

Date: November 21, 2022

Date Minutes Approved: 12-05-22

TOWN CLERK

2022 DEC -6 PM 1:45

DUXBURY, MASS.
OPEN SESSION MINUTES

SELECTBOARD

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

Absent: Theodore J. Flynn

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

Others: Shirin Everett, Esq., KPLaw

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

1. **CALL TO ORDER** This meeting was called to order at approximately 7:00pm. 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. **OPEN FORUM** Nothing brought forward

4. **NEW BUSINESS**

Acceptance of a gift from Duxbury Youth Baseball - Keene Street Fields – Solar Powered Scoreboard - presented by Gary Williamson, President, Duxbury Youth Baseball

Mr. Gary Williamson, President of Duxbury Youth Baseball, contacted our office earlier this week to let us know that DYB would like to make a gift/donation to the Town of Duxbury. DYB has offered to purchase and install a free-standing, solar powered electronic scoreboard for the Keene Street Baseball Field #1 valued at approximately \$22,500+/- . Mr. Williamson has also been in contact with the DPW, specifically Jim Savonen, Manager of Lands & Natural Resources, and if accepted, they will work together to coordinate the preferred location and oversee the installation. For many years, Duxbury Youth Baseball has collaborated with the Town on these types of projects, and DYB has made numerous, equally generous gifts to the Town, and we are truly grateful to them for all of their efforts in helping expand interest in baseball and improve the conditions for our baseball players.

Mr. McGee moved that the Selectboard accept, with sincerest gratitude, Duxbury Youth Baseball's donation of a solar powered electronic scoreboard for the Keene Street Baseball Field #1 valued in the amount of \$22,500+/-.

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

Discussion regarding installation of underground conduit request by Eversource – Heritage Lane

A petition was received from Eversource for the installation of underground cable and conduit to install 1-4" PVC conduit and 2 (two) handholds on Heritage Lane in order to provide service. An administrative public hearing was held at 9:00am on Wednesday, November 16, 2022, via remote Zoom meeting, for which notifications were sent to the abutters by certified mail. In addition, a legal notice was published in the Duxbury Clipper on November 2, 2022. No one gave cause for denial of this request.

Mr. McGee moved that the Selectboard authorize and give permission to NStar Electric Company, d/b/a Eversource Energy, to install and maintain underground cables, conduits, manholes and fixtures, as described, for the installation of underground cable and conduit and to install 1-4" PVC conduit and 2 (two) handholds on Heritage Lane in order to provide service.

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

Update on DPW Building Project – presented by Jeffrey J. Alberti and Brian McCusker, Weston & Sampson Engineers, Inc.

Mr. Alberti provided a presentation detailing the building history of the initial needs assessments with a final 14% reduction in the size, the schematic design of the new DPW facility and the updated project costs based on current market conditions (increased cost variance of \$4.4m). Mr. Alberti described the cost control measures that have been evaluated or are under consideration along with options for next steps. Members of the Selectboard expressed their disappointment in the increased costs. Mr. Alberti stated that no one could have predicted the increase in costs, especially over the last eight-nine months and that is why he was bringing this to their attention. He further stated that they developed the detailed site plan which included escalation rates when planning, but that a lot has happened given supply chain issues, increased material costs, labor shortages, and inflationary issues. Mr. Alberti continued to say that he understood everyone's frustrations and professionally would never mislead anyone. He said that they are dealing with unprecedented escalations and want to work with the Town for a solution as they do not want to see this project fail. Mr. Alberti offered some cost cutting measures. The first included reducing the size of the building; however, Mr. Alberti did not recommend as the size was already reduced from the original plans and, since the DPW serves the entire Town including vehicle maintenance, that space is needed. Another option was to delay in purchasing some of the vehicle maintenance equipment and buy at a later date. Mr. Alberti added that the Town could prepare the site for the building in advance of sending out to bid and another cost saving option was so modify the structure for the salt storage building. Mr. Alberti reiterated the importance of this project and their desire to work with the Town for solutions. Mr. Guitart asked when they plan on going out to bid. Mr. Alberti replied in the spring around March/April with bids coming in by July. Mr. Joe Sullivan (OPM) and Mr. Kevin Sullivan from CHA Companies were also in attendance. Mr. Joe Sullivan also explained the unprecedented volatility of the market and that Duxbury was not the only community this was impacting. He stated that the original contingency estimated should have been enough, but no one could have predicted this extreme market. A lengthy discussion continued, which also included some comments from residents. Mr. Alberti will be

working with Mr. Sullivan on cost control measures, and the recommendation is to still send out to bid in March/April.

Discussion pertaining to Seawall Easement Takings – presented by Attorney Shirin Everett and Leslie Fields, Coastal Sciences & Planning Team Leader of the Woods Hole Group

Mr. Read read the following memo into the record:

Attached hereto you will find the Order of Taking for the Board's review and execution as drafted by Town Counsel, Shirin Everett, Esq. Attorney Everett has offered the following explanation:

All of the owners of the parcels of land have signed a Grant of Easement, donating the permanent easements to the Town. However, none of the lenders that have mortgages on these parcels of land gave permission to the owners to grant the easement to the Town. If the Town records the Grant of Easement and a lender forecloses on a mortgage, the foreclosure will terminate the Town's easement rights. The Town needs to take the easements by eminent domain in order to protect its easements because, by law, an easement taken by eminent domain cannot be terminated by foreclosure. The taking will ensure that the easements will last permanently. Please note that all the Grant of Easements signed by the property owners explicitly authorize the Town to take the easements by eminent domain. Once the Order of Taking is on record, the Town will send written notice of the taking to the owners and their lenders.

Counsel recommends that the Board take the following vote:

I move, pursuant to the vote taken under Article 18 of the May 15, 2021, Annual Town Meeting, to take by eminent domain permanent easements in, on, under, across and along certain parcels of land located on Bay Avenue, Cable Hill Way, Ocean Road South, Ocean Road North, Gurnet Road, and Lewis Court and identified more particularly in the Order of Taking prepared by Town Counsel for public access purposes and for the purpose of undertaking a dune nourishment project, and to execute, and to authorize the Chair to execute, on behalf of the Selectboard, the Order of Taking and any and all other documents related thereto, and award no damages for said taking.

Finally, the easements that the owners have signed will be kept in a secure place at Town Hall, as they are evidence that the owners donated their easements to the Town. Attorney Everett will be present at the meeting along with Leslie Fields of the Woods Hole Group (both virtually) to guide this discussion and answer any questions. Please let me know if you have any questions.

There was a question if land was being "taken." Attorney Everett confirmed that the Town was not taking land and that this is just an easement to allow access for restoring the dune and public access since we are using public funds.

Motion:

Mr. McGee moved that pursuant to the vote taken under Article 18 of the May 15, 2021 Annual Town Meeting, to take by eminent domain permanent easements in, on, under, across and along certain parcels of land located on Bay Avenue, Cable Hill Way, Ocean Road South, Ocean Road North,

Gurnet Road, and Lewis Court and identified more particularly in the Order of Taking prepared by Town Counsel for public access purposes and for the purpose of undertaking a dune nourishment project, and to execute, and to authorize the Chair to execute, on behalf of the Selectboard, the Order of Taking and any and all other documents related thereto, and award no damages for said taking.

Seconded by: Ms. MacNab

Vote: 4:0:0

5. TOWN MANAGER'S REPORT

Mr. Read stated that he has been working on the FY24 budget with the Finance Director and the Finance Committee and will have a final report in about a month.

Mr. Read mentioned that since the holidays are quickly approaching, we are sending out a memo to local property and business owners regarding the rules and regulations for serving alcoholic beverages to the general public (this includes wine tastings). For those businesses that do not currently hold a State issued liquor license, in order to serve alcoholic beverages to the public, a one-day liquor license approved by the Selectboard is required. If you have any questions, please contact Nancy O'Connor in the Town Manager's office.

6. COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS None

7. ONE-DAY LIQUOR LICENSE REQUESTS None

8. EVENT PERMITS None

9. MINUTES

Mr. McGee moved to approve the 04/22/22 Selectboard Open Session Minutes, as presented.

Seconded by Ms. MacNab Vote: 3:0:1 (Ms. Ladd Fiorini abstained as she was absent)

Mr. McGee moved to approve the 5/23/22 and 10/17/22 Selectboard Open Session Minutes, as presented. Seconded by Ms. MacNab Vote: 4:0:0

Mr. McGee moved to approve the 10/24/22 Selectboard Open Session Minutes, as presented.

Seconded by Ms. MacNab Vote: 3:0:1 (Mr. McGee abstained as he was absent)

10. ANNOUNCEMENTS

- 1) Next Scheduled Selectmen's Meeting will be on Monday, December 5, 2022 at 7:00pm in the Mural Room.
- 2) The Duxbury Town Hall will be closed on Thursday, November 24, 2022 (Thanksgiving) and will remain closed all day on Friday, November 25, 2022.
- 3) The Duxbury Council on Aging will be closed on Thursday, November 24, 2022 (Thanksgiving) and will remain closed all day on Friday, November 25, 2022.

- 4) The Duxbury Free Library will close at 5:00PM on Wednesday, November 23rd, and will be closed on Thursday, November 24, 2022 (Thanksgiving) and will resume regular hours on Friday, November 25, 2022.
- 5) The Percy Walker Pool will be closed on Thursday, November 24, 2022 (Thanksgiving) and will remain closed all day on Friday, November 25, 2022.
- 6) The Transfer Station will be closed on Thursday, November 24, 2022 (Thanksgiving Day) and will be open for its regular business hours from Friday — Sunday: 8:00 am to 4:00 pm.

11. BONUS SHELLFISH (month of December, 2022)

Mr. McGee moved that the Selectboard 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)
- 3) The recreational harvesting of Soft Shelled Clams for the month of DECEMBER. Regulations as attached. (Please see Attachment D)

Seconded by: Ms. MacNab

Vote: 4:0:0

12. ADJOURNMENT

Mr. McGee moved to adjourn at approximately 9:00pm.

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

Minutes submitted by Nancy O'Connor

List of documents in Selectboard file:

1. *Agenda*
2. *DYB documentation*
3. *Eversource underground conduit request documents*
4. *DPW Building Project Power Point Presentation from Weston & Sampson*
5. *Seawall easement takings documentation*
6. *Minutes*
7. *Announcements*
8. *Bonus Shellfish - December*