

Date: March 26, 2018

Date Minutes Approved: April 9, 2018

TOWN CLERK

2018 APR 11 PM 3:15

DUXBURY, MASS.

BOARD OF SELECTMEN MINUTES

Present: Theodore J. Flynn, Chair; Shawn Dahlen, Vice Chair; and David J. Madigan, Clerk
(after re-organization of the Board)

Absent: (none)

Staff: René J. Read, Town Manager; John Q. Adams, Finance Director and C. Anne Murray, Administrative Assistant

I CALL TO ORDER

The meeting was called to order at 7:00 PM in the Mural Room at the Duxbury Town Hall.

II OPEN FORUM - *Nothing was brought forward.*

III NEW BUSINESS

Swearing In of Newly Elected Town Officials by Town Clerk

Town Clerk, Susan Kelley, performed the swearing in ceremony for the following newly-elected/re-elected town officials. Present for the swearing in were the following elected officials: David J. Madigan, Selectman; Cynthia Ladd Fiorini and Brian E. Glennon, II, Planning Board; and Leah Marie Petro, Board of Library Trustees.

The following newly-elected /re-elected officials were not able to attend and will be sworn in at the Town Clerk's office: John J. Tuffy, Moderator; Linda M. Collari, Assessor; Peter A. Quigley, School Committee; Cristin M. Mitchell, Board of Library Trustees; and Stephen Flynn McCarthy, Sr., Duxbury Housing Authority.

Re-organization of the Board of Selectmen

Mr. Dahlen moved to appoint Mr. Flynn as Chair of the Duxbury Board of Selectmen. Second by Mr. Madigan. Vote: 3:0:0

Mr. Madigan moved to appoint Mr. Dahlen as Vice Chair of the Duxbury Board of Selectmen. Second by Mr. Flynn. Vote: 3:0:0

Mr. Flynn moved to appoint Mr. Madigan as Clerk. Second by Mr. Dahlen. VOTE: 3:0:0

Following the vote, Mr. Flynn assumed the Chair for the remainder of the meeting.

7:01 PM Transfer of Beer & Wine liquor license from Bo-Tés to Red's Emporium LLC owner Daniel Lane

Mr. Madigan moved that the Board of Selectmen open the advertised public hearing regarding the Transfer of a Wines and Malt Beverages Off-Premises Liquor License No. 00038-PK-0300 from Thomas Campanelli, d/b/a Bo-Tés to Daniel Lane d/b/a Red's Emporium LLC, for the premises located at 1514 Tremont Street, Duxbury, MA. Second by Mr. Dahlen. VOTE: 3:0:0.

The applicant, Mr. Daniel Lane, said that he is looking to take over the Bo-Tés location. By way of introducing himself he mentioned that he is a life-long resident of the South Shore, a Kingston resident for 15 years, and a chef for over 25 years. He mentioned that he is planning to keep the location running as it is, but to add more prepared foods and expand the selection of offerings. He said he would be offering beach baskets / gift baskets.

The Chair asked if there were any comments by the public, but no one commented.

Mr. Madigan moved that the Board of Selectmen, acting as the Local Licensing Authority, approve the Transfer of a Wine and Malt Beverages Off-Premises Liquor License No. 00038-PK-0300 from Thomas Campanelli, d/b/a Bo-Tés to Daniel Lane d/b/a Red's Emporium LLC, for the premises located at 1514 Tremont Street, Duxbury, MA, subject to all the conditions of the license. Second by Mr. Dahlen. VOTE: 3:0:0.

Review of new Common Victualler license – Red's Emporium LLC owner Daniel Lane

Mr. Madigan moved that the Board of Selectmen approve a Common Victualler's License for Daniel Lane d/b/a Red's Emporium LLC, subject to all the contingencies. Second by Mr. Dahlen. VOTE: 3:0:0.

Just as they were about to begin the next topic, Fire Chief Kevin Nord advised the Board that the room was over capacity and for public safety he was recommending the meeting be recessed and moved to a larger meeting space. All the seats in the room were taken and there were a large number of people standing around the back and sides of the room. After a brief discussion, it was announced that the meeting would resume at the Duxbury Senior Center, 10 Mayflower ST, as soon as people could re-locate to that space.

Meeting continued after re-locating to the Duxbury Senior Center (Ellison RM), 10 Mayflower ST

Update and discussion regarding sea wall conditions: Information to be provided by Town Manager and representatives of Duxbury Beach Residents Association and Webster Island Association

Mr. Read introduced himself as the Town Manager. He passed out some comments he had prepared regarding the seawall situation to provide everyone with an update of where we are today, what the Town has done, and what the Town will be doing in the future. The following is an overview of the items in the prepared statement (03-26-18 Town Manager Statement –Seawall Update; to be posted with the minutes):

- 03-16-17 – Town officials met with representatives from Federal Emergency Management Agency (FEMA) and the Massachusetts Emergency Management Agency (MEMA) and other State /Federal agency representatives to discuss the impact and associated restorative work.
- Regarding costs FEMA needs to be provided with either proof of ownership of the seawall by the Town and/or maintenance easements. The Town has provided FEMA with a listing of all recorded maintenance easements on file for the seawall.
- Town has been working with FEMA to provide information regarding the Preliminary Damage Assessment (PDA). The PDA is used by FEMA to determine the total dollar amount on a town-by-town basis. The deadline for PDA submittals was April 1st, but the State has filed for a one-month extension. Duxbury has submitted its PDA, but FEMA reviews them and then puts them

into a statewide matrix showing statewide costs and the county thresholds, which need to be met in order for a Federal emergency declaration.

- FEMA representatives have indicated that they expect a Federal emergency declaration to be made. This is good news because following a Federal emergency declaration FEMA will reimburse the Town for 75% of the costs associated with repairing and/or restoring the damaged seawall.
- FEMA reimbursements are for public infrastructure and not private property.
- In most cases, there is no recourse for homeowners (HO) with regard to FEMA reimbursement. Homeowners are responsible for the payment of the contractors who performed the work. FEMA suggested that private homeowners file a homeowner's insurance claim for coverage of their costs.
- The Town has been working with an engineer to determine the initial preliminary costs associated with repair and/or replacement of the damaged seawall. The engineer has determined that approx. 700 linear feet of seawall needs to be repaired or replaced for a total cost of just over \$4.5 Million. The estimate is approx. \$7,000 per linear foot.
- Restorative Agencies are MEMA and FEMA.
- Permitting Agencies: Any work to be done would require approvals from the following Permitting Agencies: Coastal Zone Management (CZM), Department of Environmental Protection (DEP), Army Corps of Engineers (ACOE) and the local Conservation Commission.
- Initially the Town is just looking at repairing / restoring the section of the wall that collapsed. A more long-term plan will have to be developed with regard to restoring the entire wall, including the sections that have not failed, but the Town has to figure out the financing.

A number of residents, who are abutters to the seawall or live in the affected area spoke and asked questions. What follows is an overview of the questions / comments made and some of the responses given where appropriate:

- Will repairs to the wall be higher and thicker?
Answer: When the wall was built it was done before they started embedding rebar in the cement. Any repairs will have rebar, and it was noted that the rebar used is coated and handled differently than in the past so it lasts longer, and may be slightly higher, but will likely be thicker at the base. We will know more after engineering is done.
- What is the short-term plan?
Answer: The work that has been and is being done is the short-term plan. That consists of backfilling the landward side of the wall and placing the large boulders as armament on the seaward-side of the wall.
- What is being done regarding the flooding issues in the area?
Answer: Mr. Read said that in the past the Town has had to borrow pumps from MEMA to mitigate flooding in that area. Duxbury is in the process of purchasing its own pump so we don't have to wait for MEMA to provide a pump. Chief Nord added that the Plymouth Avenue area is bowl-shaped and has had flooding issues. About 4 years ago, Duxbury started working with Marshfield to get Marshfield to secure the beach access, which was a natural breach in their seawall just over the town line. That is where the water was coming from that was flooding the Plymouth Avenue area. The Chief mentioned that discussions were held with other representatives of some of the area associations. Part of the problem is that some of the area is privately-owned and therefore, the Town could not do work there. Chief Nord said Town officials made a number of suggestions to the President of the private association. It was suggested that the private association move the tennis courts to allow for a retention basin there or that they raise the roads. The private association did not have the funds available, so as a result every time there was flooding the Chief had to ask MEMA for the pump. After repeated

requests, MEMA suggested that the Town purchase its own pump. Chief Nord put in for funding two years ago, but it was cut by the Governor from the State budget. Chief Nord said that he is now seeking funding through Homeland Security Council Funding. His concern is that Emergency Services have access.

- Where is the 700' of seawall to be restored/repared and when is it going to start?
Answer: The 700' are the sections that have collapsed or where you see the big breaks along the length of the beach area. Regarding timeframes: What can be done is already being worked on, but we need to figure out where the funding will come from. Mr. Dahlen elaborated by explaining that first the seawall repair has to be designed, then it has to go out to bid, then it has to go to Town Meeting for authorization of the funding, and any work has to be permitted. With regard to the permitting, Mr. Read said he specifically included the list of permitting agencies as some of them can take months to a year.
- What about repairing the rest of the seawall?
Answer: Eventually the entire seawall will have to be replaced, but that is something that won't happen for a number of years. In fact, FEMA has indicated it would be at least 5 to 7 years before that is evenly likely.
- Suggestion was made that the Town should have an emergency plan going forward?
Answer: The Town Manager agreed and indicated that is something that is in discussion.

At this point, Mr. Mark White gave a PowerPoint presentation entitled Duxbury Beach Sea Wall Emergency. The information was provided on behalf of the Duxbury Beach Residents Association and the Webster Island Beach Association. The presentation provided some information regarding the neighborhood associations and the residents who make up the areas abutting or near the seawalls. Much of the presentation was photographs showing the extent of the damage to the seawall and the flooding in the area as a result of this winter's storms. The presentation concluded with some of the issues that need to be resolved and the questions and/or concerns the residents want addressed. This information was included for the benefit of the public and the Town officials. Contact names and emails for the Duxbury Beach Residents Association and the Webster Island Beach Association were provided.

Mr. Dahlen made some remarks in response to some of the previous comments. He mentioned:

- Relative to the Duxbury Conservation Commission: He said the Duxbury Conservation Commission has always been responsive to any repairs needed as a result of storm damage. He had first-hand knowledge of that as he served as the Chair of the Duxbury Conservation Commission from 1985-1995. He said that permitting at the State and Federal levels would likely be more difficult.
- He believes that additional studies will need to be done to determine appropriate maintenance and long-term repairs. He suggested that would involve engaging an engineer, who would be asked to evaluate the situation, make recommendations for actions to be taken, and provide cost estimates. Then it would be a matter of finding and receiving authorization of the needed funding.
- With regard to the Plymouth Avenue flooding situation, that too might involve a study to determine exactly where the water is coming from, the topography of the area, possible mitigation such as where the water could be diverted, and estimated costs.

Ms. Valerie Massard, Duxbury Town Planner, then presented a number of statistics regarding what some other South Shore communities have done regarding seawall issues. Due to technical difficulties the PowerPoint presentation could not be projected, but Ms. Massard verbally went over the information. A copy of the presentation (03-26-18 Duxbury Sea Walls / Valerie Massard, AICP, Planning Director) will be posted along with the minutes so the information is available to the public.

The meeting continued with more audience comments and questions and responses from Town Officials. What follows is an overview of the questions / comments made and some of the responses given where appropriate:

- Several questions were asked regarding what budgets are established and the dollar amounts:
Answer: DPW Director Peter Buttkus said that there is not a specific amount budgeted for seawall maintenance. He has done repairs as needed to fill behind walls, to do revetment work, and to do crack sealing to keep moisture out of the wall. The grant he put in was to do a seawall study.
Mr. Read's short answer is that budgets have not been established. He elaborated by explaining that the Town had to immediately focus on the short-term remediation of the seawall failures and the flooding to prevent it from getting worse. Because of the timing of the Town Meeting, the Town adjusted budget figures for an authorization of \$200,000 for resources to address the immediate remediation (i.e., move the rocks, purchase rock, etc.). The second step is figuring out how we fund the repair work. Step three is what needs to be done to repair the remaining portion of the wall that wasn't damaged and how that work can be funded. Mr. Read assured the audience that this has been and continues to be the focus of a lot of ongoing attention, but some time is needed to get the answers.
- Regarding flooding in the Plymouth Avenue area, it was mentioned that in the past much of the water was coming through the opening in the Marshfield seawall, but now it appears the water is coming into the area from the marsh on the other side. A suggestion was made to elevate the road (Bay Avenue) to act as a berm between the marsh and the houses in the area. Another comment was that some of the work done by the Duxbury Beach Reservation, Inc. (DBR) on the dunes and the roads has also exacerbated the flooding from the marsh and that should be part of the discussion as well.
Answer: Chief Nord mentioned that Marshfield has taken care of the wall opening, but what some people may not know is that the catch basins in the area that are in Marshfield actually drain into the marsh so this has contributed to the flooding as well.
- Concerns were also expressed regarding the status of the Powder Point Bridge. It was suggested that work be done to the Bridge to increase the weight limit for emergency access.
- Several people pointed to a study that was done in 2010 regarding the seawalls and questioned why nothing had been done. They also pointed to work being done in other South Shore communities and questioned why Duxbury hadn't been doing similar work.
Answer: In response Mr. Read noted he was not the Town Manager when the study was undertaken and could not really answer that. He did mention that the other Towns were reacting to seawall failures in their communities, which happened a number of years ago so they had to face this situation sooner. Mr. Dahlen also mentioned that the recent storm that did the damage was worse than the Blizzard of '78 and made more difficult by the following storms. The amount of damage and how quickly it happened could not have been anticipated. He also noted that the Town officials have many community issues to address, such as public safety, schools, etc. and they are doing their best to do so, but cautioned that the seawall repair will take time to make sure it is done right.
- Selectmen Flynn proposed setting up a group of area residents and others as a planning group to address the questions and the long-term issues regarding the seawall and the flooding. He directed people who are interested to fill out a Talent Bank form, which is available on the Town website and/or in Town Hall.

- Cris Luttazi, Executive Director of the DBR, introduced herself and said that she is more than willing to meet with anyone or any group to discuss the work the DBR has done or is doing and any neighborhood impacts.
- It was asked if anything could be done in the short-term to deal with the area of the wall between the North and South wall, which is under high vulnerability right now. It was formally requested that whatever could be done, perhaps the placement of large boulders or other materials to reinforce that area, be done now. Ms. Luttazi mentioned that DBR donated approx. 300 large boulders that lined the parking lots of the beach to help the Town shore up the wall in the emergency response.
- Suggestion was made that Community Preservation Act Funds be used for the seawall issues?
Answer: The answer given was that they could speak with Joe Grady, Duxbury Conservation Agent and/or Holly Morris, Chair of the Community Preservation Committee (CPC), but some members of the Board of Selectmen were fairly certain that the CPA funds could not be used.
- What is the status of the scheduling of the Special Town Meeting?
Answer: Mr. Read said that he just got the preliminary figures the end of last week. Until the dollar amounts are known the scheduling of the STM was secondary. He stressed that Town officials are working on multiple questions at once and working as fast as we can.
- Regarding study monies they might come from other sources, such as grants, but there is no way you are going to come up with multi-millions of dollars for construction of the wall. It was asked what grants have been applied for?
Answer: Ms. Massard mentioned that immediately after the storm Town contacted MAPC to fast-track the Climate Resiliency Plan so that the Town might be eligible for grant funds to help with some of the anticipated costs. Later in the meeting in response to questions about grants, Ms. Luttazi mentioned that grants come up at various times during the calendar year. For example, one grant is the CZM grant. The Town couldn't apply for that yet as it does not open until sometime in April.
- Is there a FEMA report available?
Answer: No, not yet. FEMA is just in the process of gathering all the data from the various towns.
- Funding is a major issue. Once the estimated costs are known, then we have to determine where that money is to come from, i.e., raise, appropriate and/or borrow, and that will require authorization from a Town Meeting. Mr. Read suggested that for those who live in the affected area of the seawall, they should be prepared to hear from other Duxbury citizens that this is not their priority. Mr. Read stressed this is not his argument, but one that has already been voiced to him. In response it was pointed out the counter argument might be that many of the residents in the seawall area do not use Town services, such as the schools but their taxes have helped pay for the schools.
- Concerns were expressed that FEMA will only pay for restoration of the wall that was there and clearly with today's sea level rise and conditions that is not sufficient. So some people wanted to know how we assure that upgrades are integrated into the long-term repairs?
Answer: Mr. Read said that once a new engineering design is in place, then that will be "the new normal", and FEMA does want to see improved designs and has indicated there will be funding for them.
- Some questioned how Amory Engineering was selected?
Answer: In part they were selected because they are the engineering firm that has also been used in Marshfield so this will help for a consistent system to be put in place.
- Someone questioned fundraising done by Duxbury Beach Reservation. It was also asked if the DBR could float a \$4 million bond until the FEMA monies come through.

Answer: In response Cris Luttazi, Executive Director of DBR, said that they did send out a letter to let people know what was happening regarding the road, but purposely did not include a solicitation for funds. Their website does have a link for donations. Regarding DBR floating a bond, Ms. Luttazi said that the DBR does not have that money because they had just spent quite a bit.

Ms. Maggie Kearney introduced herself as the President of the DBR. She explained that Duxbury Beach is privately-owned by DBR, which is not a Town of Duxbury organization and therefore not eligible for taxpayer monies. Due to their concerns about sea level rise, they have done fundraising for the private property owned by DBR.

Ted Flynn summed up the three things that need to happen going forward:

1. Immediate repairs –Which the Town will try to find the money to do and continue to do.
2. The immediate filing with FEMA for funding for the repairs of the 700' of collapsed / damaged seawall.
3. Put together a planning group to figure out the longer-term plan: What do we need to do to cure the situation for the long-term?; what is the right design for the whole wall?; and where do we get the money to construct it?

Discussion and review of new General License application for hot dog cart vendor – James Bertoni d/b/a Surf Dogz

Mr. Bertoni is seeking approval of a general license for a mobile hot dog / food cart for the serving of hot dogs during spring 2018 soccer events only located on the Chandler School field and the Lincoln Street fields. It was noted that the applicant has met all the listed conditions required for a general license.

Mr. Madigan moved that the Board of Selectmen approve a General License for James Bertoni d/b/a Surf Dogz, contingent upon the conditions on the license. Second by Mr. Dahlen
VOTE: 3:0:0.

Housing Choice Initiative Program – presented by Valerie Massard, Town Planner

Town Planner Valerie Massard explained to the Selectmen that the Housing Choice Initiative is a new program. A Housing Choice Designation rewards communities that are producing new housing and have adopted best practices to promote sustainable housing development.

The Housing Choice designation provides exclusive admission to new Housing Choice Capital Grants for eligibility for grants up to \$500,000 for designated communities. Ms. Massard suggested that should Duxbury receive that funding it might be put towards the signalization at Exit 10 or perhaps towards sidewalks in the St. George Street area or other community projects.

Mr. Madigan moved that the Board of Selectmen authorize the Board of Selectmen Chairman to approve and execute documents related to the Housing Choice eligibility process and application for grants and any other action related thereto. Second by Mr. Dahlen. VOTE: 3:0:0.

IV TOWN MANAGER'S REPORT

This item of business was bypassed until later in the meeting and provided before the Announcements.

Town Manager René Read mentioned the following:

The Percy Walker Pool has been closed since March 12th following the first storm when the rooftop HVAC system was damaged. Circuit boards, motor drives and other parts had to be ordered and replaced. The situation was compounded because some of those deliveries were delayed by the subsequent storms. The HVAC system is now up and running, however when the system was down the humidity levels went up and that caused mold in the fabric pipework. We are working on having the fabric pipework cleaned and then cleaning the entire building will be done so the pool can be inspected by an industrial hygienist before it is re-opened.

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/ RESIGNATION

Shellfish Advisory Committee (SAC) – Resignation

Mr. Madigan announced that Mr. John Brawley tendered his resignation effective 03-08-18. Since his term was scheduled to expire as of June 30th the SAC may wait until closer to then to make a recommendation for an appointment to fill the position. Any interested parties are encouraged to fill out a Talent Bank form.

VI ONE-DAY LIQUOR LICENSE REQUESTS *None presented*

VII EVENT PERMITS *None presented*

VIII MINUTES Executive Session Minutes: *none*
Open Session Minutes: 03-05-18 Selectmen's Minutes –DRAFT
03-10-18 Selectmen's Minutes –DRAFT

Mr. Madigan moved that the Board of Selectmen approve the 03-05-18 and 03-10-18 Selectmen's Open Session Minutes as presented. Second by Mr. Dahlen. VOTE: 3:0:0.

IX ANNOUNCEMENTS

Mr. Madigan read the following announcements:

1) Household Hazardous Waste Collection- Spring 2018:

The Duxbury / Kingston Household Hazardous Waste Collection will be from 9 AM to 1 PM on Saturday, May 19th at the Duxbury Middle School, 71 Alden ST, Duxbury.

There are half-a-dozen collections planned in various South Shore communities in April, May and June. Google "South Shore Recycling Cooperative" for the complete schedule and for further information about the materials accepted.

2) Commercial Shellfish Applications:

Commercial Shellfish Applications are available in the Board of Selectmen Office in Old Town Hall. Commercial Shellfish Applications can be submitted during the month of APRIL ONLY. Applicants must be Duxbury residents and have a Massachusetts Commercial Fisheries license showing "endorsed shellfish."

3) Beach Stickers:

Beach Stickers are available and can be ordered online. The discounted price for Beach Stickers ends on April 30th, so buy your beach sticker online now. On the Town website, go to "ONLINE PAYMENTS" for the link to the beach sticker online ordering system.

4) Next Scheduled Selectmen's Meeting is on: Monday, April 9, 2018

X BONUS SHELLFISH SEASON for April, 2018

Mr. Madigan moved that the Board of Selectmen declare a temporary Bonus Shellfish Season for:

- 1) the **commercial** harvesting of softshell clams for the month of **APRIL, 2018** in accordance with posted Attachments B & C.
- 2) the **commercial** harvesting of **quahog clams** for the month of **APRIL, 2018** in accordance with posted Attachments A & C.

Second by Mr. Dahlen. VOTE: 3:0:0.

XI ADJOURNMENT

At approximately 9:20 pm, Mr. Madigan moved that the Board adjourn. Second by Mr. Dahlen.
VOTE: 3:0:0.

Minutes prepared by: C. Anne Murray

LIST OF DOCUMENTS FOR 03-26-18 SELECTMEN'S MEETING (DOCUMENTS LOCATED IN THE SELECTMEN'S OFFICE FILES.)

1. *Agenda for 03-26-18 Selectmen's Meeting*
2. *OPEN FORUM:*
3. *NEW BUSINESS:*
 - a) *Swearing in Ceremony for Newly-Elected Town Officials: Copy of the 03-24-18 ballot.*
 - b) *Re-organization of the Board of Selectmen: Coversheet*
 - c) *Transfer of Liquor License from Bo-Tes to Red's Emporium LLC – Letter from Daniel Lane, draft Wine and Malt Retail Package Goods Store license (showing days and hours), ABCC Retail Alcoholic Beverages License packet; Public Hearing Notice; and abutter notifications*
 - d) *Common Victual License –Daniel Lane d/b/a Red's Emporium, LLC –Coversheet with suggested motion and copy of CV License.*
 - e) *Seawall Discussion: Supporting Info. for Seawall Discussion- Amory Eng., PC Quote; Spreadsheet Dux. Beach Seawall Easement Record; Dux. Beach Residents Assoc. & Webster Island Beach Assoc. Duxbury Beach Sea Wall Emergency presentation; Handouts at Meeting: 03-26-18 Town Manager Statement –Seawall Update and 03-26-18 Duxbury Sea Walls / Valerie Massard, AICP, Planning Director*
 - f) *General License James Bertoni d/b/a Surf Dogz –Coversheet-overview and suggested motion; -03-22-18 Letter from Applicant; draft CV License.*
 - g) *Housing Choice Initiative: Coversheet with suggested motion; Housing Choice Initiative overview info.*
4. *TOWN MANAGER REPORT: none*
5. *BOARD AND COMMITTEE APPOINTMENTS/ RE-APPOINTMENTS: 03-26-18 Resignation Sheet*

Board of Selectmen

Date: March 26, 2018

Page 10

6. *ODLLs: none*
7. *EVENT PERMITS: none*
8. *MINUTES: 02/12/18 Selectmen's Minutes -Draft*
9. *BONUS SHELLFISH SEASON for April, 2018*