

Date: November 19, 2018

Date Minutes Approved: December 10, 2018

TOWN CLERK

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DUXBURY, MASS.

BOARD OF SELECTMEN

Present: Theodore J. Flynn, Chair; Shawn Dahlen, Vice Chair; and David Madigan, Clerk

Absent: None

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

Executive Session Only (Johnson): Jeannie Horne, HR Director; Police Chief Matthew Clancy; Deputy Police Chief Steve McDonald; and John Davis, Esq. (representing Town of Duxbury)

Executive Session Only (Powder Point Bridge): Peter Buttkus, DPW Director; and Bob Garrity, Esq. (construction counsel representing Town of Duxbury)

CONVENED IN OPEN SESSION –

I. CALL TO ORDER The meeting was called to order at approximately 6:00 p.m.

II. 6:00 PM – EXECUTIVE SESSION

VOTE TO ENTER EXECUTIVE SESSION

Mr. Madigan moved that we go into Executive Session to discuss strategy with respect to pending litigation since an open meeting may have a detrimental effect on the Town's litigating position, if the Chair so declares, regarding the following:

(a) Johnson v. Town of Duxbury and

(b) Town of Duxbury v. Quakewrap and C. White Marine (re: Powder Point Bridge)

in accordance with Mass. General Laws Chapter 30A, Section 21, and that the Board reconvene in Open Session on or about 7:00 PM.

As Chair, Mr. Flynn declared that the necessity for an Executive Session is to discuss strategy with respect to litigation, as to do so in an Open Session may have a detrimental effect on the Town's litigating position.

Mr. Dahlen seconded the motion.

ROLL CALL VOTE: Mr. Flynn-Aye; Mr. Dahlen-Aye; and Mr. Madigan-Aye

ADJOURNED EXECUTIVE SESSION & RE-CONVENED IN OPEN SESSION

At approximately 6:30 p.m., after completing the business of the Executive Session, Mr. Madigan moved that the Board adjourn the Executive Session and immediately re-convene in Open Session at approximately 7:00pm. Mr. Dahlen seconded the motion.

ROLL CALL VOTE: Mr. Flynn-Aye; Mr. Dahlen-Aye; and Mr. Madigan-Aye

III. OPEN FORUM Nothing brought forward.

IV. NEW BUSINESS

Recognition of Firefighters Alex Merry and Jack Ahern for their Service in North Carolina

Chief Nord was present to recognize Alex Merry and Jack Ahern, both Firefighter/paramedics and swift/moving water technicians who were deployed to assist in North Carolina. Chief Nord presented them with department citations showing them appreciation and recognition of their volunteer efforts. The Board of Selectmen also congratulated and thanked Mr. Merry and Mr. Ahern for their service.

Recognition of Call Firefighter Pieter Van Slyck on his years of service

Chief Nord introduced Mr. Pieter Van Slyck to recognize and honor him for his 32 years of distinguished service as a call firefighter. The Board of Selectmen also provided and read a proclamation extending to Mr. Van Slyck their grateful appreciation for his many years of dedicated service, wished him the best on his retirement, and thanked him on behalf of the community.

Discussion pertaining to potential zoning amendment relating to the regulation of medical marijuana treatment centers. (Note: this agenda item was moved to be discussed before hearings.)

Mr. Read began by introducing Attorney Amy Kwesell, Town Counsel from KPLaw, who is in attendance to explain the process. He further stated that the owners of the Duxplux have filed an application for change of use.

Attorney Kwesell stated that previously the Town decided they didn't want to ban everything as medical and recreational marijuana are different. In 2016 the statute for recreational marijuana specifically allowed towns to ban, which Duxbury did last March at Town Meeting. Currently the Planning Board is working on articles for 2019 Town Meeting to 1) ban medical marijuana facilities, and 2) create a zoning overlay district to regulate/target certain areas.

The Board of Selectmen's role under medical marijuana means that an applicant cannot apply without a letter of non-opposition from the Selectmen. If signed, they would need a host community agreement with the Selectmen. Mr. Flynn then asked if there was a letter of opposition. Attorney Kwesell responded that no, you just don't write the letter of non-opposition. Mr. Flynn inquired as to the difference between medical and recreational. Attorney Kwesell stated that for medical you can cultivate what you dispense, and on the recreational side – there are six different licenses. Mr. Flynn then asked what is to prevent a medical facility from becoming a recreational facility? Attorney Kwesell replied that you would need to enter into a host community agreement with the facility to spell out the rules.

Resident Neal Doherty asked what the status is of the application already in. Attorney Kwesell responded that the building permit does not impact the Selectmen issuing a letter of non-opposition, and that no building permit has been issued. Mr. Doherty then asked if the building department is required to move forward with it. Attorney Kwesell answered that they have to respond. Ms. Valerie Massard, Planning Director, also responded that the Planning Board has been working on this and there was legal advertisement as notification of upcoming public meetings.

Mr. Dahlen mentioned that if the Selectmen do not issue the letter of non-compliance, the applicant cannot move forward. Attorney Kwesell replied that the applicant could not get a license from the state. Resident Don Reed asked if the license can be re-applied for. Attorney Kwesell stated that there is no regulation so they could keep coming back.

Resident Kristen Frazier asked if the Selectmen are looking at all avenues as these places have a specific smell. Mr. Flynn responded that there have been a lot of articles on smell, and the pungent odor is a huge problem in Boulder, CO.

Ms. Sheila Lynch-Benttinen approached the microphone and stated that Railroad Avenue is not officially part of the school zone, but school kids go down Railroad Avenue, so this is not the right place for this site. She further mentioned that it would depress property values. Mr. Flynn replied that he would go one more step – not on Railroad Avenue, not in Duxbury.

Mr. Flynn then asked at what point do we not issue a letter of non-opposition. Attorney Kwesell responded that they would have to wait for an actual request.

Resident Steve Fitzgibbons asked if the opinion of the Board of Selectmen was that they didn't want this in Town. The Selectmen responded that they all feel the same way in that it's not a business they want in Town and that's it's too close to schools.

Police Chief Matthew Clancy mentioned that this is the worst place because there are kids everywhere. The people of Millbrook don't want this because of the pungent odor. He further stated that there is a lot of availability locally in the immediate area. Chief Clancy continued to say that in his opinion this is the wrong place and suggested not providing a letter of non-opposition, bring to Town Meeting to ban and zone properly. He remarked that we value our Town for a lot of reasons and this is contrary to that.

7:01 p.m. Tax Classification Hearing - presented by Steve Dunn, Assessor

Mr. Madigan moved that the Board of Selectmen open the public hearing regarding Tax Classification. Seconded by: Mr. Dahlen Vote: 3:0:0

Discussion Pertaining to Tax Classification – presented by Steve Dunn, Assessor
(For detailed documentation and fact sheet, please contact the Board of Selectmen's office for a copy.)

Mr. Madigan moved that the Board of Selectmen vote to adopt a single tax rate for FY2019 by setting a residential factor of one and to also authorize and allow Steve Dunn, Director of Assessing, to sign the LA-5 online in the DOR Gateway system on the Selectmen's behalf. Seconded by: Mr. Dahlen Vote: 3:0:0

Mr. Madigan moved that the Board of Selectmen close the public hearing regarding Tax Classification. Seconded by: Mr. Dahlen Vote: 3:0:0

7:15 p.m. – Public Hearing re: Hazard Mitigation Plan

Mr. Madigan moved that the Board of Selectmen open the public hearing regarding Hazard Mitigation Plan. Seconded by: Mr. Dahlen Vote: 3:0:0

Discussion– presented by Valerie Massard, Planning Director

The Natural Hazard Mitigation Planning process enables the town to be eligible for FEMA and MEMA grant & loan programs for equipment, resources, planning and programs that help make events more manageable (mitigated). Costs for things like generators; infrastructure: sea walls, culvert upgrades, raised utilities/roads; specialty equipment, and training can be offset if an approved plan is in

place and kept current. Without the plan, the town is not eligible to apply for these opportunities. Put another way, the town is not obligated to do the projects listed in the plan. The plan lists goals and projects which, by being included in an approved plan, become eligible should we seek funding assistance.

Power Point presentation of Duxbury Hazard Mitigation Plan presented by Darci Schofield, Senior Environmental Planner with MAPC (Metropolitan Area Planning Council). (Please contact the Board of Selectmen's office for a copy of the PowerPoint presentation.)

Mr. Madigan moved that the Board of Selectmen close the public hearing regarding Hazard Mitigation Plan. Seconded by: Mr. Dahlen Vote: 3:0:0

Discussion pertaining to Ch. 61A land – 1065 Summer Street

Both the Conservation Commission and the Planning Board have voted to recommend that the Selectmen do not exercise their right of first refusal.

Mr. Madigan moved that the Board of Selectmen do not exercise their right of first refusal for the Chapter 61A portion of the property located at 1065 Summer Street, containing approximately 22.5 acres known as Assessor's Parcel ID #004-013-000 and shown on the approved Definitive Subdivision Plan entitled "Definitive Subdivision Plan. Dogwood Drive, (FNA #1065 Summer Street)." Seconded by Mr. Dahlen Vote: 3:0:0

Discussion and review of Annual Liquor License Renewals along with CV/Entertainment licenses

Mr. Madigan moved that the Board of Selectmen renew the following liquor licenses along with their associated common victualler, innkeeper, and entertainment licenses as presented on the attached list for the year 2019, 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 [with the exception of Licenses for Jamie's and DBMS (Shawn Dahlen conflict) and Chestnut Street Grille licenses, which will be discussed at a future meeting due to recent complaints]. Seconded by Mr. Dahlen Vote: 3:0:0

The Chestnut Street Grille licenses were not approved due to numerous complaints from residents who abut the property. The residents stated that this is not a family restaurant, but rather a drinking facility. There are still parking issues, the patrons are outside socializing until 2am after it closes at 1am. They stated that they hope the Selectmen would give extra thought to this license. Chief Clancy stated that his charge is the sale of alcohol and disturbing public peace. Resident Mr. Larry Dullea recommended that this liquor license not be approved at this time.

Mr. Madigan moved that the Selectmen remove the Chestnut Street Grille licenses from approval and take up again in two weeks. Seconded by Mr. Dahlen Vote 3:0:0

(Note: Regarding Foodies Liquor License -- Mr. Victor Leon was present, however, he could not stay for the entire meeting and asked that his comments be made part of the record. He spoke with Ms. O'Connor and told her that his intention was to hold on to the license for the allowed six months, as per ABCC's regulations. The Board of Health will follow up with Mr. Leon at that time.)

Mr. Madigan moved that the Board of Selectmen renew the following liquor licenses (Jamie's Fine Wine & Spirits III and DBMS) along with the associated common victualler license as presented below for the year 2019, 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: 2:0:1
(Shawn Dahlen recused himself)

Discussion regarding Declaration of Surplus items – Fire Department

Chief Kevin Nord is requesting permission to either dispose of or sell for parts for the following items:

1. **1999 Bauer SCBA compressor**
Model UNII/10-E3; Serial 01144; 8.5 CFM, 10HP, 230 volt 3 phase
(This was replaced with a new model through a grant)
2. **2008 Honda 30HP Boat Motor**
Model BF30DKLH
Serial # BAUI1300502
(Damaged in transit to North Carolina and replaced by Insurance)

Mr. Madigan moved to declare as surplus one (1) 1999 Bauer SCBA Compressor and one (1) 2008 Honda 30HP Boat Motor, as presented. Seconded by Mr. Dahlen Vote: 3:0:0

IV TOWN MANAGER'S REPORT

Mr. Read stated that MEMA is still working on the DCR question of seawall ownership as it relates to our FEMA filing re: eligibility and lead applicant. As of Friday, MEMA said that DCR was looking into it, would respond as soon as possible and that this is not a new question for them. On Friday, Pat Brennan, Peter Butkus, Valarie Massard and I met with MEPA to review our proposed project so that they could gain a clearer understanding of our goals. We outlined the short-term project (repairing the breaks in the wall), the total wall situation and the revetment work.

V COMMITTEE APPOINTMENTS/RE-APPOINTMENTS/RESIGNATIONS

Alternative Energy Committee – resignation of Sandy Von Stackelberg. Mr. Madigan stated that he served for a number of terms and was the former Chair of the AEC and thanked him for his service. Mr. Madigan continued to say that there are currently two open seats on the AEC. One seat is for a term to June 30, 2019, and the other is for a term to June 30, 2021, so if anyone is interested, and especially those with expertise in this area, is encouraged to fill out a Talent Bank form.

VI ONE-DAY LIQUOR LICENSE REQUESTS

12/1/18 North River Arts Society's 50th Anniversary Gala

Mr. Madigan moved that Ms. Barbara Chaisson, as representative of the North River Arts Society, is granted a One-Day All Alcohol license to hold their 50th Anniversary Gala "Night at the Museum" on Saturday, December 1, 2018 from 7pm to 10pm at the Art Complex Museum, 189 Alden Street, contingent upon the conditions of the license. Seconded by Mr. Dahlen Vote: 3:0:0

1/26/19 Friends of the COA – Black Tie Bingo

Mr. Madigan moved that Mr. Christopher Barry, as representative of the Friends of the Duxbury Council on Aging, is granted a One-Day Wine & Malt License to hold a Black Tie Bingo night on Saturday, January 26, 2019 at the Duxbury Senior Center on 10 Mayflower Street, from 6pm to 11pm contingent upon the conditions of the license. Seconded by Mr. Dahlen Vote: 3:0:0

VII EVENT PERMITS None

VIII MINUTES

Mr. Dahlen moved that the Board of Selectmen approve the 11/15/18 Executive Session Selectmen's Minutes, as written, with the contents to remain sealed due to medical confidentiality. Seconded by Mr. Flynn Vote: 2:0:1

IX ANNOUNCEMENTS

1. ***Town Hall Thanksgiving Holiday Closure:*** The Town Hall will be closed on Thursday and Friday, November 22 and 23 for the Thanksgiving holiday.
2. ***Deadline for Warrant Articles:*** Reminder articles for the 2019 March Town Meeting must be submitted to the Town Manager's office by 12:30pm on Friday, November 30, 2018. The complete article language and a brief explanation of the article are required. Please contact Nancy O'Connor at 781-934-1100 x5401 with any questions.
3. ***Holly Days and the Duxbury Tree Lighting:*** Holly Days and the Duxbury Tree Lighting are on Sunday, November 25, 2018. Holly Days is from Noon to 4pm and the Tree Lighting festivities will be on the Town Green from 1pm to 7pm. Come get in the holiday spirit and shop locally.
4. ***Next Selectmen's meeting is on: Monday, November 26, 2018*** at the Duxbury Senior Center – Ellison Room. This will be a joint meeting of the Board of Selectmen with the Finance Committee, Fiscal Advisory Committee, and School Committee for a discussion and review pertaining to FY2020 Capital Budget and related materials.

X ADJOURNMENT

At approximately 9:00pm, Mr. Madigan moved that the Board adjourn.
Seconded by Mr. Dahlen. Vote: 3:0:0

Minutes submitted by Nancy O'Connor

LIST OF DOCUMENTS (documents are kept in the Board of Selectmen files)

- 1) *Agenda*
- 2) *Info re: Recognition of Firefighters*
- 3) *Documentation regarding Tax Classification hearing*
- 4) *Documentation regarding Hazard Mitigation Plan*
- 5) *Documentation regarding Ch 61A land – 1065 Summer Street*
- 6) *Documentation regarding annual liquor license renewals*
- 7) *Documentation regarding FD Surplus items*
- 8) *Town Manager's report*
- 9) *Committee resignation*
- 10) *ODLL Requests*
- 11) *Draft Minutes*
- 12) *Announcements*