for the FY23 Massachusetts Cultural Facilities Fund.

Seconded by Mr. Flynn Vote: 3:0:1 (Ms. MacNab recused herself)

Discussion and vote on ballot questions for March Annual Town Election

2023 ANNUAL TOWN ELECTION BALLOT QUESTIONS

- 1. CPA fee increase**
- 2. Duxbury Beach Nourishment Project**
- 3. Duxbury Beach Seawall construction project**

Motion – CPA Fee Increase:

Mr. McGee moved that the Selectboard vote to add the following ballot question to the Annual Town Elections on Saturday, March 25, 2023:

1. Shall the Town of Duxbury amend its acceptance of Sections 3 to 7, inclusive of Chapter 44B of the General Laws, otherwise known as the Community Preservation Act, as approved by its legislative body, from 1% to 3% as voted by the October 17, 2022 Special Town Meeting?

Seconded by Mr. Flynn Vote: 4:0:0

Motion – Duxbury Beach Nourishment Project:

Mr. McGee moved that the Selectboard vote to add the following ballot question to the Annual Town Elections on Saturday, March 25, 2023:

2. Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued for the design, permitting and construction of the Duxbury Beach Nourishment Project and any and all costs incidental or related thereto?

Seconded by Mr. Flynn Vote: 4:0:0

Discussion: Mr. Read mentioned that the cost could be approximately \$4m. Mr. McGee asked if CZM could be looked into.

Motion – Duxbury Beach Seawall Construction Project:

Mr. McGee moved that the Selectboard vote to add the following ballot question to the Annual Town Elections on Saturday, March 25, 2023:

3. Shall the Town of Duxbury be allowed to exempt from the provisions of proposition two and one-half, so-called, the amounts required to pay for the bond issued for the engineering, design, permitting and construction of the Duxbury Beach Seawall and any and all costs incidental or related thereto?

Seconded by Mr. Flynn Vote: 4:0:0

Discussion: Mr. Read provided the Selectboard with a cost estimate and read into the record as follows:

On Monday, January 9, 2023, the Selectboard discussed the idea of going out to bid for the Seawall Project. Mr. Read spoke with our Engineer, Patrick Brennan, and following their discussion, Mr. Brennan provided Mr. Read with a letter in which he described the items we talked about and I agree with his assessment and his recommendations.

In it Mr. Brennan wrote:

“As I understand the Selectboard would like to have bid documents prepared and put the project to bid to replace the remainder of the seawall along Duxbury Beach out to bid in order to obtain a real construction price by Town Meeting on 3/11/23. We recommend against this course of action at this time for the following reasons:

- 1. The Town does not have any funding in place and bidding laws only require that a bidder hold his bid for 30 days. Although a longer period may be specified in the construction bid documents, the anticipated timeframe is excessive to expect a contractor to hold a bid price for more than three months.*
- 2. The replacement of the remainder of the seawall has not been permitted so work would not be able to commence until permits were in place. We estimate that permits would likely take a year to secure.*
- 3. Prospective bidders would not be likely to spend the time and money preparing a bid if they are aware that construction would not begin this year. I note that prospective bidders routinely ask if funding is in place when projects are put out to bid. If they did prepare a bid knowing that construction would not only start until next year, the bid prices would likely be inflated due to the uncertain economy and the extremely variable costs of materials. You may recall that in September 2022, with feedback from Northern Construction, I prepared a cost estimate that included an 18% escalation to reflect a construction period of 2022. We believe this engineer's estimate is appropriate at this time; however, we note that construction costs have been extremely variable due to current construction and economic conditions.*
- 4. We suspect that if bidders did prepare bids and became aware that funding and permits were not in place to being the project, they would be less likely to bid on future Town projects.*

Should the Selectboard desire a more updated estimate, our recommendation would be to hire a seawall contractor, such as Northern Construction, to prepare an estimate of the actual construction costs of the replacement wall. Please give us a call should you have any questions.”

As a result we did not go out to bid for the seawall for the reasons noted therein. As he said he would, Mr. Brennan contacted Northern Construction, the contractor who constructed the sections of the new seawall, to request that they prepare an estimate of the actual construction costs of the replacement of the wall for the same intended purpose. The total bid price is \$16,632,900 with the following notes: to replace 2860 linear feet of seawall in the years 2023-2024 with work to be starting in 2023, certified payroll would be provided upon request, ledge removal is not part of the proposal, any removal of ledge will be agreed to under a separate contract, the price shown does not include the performance and payment bond and if so – add an additional 5%, price shown includes prevailing wages. As Mr. Brennan explained to Mr. Butkus and Mr. Read, Northern Construction included access stairs (newly built section), which would not be part of this project, but, as Mr. Brennan pointed out, they did not include much money for the revetment work, so he believes that the total is a good estimate for construction. Along with this estimate, Northern Construction stated that they would recommend

increasing the year over year inflation from 2% listed to 5% at least for the 2023-2024 season. As they indicated to us, the driving force behind the inflation in their industry is mostly materials (concrete). Largely materials and vendor increases along with some nominal increases and associated labor costs. Mr. Read suggested to Mr. Brennan that if we added a 15% escalator, which would be just over \$2.4m, the total project cost would be \$19,127,835, and he agreed that 15% is a good number to use and it is right about where he thought it should or would be. Thus, to complete the remaining portion of the seawall is essentially a \$20,000,000 project.

With that, the Selectboard had asked for a dollar amount associated with this ballot and it is \$20m based on the foregoing information.

Ms. MacNab asked why the ballot question does not address anything with betterments, and Mr. Read replied that the ballot question would not include the betterments. Mr. McGee thanked Mr. Read for the information as it gives the Board and the public information in order to make an educated vote at Town Meeting. Mr. McGee also said that he would like to know the cost for the average household (not just the seawall residents). Mr. Adams responded that he will provide that information. He also confirmed that betterments as a funding source will be mentioned in the article at Town Meeting and that the betterments do not play a part in the ballot question/debt exclusion vote. Mr. Read also confirmed that Article 13 for the seawall did include a betterment provision in the article language – “shall assess betterments.” Ms. Alicia Babcock, 9 Ocean Road South, asked for clarification regarding the betterments if it was being left as an option. Ms. Ladd Fiorini confirmed that they were leaving it as an option.

Ms. Babcock and Ms. Candace Martin asked about an article to hire a grant writer and if we could use grant money to fund a grant writer. Mr. Read replied that there is not an article for a grant writer as that would be a new position. There were more discussions about getting a grant writer, and Ms. MacNab stated that she felt it would be money well spent. Mr. Read mentioned that other departments have already asked for new or additional positions (such as Fire, Police, Library, Planning, as examples). Ms. Ladd Fiorini suggested that we add this as a discussion item on a future agenda.

Vote to close the March 11, 2023 Annual Town Meeting Warrant

Mr. McGee moved that the Selectboard close the March 11, 2023 Annual Town Meeting Warrant.

Seconded by Mr. Flynn Vote: 4:0:0

Discussion and vote regarding the transmittal of a Citizens' Petition article re: proposed amendment to the Zoning Bylaw re: bed and breakfast uses from the Selectboard to the Planning Board for their review.

Mr. Read stated that he received a Citizens' Petition with 244 certified signatures (Town Clerk certifies that they are registered voters). He said that this will result in a second Special Town Meeting, which is being scheduled for Tuesday, February 28, 2023 in the Performing Arts Center (PAC).

Ms. MacNab expressed her concern that this is a second Special Town Meeting prior to our Annual Town Meeting on 3/11/23 asking to make significant zoning changes. She hopes that people will turn out for this Special Town Meeting as the meeting is required by law. Mr. Flynn also added that this will cost us approximately \$15,000 for a single event when the proponent was offered to be included in the already scheduled Annual Town Meeting.

Mr. McGee moved that the Selectboard submit the Citizens' Petition article regarding the proposed amendment to the Zoning Bylaw regarding bed and breakfast uses to the Planning Board for their review and recommendations for presentation to the voters at the Special Town Meeting generated by this petition, date of which will be Tuesday, February 28, 2023 at 7:00pm.

Seconded by Ms. MacNab Vote: 4:0:0

***Discussion regarding comments to MassHousing re: Winsor at Millbrook on Railroad Ave
Background:***

We received notice from MassHousing, letter dated December 6, 2022, that they were currently reviewing an application for site approval submitted by The Windsor at Millbrook Village, LLC (the applicant). There was a Site visit on December 22, 2022 at 11am at 50 Railroad Avenue, which was attended by some of the Selectboard members. The Selectboard's comments are due back to MassHousing by Tuesday, January 24, 2023.

Mr. McGee moved that the Selectboard provide in writing their comments to MassHousing regarding the proposed Windsor at Millbrook Village 40B project located at 50 Railroad Ave, as amended.

Seconded by Ms. MacNab Vote: 4:0:0

7:30pm Water & Sewer Commissioners – Marshfield Water Commitment M-2023-1

Mr. McGee moved that the Selectboard adjourn the meeting in order to meet as the Water & Sewer Commissioners, with the intent of re-convening as the Selectboard afterward.

Seconded by Ms. MacNab Vote: 4:0:0

Mr. McGee moved that the Board of Water & Sewer Commissioners instruct the Treasurer to collect the total amount of \$28,338.65 for water charges for Commitment M-2023-1.

Seconded by Mr. Flynn Vote: 4:0:0

Mr. McGee moved that the Water & Sewer Commissioners adjourn and re-convene as the Selectboard.

Seconded by Mr. Flynn Vote: 4:0:0

6. TOWN MANAGER'S REPORT

Mr. Read announced that Police Chief Steven McDonald has retired and they appointed Deputy Chief Michael Carbone as the acting Police Chief and will address filling this position after Town Meeting. Mr. Read wished Chief McDonald a long, happy and healthy retirement.

7. COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS None

8. ONE-DAY LIQUOR LICENSE REQUESTS

2/19/23 Duxbury Art Complex Museum Artist Reception

Mr. McGee moved that Ms. Doris Collins, as a representative of the Duxbury Art Complex Museum, is granted a One-Day Wine & Malt License to hold an artist reception on Sunday, February 19, 2023

from 1:00 PM to 4:00 PM at the Art Complex Museum, 189 Alden Street, contingent upon the conditions of the license. *Seconded by Mr. Flynn* *Vote: 4:0:0*

9. EVENT PERMITS

04/01/2023 Annual Friends of the COA Half Marathon Fundraiser

Mr. McGee moved Ms. Sharon Cronin, as a representative of the Friends of the Council on Aging, is granted permission to hold the 11th Annual Duxbury Half Marathon to raise money for the Senior Center's Programs, on Saturday, April 1st at 7:00 AM (with a 7:30 AM race start), beginning and ending at the Duxbury Senior Center, contingent upon the conditions of the permit.

Seconded by Mr. Flynn *Vote: 4:0:0*

05/20/2023 Community Garden Club of Duxbury Plant Sale

Mr. McGee moved Ms. Katherine Hunt, as a representative of the Community Garden Club of Duxbury, is granted permission to hold a Plant sale fundraiser outdoors in the rear parking lot at the Duxbury Senior Center on Saturday, May 20, 2023 from 9:00AM to 12 Noon (with preparations on Friday, May 19 and a rain date of May 21st), contingent upon the conditions of the permit.

Seconded by Mr. Flynn *Vote: 4:0:0*

10. MINUTES

Mr. McGee moved to approve the 01/04/23 (as amended) and 01/09/23 Selectboard Executive Session Minutes, with the contents to remain confidential until the need has passed. *Seconded by Mr. Flynn*
Vote: 4:0:0

Mr. McGee moved to approve the 01/11/23 Selectboard Executive Session Minutes, with the contents to remain confidential until the need has passed. *Seconded by Ms. MacNab* *Vote: 3:0:1 (Cindy abstained as she was not in attendance)*

Mr. McGee moved to approve the 01/09/23 Selectboard Open Session Minutes, as presented.
Seconded by Ms. MacNab *Vote: 4:0:0*

11. ANNOUNCEMENTS

1) Waiting Lists for Commercial Mussel & Razor Clam Licenses:

The waiting lists for Commercial Mussel and Razor Clam Licenses are posted in the Selectboard's office for interested residents. A reminder for those individuals already on the Waiting Lists for Commercial Mussel and Razor Clam Licenses must renew their application annually within the month of January.

2) The following offices will be on the ballot for the election on March 25, 2023:

two Selectmen for a term of three years
one Assessor for a term of three years
two School Committee Member for a term of three years
one Planning Board Member for a term of five years

two Library Trustees for a term of three years
one Housing Authority Member for a term of five years
one Housing Authority Member for an unexpired term of four years

Please email Town Clerk, Susan Kelley, at kelley@duxbury-ma.gov to request nomination papers. 50 signatures of registered voters that have been certified by the town clerk are required to appear on the ballot. Nomination papers are due back to the Town Clerk by Friday, February 4, 2023.

3) Voting by Mail for Annual Town Election:

Anyone wishing to cast a ballot by mail may visit the Town Clerk's office to obtain the application or download the form from the Town Clerk's page on the website. Applications may be returned in the mail or dropped in the drop box behind Town Hall. Ballots will be mailed to voters as soon as they are available – typically 3 weeks before the election. The last day to apply for a ballot to be mailed is Monday, March 20th.

In Person Early Voting for the Annual Town Election will be held at the Town Clerk's office during normal Town Hall business hours from Monday, March 13th through Wednesday, March 22nd, excluding Saturday and Sunday.

2023 Annual Street List/Census forms have been sent. Please review the information, sign the form and return it to the Town Clerk. This census is not the same as the federal census that was completed last fall. The information is used to compile the annual list of residents and to update the voter registration files. No new voters can be added on the census form - new voters must complete a voter registration card or register through the Secretary of State's website

- 4) Congratulations to Police Chief Stephen McDonald on his retirement – we wish him well.
- 5) Next Scheduled Selectmen's Meeting will be on Monday, January 30, 2023 at 7:00pm.

12. BONUS SHELLFISH (Month of February)

Mr. McGee moved that the Selectboard declare a temporary Bonus Shellfish Season for:

- 1) The commercial harvesting of softshell clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment B & C)
- 2) The commercial harvesting of quahog clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment A & C)
- 3) The recreational harvesting of Soft-Shell Clams for the month of FEBRUARY. Regulations as attached. (Please see Attachment D)

Seconded by Mr. Flynn Vote: 4:0:0

13. ADJOURNMENT

Mr. Flynn moved to adjourn at approximately 8:15pm.

Seconded by Ms. Macnab Vote: 4:0:0

Minutes submitted by Nancy O'Connor

List of documents in Selectboard file:

Selectboard Agenda

Exec Session Motion

DPW MOU

Alden Kindred letter of support

Motion re ballot questions

Motion to close ATM warrant

Motion re Citizens' Petition

MassHousing letter re Windsor at Millbrook on Railroad Ave

ODLL

Event Permits

Minutes

Announcements

Bonus Shellfish – February