

Date: October 23, 2023

Date Minutes Approved: November 6, 2023

TOWN CLERK

2023 DEC -5 AM 10:13

DUXBURY, MASS.  
OPEN SESSION MINUTES

## SELECTBOARD

**Present:** Cynthia Ladd Fiorini, Chair; Michael McGee, Vice Chair; Amy M. MacNab, Clerk; Fernando Guitart; and Brian E. Glennon, II

**Absent:** None

**Staff:** René Read, Town Manager; and Nancy O'Connor, Executive Assistant

**Others:** Jeff Blake, Esq. (Town Counsel – Exec Session Only); Trustees of the Duxbury Affordable Housing Trust (for Executive Session only); Members of the Water & Sewer Advisory Board; Ryan Trahan, Environmental Partners; Sean Healey and Kevin MacKinnon, both of Weston & Sampson

### 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 2 of the Acts of 2023, 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](http://www.pactv.org/duxbury) for information about Duxbury programming including streaming on Duxbury YouTube, to watch replays and Video on Demand.

### 2. **PLEDGE OF ALLIGIANCE**

### 3. **6:30PM EXECUTIVE SESSION**

For the purpose of discussing prospective litigation since an open meeting may have a detrimental effect on the litigating position of the Town, if the Chair so declares, regarding the following:

*Watermark, LLC vs. RH Benea Cranberry Co. Inc. et al*

Ms. MacNab moved that we go into Executive Session for the following purposes:

To discuss prospective litigation strategy since an open meeting may have a detrimental effect on the litigating position of the Town; and if the Chair so declares, in accordance with Mass. General Laws Chapter 30A, Section 21, and that the Selectboard will adjourn immediately after the completion of this Executive Session and will convene in Open Session on or about 7:00pm.

*"Ms. Ladd Fiorini, as Chair, declared the necessity for an Executive Session to discuss prospective litigation strategy as to do so in Open Session may have a detrimental effect on the Town's strategizing and litigating position."*

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

After the Executive Session discussions were completed, Ms. MacNab moved that the Selectboard adjourn the Executive Session and re-convene in Open Session on or about 7:18pm.

*Seconded by Mr. Glennon*

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

#### **4.      OPEN FORUM**

Mr. Tyler Woodward, of 139 Cross Street (at Conservation Lane), complained about different incidents on this street, such as excessive speeding and car accidents, all nearby three bus stops, where he said his children do not feel safe standing there. Mr. Read said that he would have the police department reach out to him. Mr. Woodward left his contact information with Ms. O'Connor.

Mr. Glennon said that he and Mr. Guitart met with Ms. Jeannie Horne, HR Director, to discuss the Town Manager's evaluation form, which they are making good progress on. They have agreed on the format of the job performance evaluation portion with the annual goals portion to be discussed. He hopes to have a document wrapped up by mid-November.

Mr. Glennon provided an update regarding Rte. 3A paving, which was asked about last meeting and had already received a response from MassDOT. They said that the reason why they did the paving was because they had money in the budget, didn't notify the Town that they were doing it and just showed up. The State does not have plans to do any further paving on Rte. 3A/Tremont Street, but they will take under consideration since the Town has taken this opportunity to ask for more paving be done to the Marshfield line in the event they find more money in the budget.

Mr. Glennon mentioned that Mr. Christopher Ryan (prior Planning Director) brought up the One Stop for Growth Grant as announced at the last meeting as we were awarded a significant grant, and Mr. Ryan has asked that someone from the Town attend.

Mr. Glennon also commented on Duxbury Bay water quality regarding nitrogen and that the Agricultural Commission has raised this issue a couple of times and would like to arrange a meeting with the Duxbury Bay Management Commission. There has been difficulty arranging for a meeting and looking for recommendations for assistance. Mr. Guitart responded that DBMC was working on getting a date together.

Mr. Guitart recognized the Duxbury Affordable Housing Trust with a special Thank You to Diane Bartlett, who chaired the Trust for over 20 years. He said that she has stepped down headed into retirement, but will remain on the Trust to assist the transition to new Chair, Dan Coughlin. The Selectboard unanimously thanked Diane and there was a round of applause in her honor. Introduced were Dan Coughlin, Chair; Stephen Dubuque, Vice Chair; and Stephan Marshall, Clerk.

## 5. NEW BUSINESS

### *Discussion regarding Beach Access – presented by Cris Luttazi, DBR*

Ms. Cris Luttazi, Executive Director of the Duxbury Beach Reservation, provided a brief presentation regarding the condition of the boardwalk and a proposal for the Town to give the responsibility of the boardwalk to DBR. The Town would not be responsible for repairs, the DBR could raise funds to elevate, repair, and maintain. She also proposed using the sand disposed from the new DPW site as it is compatible to beach sand in order to strengthen the landform that protects the shoreline.

Mr. Read responded that he would need to speak with the DPW regarding the boardwalk/ramp and also pointed out that the disposition of sand from the DPW site would be part of a bid package as it has to go through the statutory process for the project. Ms. Luttazi said that she understood.

### *Discussion regarding PFAS mitigation for the remaining wells (not Partridge) and the preferred threshold (0%-4%) on the PFAS filtration systems – presented by Ryan Trahan, Environmental Partners*

Mr. Ryan Trahan, Environmental Partners, provided an update to the Selectboard. He stated that there has been no real movement yet on the new PFAS level from the EPA, but felt that it was still on target for mid-December and that some companies may challenge/litigate that. He explained that if and when that happens, we would have time (2-4 years) to become compliant. Tonight, he wanted to educate everyone as to what goes into setting a goal for the removal of PFAS along with other contaminants, the thought process, and how it impacts costs (from design, to operation and maintenance). He said that it was too premature to give hard costs as each well has its own water quality, pumping schedule, and unique challenges (different testing outcomes for PFAS, high iron, manganese or other contaminants); therefore, would have their own operations and maintenance schedule. Mr. Trahan provided a slide with information from another town they are working with on PFAS removal that is using granulated activated carbon (GAC) filter. The slide indicated the concentration of PFAS levels tested and the bed volumes (how much water is going through the system and flow rates), which you could then extrapolate the frequency in which to change the filters in order to remain in compliance. He said that this would help to guide us in deciding what level our media/filters should be at (0%-4%). Mr. Glennon asked if Mr. Trahan was going to talk about different kind of filters. Mr. Trahan stated that this chart/slide showed the GAC filter, there is also an ionic filter, which has more of an upfront cost, but may last longer. He added that each well would be looked at individually to determine which media/filter works best based on that data (not cookie cutter). Ms. Ladd Fiorini asked how to determine the timeframe of the filter. Mr. Trahan answered that it is based on many factors (volume, water flow, level of contaminants), but in some cases he has seen the media/filters last from one to two years. Ms. Ladd Fiorini also asked the timeframe to get information on each well, knowing that they are all different with different treatments. Mr. Guitart added that he would like to see a PFAS mitigation plan to include all wells. Mr. Trahan answered that we have been very pro-active and all other wells (other than Partridge and Depot) are in compliance. Work has started on Partridge, Tremont and Depot (anticipated funding through ARPA submitted in August). Mr. Trahan confirmed that there is no other funding available to start working on the design and construction of the other wells because the other wells are in compliance (DEP would only support funding for non-compliance). Mr. McGee asked what the status was of the design work for Partridge. Mr. Read responded that we have a contract in place and had already met with Wright-Pierce who will be working on the preliminary design. Ms. Ladd Fiorini said that we need a preliminary design on all the wells. Mr. Read replied if we had the money, sure. If funds are available, Mr. Trahan recommended that a first step would be to understand the water quality of each well and do testing to figure out what media/filter would work best, how long the media/filter would last and set a treatability goal. Ms. MacNab asked if the type of filtration would be the same or does it require

a different design to get to 0%? Mr. Trahan responded that you would just have to swap out the media/filter more often. Ms. MacNab confirmed that it's not necessarily the design type, but how often we change it determines the level – so she does not understand why we were waiting and why we can't move forward with 0%.

Mr. Trahan provided a slide with the timeline of all wells showing Partridge first (already approved funding specifically earmarked for Partridge because that well failed and met the criteria) with Tremont/Depot wells second (waiting on anticipated ARPA funds) and all other wells thereafter (will be subject to approved funding and procurement). Mr. Guitart asked if Mr. Trahan was not looking at this as one project, but rather individual projects. Mr. Trahan answered that it could be one major project if we had the approved funding (est. \$100m) and reiterated that the State will not align their funding until the final MCL (maximum contaminant level) was established.

Mr. Jim Begley, 147 Elm Street, talked about the way carbon systems are set up (he works in the environmental field and toured Town of Barnstable field) – they are typically set up with a lead and lag (two vessels) watching influent, middle and end, and that will start to see breakthrough of the contaminant. It's an efficient way of operating a carbon system, vessels need to be sized along with the carbon vessel. That's the work to investigate how long will that first vessel will last. Mr. Begley also suggested that the Town provide a Town employee as a project manager to then work with the consultant (Mr. Trahan) rather than the consultant also be the project manager. Mr. Read respectfully replied that at the time, we were without a Water & Sewer Superintendent and the DPW Director was retiring, so Mr. Trahan was asked to be the project manager.

Mr. Glennon asked Mr. Trahan why are we prioritizing Partridge (off-line lowest yielding well) and Depot (off-line and a lower yielding well) and not starting with a higher producing well. Mr. Trahan answered that the DEP had set the MCL at 20ppt (parts per trillion) and Partridge was the only well that tested above that. At that time, the process to get funding approved was started, which was prior to the current EPA ruling. Mr. Trahan also confirmed that there needs to be redundancy and other wells could be re-prioritized once additional funding was in place. Mr. McGee asked if it was, in general, bad policy to shut down/abandon a well. Mr. Trahan answered that he would not recommend that unless it was way beyond capacity issues, but that happens very infrequently.

***Discussion regarding plume of contamination, including PFAS, intensifying if Partridge well is brought back online – presentation by Sean Healey and Kevin MacKinnon, Weston & Sampson***

Mr. Sean Healey was in attendance to present the results of their PFAS source and hydrogeological evaluation done regarding their ongoing assessment of PFAS plume at the municipal landfill and McNeil dumpsite migrating towards Depot St well. Mr. Kevin MacKinnon, Senior Hydrogeologist, began the presentation regarding the sources of the PFAS and looked at the entire Town for potential sources of contamination along with groundwater sources that may have contributed. This contract focused on Partridge, Depot and (2) Evergreen wells. They determined potential sources through MassGIS (fire station, landfill, groundwater/wastewater discharges, emergency release reports) and NAICS Codes (North American Industry Classification System). Then performed numerical groundwater modeling to make determinations delineating capture zones and identifying potential sources. There were several sources and potential sources identified. The relevant potential sources include the Duxbury Landfill, Inc. (McNeil - inactive), Duxbury Municipal Landfill (closed), Duxbury Fire Department, and Carpet Cleaning Service (found through NAICS) as well as other potential contamination source with particle tracking results to show potential impacts to water supplies. He provided a comparison of the PFAS results from Landfill

monitoring wells and PFAS results from water supply wells. They ran a lot of simulations in a steady-state model (same pumping rates) and transient states (Simulations of all wells, and then the individual wells – Depot, Partridge and Evergreen wells) and particular tracks (some to the Blue Fish River). There were discussions regarding next steps of treatment expectations and how to plan to use the wells; pumping rates and flow rates; that potential sources for Partridge may not be the landfill; that the Depot well appears to be the most vulnerable as it is a direct shot from the landfill; and surface water bodies act as a sink (Bluefish River). Next steps may be to put in water monitoring wells downgradient from other potential sources and upgradient of the landfill, and also collect additional PFAS samples from existing monitoring wells, proposed monitoring wells, and along multiple reaches in the Bluefish River; and to determine realistic pumping rates of each impacted supply well and perform additional simulations.

There were more discussions regarding the reason for prioritizing Partridge – which again was reiterated that at the time, Partridge was the only well that was above PFAS levels and met the criteria and qualified for approved ARPA funding. Mr. Trahan remarked that Weston & Sampson's presentation was good and informative, and we should be looking at potentially reprioritizing Tremont and Depot if it may produce higher PFAS concentrations based on what was showing with the data we now have.

Mr. Bo Boynton stated that the wells need to be looked at individually because they tie in singularly to the distribution system. He was concerned about the lack of treatment plant operators. He said that both the Tremont and Depot wells have been off-line for a long time, we don't have a water supply problem, and should concentrate on the wells that are currently being used. He felt that the logic was backward, our focus was not in the right place, and we should return the \$1.8m ARPA Grant and focus on the wells we actually use. He also commented that he believes the GAC filters are not going to work at 0%.

Ms. Mary MacKinnon, Finance Director, stated that funding was requested at Town Meeting specifically for the Partridge well, which was approved at \$1.8m so borrowing could only be isolated to the Partridge well. The Town also pursued a \$1.8m request to use the ARPA funding by way of Plymouth County, which was Federal funding allocated specifically using the funds for the Partridge well. She spoke with someone at Plymouth County, and if the Town wanted to re-purpose those funds, they would have to give the funds back, re-apply and start the process over again with respect to a different well; however, funds need to be expended or committed by June 30, 2024. The ARPA program itself, funds need to be committed or obligated by December 31, 2024 and fully expended by December, 2026. Right now, we have two funding authorizations that are available each \$1.8m, but both are specific to the Partridge well. Ms. MacNab asked if we returned the money and re-applied, would we be guaranteed that we would be awarded the funds. Ms. MacKinnon replied that while she would not guaranty on behalf of the County; however, if the project meets the requirements of the Drinking Water State Revolving Fund criteria, then the likelihood of that being approved by Plymouth County is high.

Ms. Ladd Fiorini asked if they would have to go back for Town Meeting approval (should funds be re-allocated). Mr. Read answered yes as the voters at Town Meeting approved this last March and in addition to what Mary just explained, all the procurement would have to be done again. Ms. MacKinnon confirmed that the use of the ARPA funds would not require us to go back to Town Meeting; however, Mr. Read is also correct if we were to pursue re-programming these funds away from Partridge and apply for a different project, it would trigger procurement all over again for a different project. Mr. Trahan added that we don't exceed the MassDEP criteria (20ppt) at the other wells.



Ms. Ladd Fiorini then asked if it made sense for all of the parties to meet. Mr. Mark Cloud, Water & Sewer Superintendent, stated that he spends 110% of his time operating and maintaining our water system with Weston & Sampson still operating the treatment/sewer plant and system because he doesn't have the bandwidth or the operators to do both. He said that if they want this job done quickly, Mr. Trahan is your person as he is the expert and has the support staff to do this project.

Mr. Begley remarked that he sees a lot of information developing that needs to be put together, and we need funding to address it. As the different groups get together to discuss this, there's some urgency to identify key priorities to get the planning process going and come up with a funding plan for the initial work that needs to be done and get that in the warrant for the upcoming Town Meeting. Mr. Trahan can assist in putting together guidance information depending on the available funding.

Ms. Candace Martin, Gurnet Road, said that she would be more than willing to help coordinate the Town's activities with the external partners. She will also work with Mr. Trahan to develop an article to approve funding for a broader scope of work on all Town wells.

Ms. Ladd Fiorini said there are two issues:

1. She would like Mr. Begley, Ms. Martin, EP and W&S to work on a plan including drafting an article along with the cost. Ms. Martin will convene all those people (PFAS mitigation plan working group) along with the Water & Sewer Advisory Board. There also needs to be placeholder by December 1 to submit an article in the Warrant.
2. Partridge Street well – we have money in hand, vote from Town Meeting and a signed contract, we would have to do it anyway.

Mr. Glennon still questioned the urgency on the Partridge well given what we know now. Mr. Read explained that when the well was found to be contaminated, that was the only one that mattered – like today, it is still the only one that matters under the EPA regulations. All the other wells are in compliance, so we addressed the one problem – Partridge. All the years led up to us signing the contract with Wright-Pierce. The problem is still there until we fix it. At the time, the decision was correct, and at this time, he still thinks the decision is correct for the reasons that were heard. Not only do we have the funding in place, the voters approved it, it's part of the redundancy program, and the regulations are still such that they haven't been modified by the EPA, so he recommends moving forward with Partridge.

Ms. Ladd Fiorini asked Mr. Read to speak with Wright-Pierce to put their work on hold and wait for the working group to meet and come back to the Selectboard with their recommendations. All members were in agreement.

***Discussion regarding Liquor License – Change of Manager for Brothers Marketplace***

Attorney Jim Sperber was in attendance and explained that the prior manager was no longer employed at Brothers and was seeking to change the manager of record. Mr. William Hutchinson had already been managing the liquor section of the store. It was also confirmed that the liquor license is an All Alcoholic Beverages license. Mr. Guitart asked if Mr. Hutchinson had all the necessary qualifications. Mr. Hutchinson simply replied yes.

Ms. MacNab moved that the Selectboard, acting as the Local Licensing Authority, approves the Change of Manager to new Manager William Hutchinson for the Brothers Marketplace located at 46 Depot Street, License #89883-PK-0300, subject to the requirements of the ABCC (Alcoholic Beverages Control Commission). *Seconded by Mr. Glenmon* *Vote: 5:0:0*

## 6. TOWN MANAGER'S REPORT

### *Update on Municipal Aggregation*

Ms. O'Connor has been working with Colonial Power and Wendell Cerne (AEC) on organizing and disseminating Duxbury's Aggregation Plan for the required 30-day Public Review and Comment Period. This is required prior to submitting it to the Massachusetts Department of Public Utilities (DPU).

The Public Review and Comment period is scheduled from Tuesday, October 24, 2023 at 8:00am through Wednesday, November 22, 2023 by 4:00pm. (*Scribers note:* due to technical difficulties, the review and comment period posted actual dates are Tuesday, October 24, 2023 at 12 Noon through Friday, November 24, 2023 by 12 Noon.)

Plan information will be available on the Alternative Energy Committee webpage, distributed to subscribers through Town News, with hard copies available at the Duxbury Free Library, the Senior Center, the Town Clerk's office and the Town Manager/Selectboard office. There will also be an informational meeting hosted by the Alternative Energy Committee along with a representative from Colonial Power on Thursday, November 16 starting at 7:30pm in the Mural Room. A remote option will also be provided.

After the 30-day period has concluded, all comments/inquiries need to be submitted to Colonial Power as they are to be included with the DPU filing. The Selectboard will also have to vote to approve the plan prior to the DPU filing.

## 7. EVENT PERMITS

### *11/18/23 Annual Turkey Trot*

Ms. MacNab moved that Ms. Loretta Doyle, as a representative of the Duxbury Recreation Department, is granted a permit to hold their annual Turkey Trot Fun Run on Saturday, November 18, 2023 from 10:00am to 12:00 noon, beginning and ending at the Percy Walker Pool, contingent upon the conditions of license.

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

## 8. MINUTES

Ms. MacNab moved to approve the 08/28/23 Selectboard Open Session Minutes, as amended.

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

## 9. ANNOUNCEMENTS

1. Monday, October 30, 2023 – There will not be a Selectboard Meeting that evening.
2. Next Regularly Scheduled Selectboard Meeting will be on Monday, November 6, 2023 at 7:00pm in the Mural Room.

**10. BONUS SHELLFISH SEASON (November 2023)**

Ms. MacNab moved that the Selectboard declare a temporary Bonus Shellfish Season for:

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

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

**11. ADJOURNMENT**

Ms. MacNab moved to adjourn at approximately 10:00pm.

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

*Minutes submitted by Nancy O'Connor*

*List of documents in Selectboard file:*

*Selectboard Agenda*  
*DAHT Agenda*  
*DBR Presentation*  
*Weston & Sampson presentation*  
*Liquor License – Change of Manager for Brothers*  
*Event Permit*  
*Minutes*  
*Announcements*  
*Bonus Shellfish (November)*