

**Town of Duxbury
Annual Town Meeting
March 12, 2011**

The Town meeting was called to order by the Moderator at 9:05am, recessed for a Special Town Meeting at 9:18am until the meeting adjourned sine die at 9:50am when the Annual Town Meeting reconvened, recessed for lunch from 12:05pm until 1:07pm and recessed at 6:40pm until the meeting was reconvened on Monday, March 14th at 7:00pm, recessed at 11pm until the meeting was reconvened on Tuesday, March 15th at 7pm and was recessed sine die at 11:10pm. All sessions were held at the Duxbury Performing Arts Center, 73 Alden St., Duxbury.

Shawn Dahlen, Chair of the Board of Selectman, presented a Proclamation to Elizabeth H. Sullivan, retiring from Board of Selectmen in March 2011 after 9 years of service on the Board.

Article 1 – Appointment of Officers not Chosen by Ballot – Moved and seconded that the Town Moderator and Board of Selectmen be authorized to appoint the officers not chosen by ballot.

Motion Carried.

Article 2 – Report of Officers and Committees – Moved and seconded that the Town receive the reports of its Town Officials, Boards, Committees, and Commissions as printed in the Annual Report.

Motion Carried.

Article 3 – Compensation of Elected Officials – Moved and seconded that the Town vote to fix the compensation of the elected officials for the twelve month period beginning July 1, 2011 as set forth in the column entitled “Requested FY12” in Article 3 in the Warrant, with the following changes: Town Clerk’s salary to be \$74,000.00, and total amount to be \$84,040.00.

	Appropriated FY11	Requested FY12	BOS Recommended FY12	Finance Committee Recommended FY12
Moderator	\$40	\$40	*	*
Selectmen				
Chair	\$2,000	\$2,000	*	*
Member	\$1,500	\$1,500	*	*
Member	\$1,500	\$1,500	*	*
Assessors				
Chair	\$2,000	\$2,000	*	*
Member	\$1,500	\$1,500	*	*
Member	\$1,500	\$1,500	*	*
Town Clerk	\$69,000	\$74,000	\$74,000	\$74,000
Total	\$79,040	\$84,040		

* available at Town Meeting

Motion Carried.

Article 4 – State Highway Fund – Moved and seconded that the Town vote to accept the sum of \$408,895.00 that will be available from the State Highway Fund and such additional sums as may be made available from other county, state or federal agencies for highway related work and to further authorize the Treasurer, with the approval of the Board of Selectmen to borrow in anticipation of receipt of said funds in accordance with Massachusetts General Laws Chapter 44, Sections 4 and 6A.

Motion Carried.

Article 5, Motion 1 – Budget, General Government – Moved and seconded that the Town vote to appropriate the sum of \$2,196,513.00 for the following:

113 Town Meeting <hr/> Expenses \$3,600 <hr/> Total \$3,600	114 Moderator <hr/> Salaries \$40 <hr/> Total \$40	122 Selectmen/Manager <hr/> Salaries \$247,859 <hr/> Expenses \$19,200 <hr/> Total \$267,059
129 Historical Commission <hr/> Expenses \$200 <hr/> Total \$200	131 Finance Committee <hr/> Expenses \$500 <hr/> Total \$500	133 Finance Director <hr/> Salaries \$97,625 <hr/> Expenses \$2,675 <hr/> Total \$100,300
135 Accounting <hr/> Salaries \$204,316 <hr/> Expenses \$8,230 <hr/> Total \$212,546	136 Audit <hr/> Expenses \$41,700 <hr/> Total \$41,700	141 Assessors <hr/> Salaries \$224,184 <hr/> Expenses \$22,045 <hr/> Total \$246,229
145 Treasurer/Collector <hr/> Salaries \$255,478 <hr/> Expenses \$55,750 <hr/> Total \$311,228	Legal 151 Expenses <hr/> Expenses \$262,000 <hr/> Total \$262,000	152 Human Resources <hr/> Salaries \$63,881 <hr/> Expenses \$17,550 <hr/> Total \$81,431
155 Information Systems <hr/> Salaries \$60,750 <hr/> Expenses \$188,469 <hr/> Total \$249,219	158 Tax Title <hr/> Expenses \$15,000 <hr/> Total \$15,000	161 Town Clerk <hr/> Salaries \$118,893 <hr/> Expenses \$3,100 <hr/> Total \$121,993
162 Elections <hr/> Salaries \$15,838 <hr/> Expenses \$17,190 <hr/> Total \$33,028	171 Conservation Commission <hr/> Salaries \$122,016 <hr/> Expenses \$12,260 <hr/> Total \$134,276	175 Planning Board <hr/> Salaries \$105,314 <hr/> Expenses \$10,850 <hr/> Total \$116,164
Total General Government <hr/> Salaries \$1,516,194 <hr/> Expenses \$680,319 <hr/> Total \$2,196,513		

and to meet said appropriation transfer the sum of \$73,838.00 from the Water Enterprise Fund, transfer the sum of \$14,768.00 from the Percy Walker Pool Enterprise Fund, and raise and appropriate the sum of \$2,107,907.00.

Motion Carried.

Article 5, Motion 2 – Operating Budget, Public Safety – Moved and seconded that the Town vote to raise and appropriate the sum of \$6,151,397.00 for the following:

210 Police		220 Fire		241 Inspection Services	
Salaries	\$2,857,562	Salaries	\$2,157,713	Salaries	\$388,343
Expenses	\$231,750	Expenses	\$251,200	Expenses	\$25,200
Total	\$3,089,312	Total	\$2,408,913	Total	\$413,543
295 Harbor/Coastal Mgt		Total Public Safety			
Salaries	\$217,829	Salaries	\$5,621,447		
Expenses	\$21,800	Expenses	\$529,950		
Total	\$239,629	Total	\$6,151,397		

Motion Carried.

Article 5, Motion 3 – Operating Budget, Public Works – Moved and seconded that the Town vote to appropriate the sum of \$3,782,287.00 for the following:

192 Central Building Services		194 Tarkiln Community Center		292 Animal Control	
Salaries	\$58,227	Expenses	\$16,200	Salaries	\$54,092
Expenses	\$257,500	Total	\$16,200	Expenses	\$9,250
Total	\$315,727			Total	\$63,342
294 Lands & Natural Resources		418 Central Fuel Depot		419 DPW Administration	
Salaries	\$366,862	Expenses	\$212,500	Salaries	\$251,053
Expenses	\$42,000	Total	\$212,500	Expenses	\$27,350
Total	\$408,862			Total	\$278,403
421 Vehicle Maintenance		422 Highway/Road Maintenance		423 Snow and Ice	
Salaries	\$152,164	Salaries	\$427,118	Salaries	\$60,000
Expenses	\$118,000	Expenses	\$65,000	Expenses	\$110,000
Total	\$270,164	Total	\$492,118	Total	\$170,000
424 Street Lights		431 Transfer Station		440 Sewer	
Expenses	\$38,000	Salaries	\$218,225	Salaries	\$15,311
Total	\$38,000	Expenses	\$546,100	Expenses	\$210,500
		Total	\$764,325	Total	\$225,811
491 Cemetery		Total DPW			
Salaries	\$368,015	Salaries	\$1,971,067		
Expenses	\$158,820	Expenses	\$1,811,220		
Total	\$526,835	Total	\$3,782,287		

and to meet said appropriation transfer the sum of \$19,923.00 from the Water Enterprise Fund, and raise and appropriate the sum of \$3,762,364.00.

Motion Carried.

Article 5, Motion 4 – Operating Budget, Human Services – Moved and seconded that the Town vote to raise and appropriate the sum of \$565,597.00 for the following:

541 Council on Aging		543 Veterans Services		840 Plymouth County Coop Ext	
Salaries	\$342,372	Salaries	\$18,000	Expenses	\$200
Expenses	\$117,700	Expenses	\$87,325	Total	\$200
Total	\$460,072	Total	\$105,325		
Total Human Services					
Salaries	\$360,372				
Expenses	\$205,225				
Total	\$565,597				

Motion Carried.

Article 5, Motion 5 – Operating Budget, Library and Recreation – Moved and seconded that the Town vote to raise and appropriate the sum of \$1,339,447.00 for the following:

610 Library		630 Recreation		633 Beach Life Guards	
Salaries	\$872,074	Salaries	\$141,542	Salaries	\$16,770
Expenses	\$300,261	Expenses	\$1,150	Expenses	\$650
Total	\$1,172,335	Total	\$142,692	Total	\$17,420
Total Library and Recreation					
632 North Hill Golf Course		692 Public Celebrations		Salaries	\$1,030,386
Expenses	\$2,000	Expenses	\$5,000	Expenses	\$309,061
Total	\$2,000	Total	\$5,000	Total	\$1,339,447

Motion Carried.

Article 5, Motion 6 – Operating Budget, Schools – Moved and seconded that the Town vote to raise and appropriate the sum of \$28,946,458.00 for the following:

300 Total Duxbury Schools	
Salaries	\$22,386,734
Expenses	\$6,559,724
Total	\$28,946,458

Motion Carried.

Article 5, Motion 7 – Operating Budget, Shared Costs (Benefits, Insurance, and Debt Service) – Moved and seconded that the Town vote to appropriate the sum of \$11,974,636.00 for Town and School shared costs as follows:

Employee Benefits		
916	Medicare	\$447,800
915	Life Insurance	\$12,710
914	Employee Life & Health Insurance	\$6,400,000
911	Contributory Pensions	\$2,134,651
909	Non-Contributory Pensions	\$20,000
945	Workers Compensation	\$233,300
Sub-Total Employee Benefits		\$9,248,461
Other Shared Costs		
945	Fire, Liability, Insurance	\$261,850
132	Reserve Fund	\$100,000
Sub-Total Liability Insurance/Reserve Fund		\$361,850
Debt Service Town & Schools		
710	Principal Payments	\$1,797,726
751	Interest on Bonded Debt	\$526,599
752	Interest on Temporary Notes	\$20,000
753	Bond Expense	\$20,000
Sub-Total Debt Service		\$2,364,325
Total Town & Schools Shared Costs		\$11,974,636

and to meet said appropriation, transfer the sum of \$63,575.00 from the Pension Reserve Fund, transfer the sum of \$24,110.00 from the Water Enterprise Fund, transfer the sum of \$4,821.00 from the Pool Enterprise Fund and raise and appropriate the sum of \$11, 882,130.00.

Motion carried.

Article 5, Motion 8 – Operating Budget, Total Budget Summary All Motions – Moved and seconded that the Town vote to appropriate the sum of \$54,956,335.00 as the operating budget of the Town for the fiscal year beginning July 1, 2011, exclusive of the Water Enterprise and Percy Walker Pool Enterprise budgets, for the following purposes and amounts:

Departments	Appropriation	Transfer	Raise
General Government	\$2,196,513	\$88,606	\$2,107,907
Public Safety	\$6,151,397		\$6,151,397
Public Works	\$3,782,287	\$19,923	\$3,762,364
Human Services	\$565,597		\$565,597
Library & Recreation	\$1,339,447		\$1,339,447
Education	\$28,946,458		\$28,946,458
Shared Costs	\$11,974,636	\$92,506	\$11,882,130
Totals	\$54,956,335	\$201,035	\$54,755,300

and to meet said appropriation raise and appropriate the sum of \$54,755,300.00 and transfer the sum of \$201,035.00 in accordance with the transfers voted in motions previously voted.

Motion carried.

Article 5, Motion 9 – Water Operating Budget – Moved and seconded that the Town vote to raise and appropriate the sum of \$2,515,403.00 as the Water Enterprise Budget and to meet this appropriation raise and appropriate the sum of \$2,515,403.00 from User Fees.

Operating	\$1,597,775
<u>Debt</u>	<u>917,628</u>
Total	\$2,515,403

Motion carried.

Article 5, Motion 10 – Percy Walker Pool Enterprise Budget – Moved and seconded that the Town vote to appropriate the sum of \$371,981.00 for the Percy Walker Pool Enterprise Budget and to raise and appropriate the sum of \$371,981.00 from User Fees.

Salaries	\$210,633
<u>Expenses</u>	<u>161,348</u>
Total	\$371,981

Motion carried.

The meeting recessed at 12:05pm and reconvened at 1:07pm.

Article 6, Motion 1 – Capital Requests, General Government – Moved and seconded that the Town vote to appropriate the sum of \$140,895.00 to purchase new computer-aided dispatch software for the Police and Fire Departments, and to meet said appropriation, transfer the sum of \$140,895.00 from Free Cash to be expended under the direction of the Town Manager.

Motion carried.

Article 6, Motion 2 – Capital Requests, Public Safety – Moved and seconded that the Town vote to appropriate the sum of \$96,267.00 for the following:

Police Department

Video Security System	\$12,414
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Fire Department

Refurbish 1992 Rescue/Dive Truck	\$20,000
Turnout Gear – 5 sets	\$12,000
SCBA Bottles	\$ 9,600

Harbormaster

Replace 2004 4x4 Truck	\$33,811
Automated External Defibrillators	4,100
Portable Radios	1,942
Thermal Imaging Camera	2,400

Public Safety Total	\$96,267
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and to meet said appropriation, transfer the sum of \$53,811.00 from Free Cash, and raise and appropriate the sum of \$42,456.00, all to be expended under the direction of the Town Manager.
Motion Carried.

Article 6, Motion 3 – Capital Requests, DPW – Moved and seconded that the Town vote to appropriate the sum of \$549,500.00 for the following:

Repair and Paint Town Hall Exterior	\$35,000
Organize Town Hall Archives	\$20,000
Replace 2000 Toro Grounds Master	\$87,500
Replace 2004 Half-ton Pick-up Truck	\$27,000
Replace 2002 Three-quarter ton Pick-up Truck	\$35,000
Replace Animal Control Pick-up Truck	\$23,000
Replace 2000 Six-wheel Dump Truck, H-19	\$161,000
Replace 2000 Six-wheel Dump Truck, H-14	\$161,000

and to meet said appropriation, transfer the sum of \$549,500.00 from Free Cash to be expended under the direction of the Town Manager.

Motion carried.

Article 6, Motion 4 – Capital Requests, Human Services – Moved and seconded that the Town vote to raise and appropriate the sum of \$7,000.00 for the replacement of couches and chairs at the Duxbury Senior Center, to be expended under the direction of the Town Manager.

Motion carried.

Article 6, Motion 5 – Capital Requests, Library & Recreation – Moved and seconded that the Town vote to appropriate the sum of \$76,000.00 for the following:

Library

Replace Five Workstations	\$4,000
Replace Carpet	\$2,000

Recreation

Repair Tarkiln Tennis Courts	\$15,000
Repair Wadsworth Tennis Courts	\$15,000

North Hill Golf Course

Repair or Replace Ladies Tees	\$15,000
Repair Sand Traps	\$25,000

and to meet said appropriation, transfer the sum of \$70,000.00 from Free Cash and raise and appropriate the sum of \$6,000.00, all to be expended under the direction of the Town Manager.

Motion carried.

Article 6, Motion 6 – Capital Requests, Schools – Moved and seconded that the Town vote to appropriate the sum of \$434,275.00 for the following:

Network Upgrades (System-wide)	\$15,000
Wireless Technology at High School - Phase 2	\$15,000
Computer Replacement (System-wide)	\$80,800
Printer Replacement (System-wide)	\$36,000
Mobile Class Computer System (System-wide)	\$83,200
Smartboards	\$35,200
Construction/Renovation of Classrooms	\$35,000
White Marker Boards	\$10,000
Alden School Lighting Upgrade	\$124,075

and to meet said appropriation, transfer the sum of \$434,275.00 from Free Cash to be expended under the direction of the School Committee.

Motion carried.

Article 6, Motion 7 – Capital Requests, Water – Moved and seconded that the Town vote to appropriate the sum of \$318,900.00 for the following:

Engineering of Underground Injection Control Wells	\$10,500
System Rehabilitation	\$150,000
PCE Main Pipe Replacement	\$100,000
Replace 2004 Pick-up Truck	\$29,200
Replace 2006 Pick-up Truck	\$29,200

and to meet said appropriation, transfer the sum of \$318,900 from Water Department retained earnings, to be expended under the direction of the Town Manager.

Motion carried.

Article 7 – Personnel Plan – Moved and seconded that the Town vote to amend the Town Personnel Bylaw, originally accepted March 12, 1955 and last amended March 13, 2010 by incorporating the changes shown on the handout entitled “Recommended Changes to the Town Personnel Bylaw”, a copy of which is on file in the Town Clerk’s Office, and to raise and appropriate the sum of \$80,000.00 for the purposes of this Article.

Motion carried.

Article 8 – Union Contracts – Moved, seconded and carried to indefinitely postpone this Article.

Article 9 – Rescind Debt – Moved and seconded that the Town vote to rescind the balance of Authorized and Unissued Debt from the March 14, 2009 Annual Town Meeting Under Article 37 (Replace Chandler School Roof) as follows:

\$1,540,000.00 Authorized, and
\$640,000.00 to be Rescinded

Motion carried.

Article 10, Motion 1 – Council on Aging Revolving Fund – Moved and seconded that the Town vote to re-authorize a Revolving Fund under M.G.L. Chapter 44 Section 53E½ to allow the Council-On-Aging to be credited with all fees and charges received from Senior Center programs, and to authorize the expenditure of an amount not to exceed \$70,000.00 from said revolving fund to be expended under the direction of the Council-On-Aging Director for Senior Programs.
Motion carried.

Article 10, Motion 2 – GIS Revolving Fund – Moved and seconded that the Town vote to re-authorize a Revolving Fund under M.G.L. Chapter 44 Section 53E½ to allow the Geographic Information Systems Committee to be credited with all fees and charges received from the provision of GIS services and to authorize the expenditure in an amount not to exceed \$6,000.00 from said revolving fund to be expended under the direction of the Town Manager, for GIS Program development.
Motion carried.

Article 10, Motion 3 – Revolving Fund for Jaycox Tree Farm – Moved and seconded that the Town vote to re-authorize a revolving fund under M.G.L. Chapter 44 Section 53E½ to allow the Conservation Commission to set fees and to be credited with all fees and charges received from the operation of the Jaycox Christmas Tree Farm and to authorize the expenditure in an amount not to exceed \$20,000.00 from said Revolving Fund to be expended under the direction of the Conservation Administrator for supplies and any needs of the Jaycox Christmas Tree Farm.
Motion carried.

Article 10, Motion 4 – Hazardous Materials Response Revolving Fund – Moved and seconded that the Town vote to establish a Revolving Fund under M.G.L. Chapter 44 Section 53E½ to allow the Fire Department to be credited with all fees and charges received as a result of reimbursable incidents allowed under Massachusetts General Laws Chapter 21E involving Hazardous Materials Releases, and to authorize the expenditure in an amount not to exceed \$50,000.00 from said Revolving Fund, to be expended under the direction of the Fire Chief for the replacement, repair, or purchase of equipment and supplies and for Administrative and Call Firefighter wage expenses associated with fire operations and responses to hazardous materials incidents.
Motion carried.

Charles Fargo presided over the meeting as Acting Moderator for the purposes of Article 11.

Article 11 – Duxbury Beach Lease – Moved and seconded that the Town vote to raise and appropriate the sum of \$400,000.00 to be expended under the direction of the Town Manager for the purpose of leasing Duxbury Beach, being that portion of land in the towns of Duxbury and Plymouth owned by the Duxbury Beach Reservation, Inc. south of a line running approximately east to west along the northerly edge of the northerly parking area, at the east end of the Powder Point Bridge (subject to an area of land at High Pines used by the Duxbury Beach Reservation) and to authorize the Board of Selectmen to execute a lease in the name and on behalf of the Town for the period beginning July 1, 2011 and ending June 30, 2012 on such terms as may be approved by the Board of Selectmen.

2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 12 – 4th of July Parade – Moved and seconded that the Town vote to raise and appropriate the sum of \$10,000.00 to fund the Town of Duxbury’s Fourth of July parade and ceremony, to be expended under the direction of the Town Manager.
Motion carried.

Article 13 – David Cutler Forest – Moved and seconded that the Town vote to name the publicly owned land on Mayflower Street, shown as Parcel 100-502-074 on the Duxbury Assessors Maps, as the “David Cutler Forest”.
Motion carried.

Article 14 – Housing Allocation Plan – Moved and seconded that the Town vote to adopt a plan for allocation of the resources of the Duxbury Affordable Housing Trust Fund for Fiscal Year 2012 in accordance with the provisions of Chapter 112 of the Acts of 2005 as follows:

- A. First Time Homeownership Program**
 - 1. Provide gifts, grants, or subsidies to assist low income homebuyers to purchase a home in the town of Duxbury.
 - 2. Purchase rights of first refusal to acquire existing dwelling units for sale to low income households.
- B. Conversion of Existing Properties**
 - 1. Acquire and rehabilitate or redevelop existing residential units for purchase or rental by low income home buyers or tenants.
 - 2. Acquire, redevelop or convert existing non-residential structures for low income housing purchasers or tenants.
- C. Develop New Affordable Housing Units**
 - 1. Acquire and/or construct new residential units for purchase or rental by low income home buyers or tenants.

Motion carried.

Article 15 – Cemetery Land – Moved and seconded that the Town vote to approve the transfer of the care, custody, management and control of land from the Board of Cemetery Trustees to the Board of Selectmen, identified as lots 150B-501-432, 150B-501-433, and 150B-500-431 as shown on Duxbury Assessor Maps for the purpose of renovation and expansion of the Fire Station and for other town purposes and further to vote to approve the transfer of the care, custody, management, and control of land from the Board of Selectmen to the Board of Cemetery Trustees, that portion of land owned by the Town on lots 140F-500-014, 140F-500-016, 140G-500-027, 140G-500-057, and 140B-500-080 as shown on Duxbury Assessor Maps, as shown on a plan on file at the Office of the Town Clerk, for the purpose of future expansion of the cemetery and further to raise and appropriate the sum on \$15,000.00 for the purposes of this article, said sum to be expended under the direction of the Town Manager.

There was a motion to delete beginning line 5 with “and further to vote...” through line 9 ending with “ ... future expansion of the cemetery”. **Motion failed.**

2/3 vote required – Received the requisite 2/3 vote called by the Moderator and the Article was carried as originally presented.

Article 16 - Fire Station Rehabilitation – Moved and seconded that the Town vote to appropriate the sum of \$3,700,000.00 for the rehabilitation of the Fire Department Headquarters on Parcel 150-503-040 on Tremont Street, said sum to include construction costs and associated architectural, engineering, inspection, building fit-out, and related costs, and to meet said appropriation to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$3,700,000.00 under Chapter 44 of the General Laws or any other enabling authority, and to authorize the Town Manager to apply for and accept any gifts or grants for such project, said appropriation to be expended under the direction of the Town Manager, and said appropriation to be contingent upon approval by Town voters of a ballot question at an election, said ballot question to ask voters to allow the Town to exempt from the provisions of Proposition 2½ so-called, the amounts required to pay for the principal and interest on the bonds or notes to be issued for said purposes, and further to authorize the Board of Selectmen to negotiate and enter into a deed restriction on Parcel 150-500-431 for the purpose of limiting nitrogen activities on said parcel.

There was a motion to move the question. **2/3 vote required – Received the requisite 2/3 vote called by the Moderator. Motion carried.**

Voting Article 16 - **2/3 vote required. Yes - 860 No - 39**
Received the requisite 2/3 vote - motion carried.

Article 17 – New Police Station – Moved and seconded that the Town vote to appropriate the sum of \$6,275,000.00 for architectural, engineering, and design services to prepare contract bid documents and to construct and furnish a new police station to be located on a portion of Parcel 140-500-039 on Mayflower Street as shown on a site plan on file with the Town Clerk, said appropriation to be expended under the direction of the Town Manager, and to meet said appropriation, to authorize the Treasurer, with the approval of the Board of Selectmen, to borrow the sum of \$6,275,000.00 under Chapter 44 of the General Laws or any other enabling authority, and to authorize the Town Manager to apply for and accept any gifts or grants for such project, said appropriation to be contingent upon approval by Town voters of a ballot question at an election, said ballot question to ask voters to allow the Town to exempt from the provisions of Proposition 2½ so-called, the amounts required to pay for the principal and interest on the bonds or notes to be issued for said purposes, and further to authorize the Board of Selectmen to dispose of Parcel 130-507-011 containing the existing Police Station on terms in the best interest of the Town, in accordance with the requirements of Massachusetts General Laws Chapter 30B, Section 16.

There was a motion to amend the Article to only include funds to obtain bids for the project.
Motion failed.

There was a motion to move the previous question.
2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried

Voting Article 17 as presented, **2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.**

Article 18 – Model School Project – Moved and seconded that the Town vote to appropriate the sum of \$2,900,000.00 for architectural and engineering fees associated with the schematic design

of a new co-located High School and Middle School located on the site of the current Middle School, 71 Alden Street, Duxbury, MA, including owner's project manager and construction manager fees through the schematic design phase, said sum to be expended under the direction of the School Building Committee with the approval of the School Committee, and to meet said appropriation, the Treasurer with the approval of the Selectmen is authorized to borrow said sum, pursuant to M.G.L. Chapter 44, or any other enabling authority; that the Town acknowledges that the Massachusetts School Building Authority's ("MSBA") Grant Program is a non-entitlement, discretionary program based on need, as determined by the MSBA, and any costs the Town incurs in excess of any grant approved by and received from the MSBA shall be the sole responsibility of the Town, and further provided that the appropriation hereunder shall be subject to and contingent upon an affirmative vote of the Town to exempt the amounts required for the payment of interest and principal on said borrowing from the limitations on taxes imposed by M.G.L. 59, Section 21C (Proposition 2½), and that the amount of borrowing authorized pursuant to this vote shall be reduced by any grant amount set forth in the design agreement that may be executed between the Town and the MSBA.

2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.

Meeting recessed at 6:40pm until Monday, March 14, 2011 at 7:00pm.

Meeting was called to order on March 14, 2011 at 7:15 pm.

There was a motion for Reconsideration of Article 18. **2/3 vote required. Motion failed.**

Article 19 – CPC Operating Budget – Moved and seconded that the Town vote, upon recommendation of the Community Preservation Committee, to raise and appropriate the sum of \$80,500.00 in accordance with M.G.L. Chapter 44B, for expenses and charges for the operation of the Community Preservation Committee, all for the Fiscal Year beginning July 1, 2011 and ending June 30, 2012, said funds to be expended under the direction of the Town Manager.

Motion carried.

Article 20 – CPC Allocations – Moved and seconded that the Town vote to raise and appropriate, upon recommendation of the Community Preservation Committee, the sum of \$483,000.00 for the purpose of meeting the requirements of the Community Preservation Act, M.G.L. Chapter 44B, Section 6, for the purposes of open space, community housing (affordable) and historic resources (preservation).

Motion carried.

Article 21- CPC, Old Town Hall Restoration – Move and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$250,000.00 for the historic restoration of the Old Town Hall located on Tremont Street, and for costs related thereto, and to meet said appropriation, to transfer the sum of \$250,000.00 from the Undesignated Fund balance of the Community Preservation Fund, and further to authorize the Board of Selectmen to solicit grants and receive gifts for this purpose, and further to authorize the Town Manager to expend sums of money for the purposes of this article from the Community Preservation Fund and from grants and gifts designated for this purpose.

Motion carried.

Article 22 – CPC, Keene Mill Foundation – Moved and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$30,000.00 for the historic restoration of the foundation of the Keene Mill located on Parcel 010-502-005 of the Duxbury Assessors Map, and for costs related thereto, and to meet said appropriation, to transfer the sum of \$30,000.00 from the Historic Resources Reserves of the Community Preservation Fund, and further to authorize the Board of Selectmen to solicit grants and receive gifts for this purpose, and further to authorize the Town Manager to expend sums of money for the purposes of this article from the Community Preservation Fund and from grants and gifts designated for this purpose.

Motion carried.

Article 23 – CPC, Gravestone Restoration – Move and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$58,000.00 for the historic restoration of gravestones at the Chestnut Street burial ground and the Mayflower Street old burial ground, and for costs related thereto, and to meet said appropriation, to transfer the sum of \$58,000.00 from the Historic Resources Reserves of the Community Preservation Fund, and further to authorize the Board of Selectmen to solicit grants and receive gifts for this purpose, and further to authorize the Town Manager to expend sums of money for the purposes of this article from the Community Preservation Fund and from grants and gifts designated for this purpose.

Motion carried.

Article 24 – CPC, Blairhaven Purchase – Moved and seconded that the Town vote to appropriate the sum of \$3,150,000.00 for the acquisition for recreation purposes, under the care and control of the Board of Selectmen, with a permanent Deed restriction under M.G.L. 184, of a fee simple interest in land, certain parcels of land, approximately 5 acres in area, identified as Parcels 200-470-053, 200-470-054, and 200-470-055 on the Duxbury Assessors Map and shown on a plan of land on file at the Office of the Town Clerk, and for costs related thereto; that to meet said appropriation \$950,000.00 shall be raised from estimated Community Preservation Fund annual revenue, \$1,400,000.00 shall be transferred from the FY2010 Undesignated Fund Balance of the Community Preservation Fund, and the Treasurer with the approval of the Board of Selectmen is authorized to borrow \$800,000.00 under M.G.L. Chapter 44 and/or Chapter 44B, The Community Preservation Act, or any other enabling authority, and to further authorize the Board of Selectmen to solicit grants and gifts and receive and accept grants and gifts for the purposes of this article, and further to authorize the Town Manager to expend said sums of money from the Community Preservation Fund and any grants and gifts received for the purposes of this article; and that the Town Manager and the Board of Selectmen be authorized to enter into all agreements and execute any and all instruments, on terms and conditions they deem to be in the best interests of the Town and as may be necessary or convenient on behalf of the Town to carry out this vote.

There was a motion to move the previous question. **Motion failed.**

Voting Article 24, **2/3 vote required. Yes – 389 No – 209**

Did not receive the requisite 2/3 vote - Motion failed.

On Monday, March 14, 2011 after Article 25 was voted, there was a motion to reconsider Article 24. **2/3 vote required. Yes - 274 No – 119**

Motion carried to reconsider.

There was a motion to move the previous question (Article 24). **2/3 vote required.**
Yes – 301 No – 102. Motion carried.

Second and final vote on Article 24 – Yes – 302 No – 116. 2/3 vote required, Motion carried.

Article 25 – CPC, Koplovsky Land Purchase - Moved and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$447,095.00 for the acquisition for Open Space purposes under the care and control of the Conservation Commission, as defined under M.G.L. Chapter 40, Section 8C, with a permanent Deed restriction under M.G.L. Chapter 184, of a fee simple interest in land, certain parcels of land, approximately 29 acres in area, identified as Parcels 020-031-000, 020-029-013, and a portion of 020-029-011 as shown on the Duxbury Assessors Map and as shown on a plan of land on file at the Office of the Town Clerk, and for costs related thereto, and to authorize the Board of Selectmen to solicit grants or receive gifts for said purchase and to meet said appropriation, transfer \$172,095.00 from the FY2010 Undesignated Fund Balance of the Community Preservation Fund, and to transfer the sum of \$275,000.00 from the Open Space Reserves of the Community Preservation Fund, and further to authorize the Town Manager to expend said sums of money from the Community Preservation fund for the purposes of this Article.
2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.

There was a motion to reconsider Article 24. **2/3 vote required. Yes - 274 No – 119**
Motion carried.

There was a motion to move the previous question (Article 24). **2/3 vote required.**
Yes – 301 No – 102. Motion carried.

See Article 24 for final vote of reconsideration.

Article 26 – CPC, Town Clerk Documentation Storage – Moved and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$9,550.00 for the purchase of document and storage equipment for the vault in the Office of the Town Clerk, and for costs related thereto, and to meet said appropriation, to transfer the sum of \$9,550.00 from the Historic Preservation Reserves of the Community Preservation Fund, and further to authorize the Board of Selectmen to solicit grants and receive gifts for this purpose, and further to authorize the Town Manager to expend sums of money for the purposes of this article from the Community Preservation Fund and from grants and gifts designated for this purpose.
Motion carried.

Article 27 – CPC, Homeownership Assistance Program – Moved and seconded that the Town vote to appropriate, upon recommendation of the Community Preservation Committee, the sum of \$330,000.00 to be added to the Duxbury Affordable Housing Trust to be used for the First Time Homeownership Assistance Program, and for costs related thereto, and to meet said appropriation, to transfer the sum of \$330,000.00 from the Community Housing Reserves of the Community Preservation Fund, and further to authorize the Board of Selectmen to solicit grants and receive gifts for this purpose, and further to authorize the Town Manager to expend sums of

money for the purposes of this article from the Community Preservation Fund and from grants and gifts designated for this purpose.

Motion carried.

Article 28 – Rescind CPA, Citizen Petition – Moved and seconded that the Town vote to rescind its acceptance by the Town at its Annual Election on March 24, 2001 of the Community Preservation Act, Section 3 to 7 of Chapter 44B of Massachusetts General Laws, and further to place such rescission approved by the Town meeting on the Ballot for acceptance by the voters of the Town of Duxbury at the next qualifying Town or State Election.

Motion failed.

There was a motion to reconsider Article 28 – **Motion failed.**

Meeting recessed at 10:45pm until Tuesday, March 15, 2011 at 7:00pm.

Meeting was called to order on March 15, 2011 at 7:05 pm.

Article 29 – Lincoln Street Easements – Moved and seconded that the Town vote to authorize the Board of Selectmen to grant access and utility easements on a portion of parcels of land off Lincoln Street identified on Duxbury Assessors Maps as Parcels 120-500-002 and 120-502-008 as shown on plans of land filed at the Office of the Town Clerk, under terms and conditions deemed by the Board of Selectmen to be in the best interest of the Town.

2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 30 – Bay Farm Field – Moved and seconded that the Town vote to authorize the Town Manager to enter into an agreement pursuant to authority contained in M.G.L. Chapter 30B for the management of the Bay Farm Field, Parcel 160-500-025, for a term of up to ten years.

There was a motion to amend the Article to add “passive recreation purposes” for the use of Bay Farm Field.

2/3 vote required – Received the requisite 2/3 vote called by the Moderator and motion carried.

Voting Article 30, **2/3 vote required. Yes – 82 No – 180**

Did not receive the requisite 2/3 vote - Motion failed.

Article 31- Local Historic District-Moved and seconded that the Town vote to adopt a new Chapter 12 to the General Bylaws to be known as the Local Historic District Bylaw as outlined in the Local Historic District Study Committee’s Final Report, dated December 7, 2010, as amended in accordance with a handout available at the Town Meeting, a copy of which is on file at the Town Clerk’s Office.

An amendment to remove the property at 489 Washington St. “to be neither designated nor included in the district.” 2/3 vote required. Received the requisite 2/3 vote and Carried.

The Town of Duxbury hereby creates a Local Historic District, to be administered by an Historic District Commission as provided for under Massachusetts General Laws, Chapter 40C, as amended.

12.1. Purpose

The purpose of this bylaw is to aid in the preservation and protection of the distinctive characteristics and architecture of buildings and places significant in the history of the Town of Duxbury, the maintenance and improvement of their settings and the encouragement of new building designs compatible with the historically significant architecture existing in the Local Historic District(s) when this Bylaw was first adopted in 2011. This Bylaw does not seek to establish an architectural museum, but instead to inform concerning the historical process of architectural growth and adaptation to heighten a sense of educated pride in our heritage.

12.2. Definitions

The terms defined in this section shall be capitalized throughout this Bylaw. Where a defined term has not been capitalized, it is intended that the meaning of the term be the same as the meaning ascribed to it in this section unless another meaning is clearly intended by its context. As used in this Bylaw the following terms shall have the following meaning:

“Alteration” or “To Alter”	The act or the fact of rebuilding, reconstruction, restoration, replication, removal, demolition and other similar activities.
“Building”	A combination of materials forming a shelter for persons, animals or property.
“Certificate”	A Certificate of Appropriateness, a Certificate of Non-Applicability, or a Certificate of Hardship.
“Commission”	The Historic District Commission as established by this Bylaw.
“Construct” or “To Construct”	The act or the fact of building, erecting, installing, enlarging, moving and other similar activities.
“Display Area”	The total surface area of a Sign, including all lettering, wording, designs, symbols, background and frame, but not including any support structure or bracing incidental to the Sign. The Display Area of an individual letter Sign or irregular shaped Sign shall be the area of the smallest rectangle into which the letters or shape will fit. Where Sign faces are placed back to back and face in opposite directions, the Display Area shall be defined as the area of one face of the Sign.
“District”	The Local Historic District as established in this Bylaw consisting of one or more District areas.
“Exterior Architectural Feature”	Such portion of the exterior of a Building or Structure as is open to view from a public way or ways, including but not limited to architectural style and general arrangement and setting thereof, the kind and texture of exterior building materials, and the type and style of windows, doors, lights, Signs and other appurtenant exterior fixtures.
“Person Aggrieved”	The applicant; an owner of adjoining property; an owner of property within the same District area; an owner of property within 100 feet of said District area; and any charitable corporation in which one of its purposes is the preservation of historic places, structures, Buildings or districts.

“Signs”	Any symbol, design or device used to identify or advertise any place of business, product, activity or person.
“Structure”	A combination of materials other than a Building, including but not limited to a Sign, fence, wall, terrace, walk or driveway.
“Substantially at Grade Level”	Located at the existing or altered surface of the earth or pavement which does not/will not exceed one foot in height above the surface of the earth or pavement.
“Temporary Structure or Building”	A Building not to be in existence for a period of more than two years. A Structure not to be in existence for a period of more than one year.

12.3. District

The District shall consist of one or more District areas as listed in Section 14 (Appendices) of this Bylaw.

12.4. Commission

- 12.4.1 The Commission shall consist of five (5) regular members appointed by the Board of Selectmen. When the Commission is first established, two members shall be appointed for one year, two members shall be appointed for two years, and one member shall be appointed for three years. Successors shall each be appointed for terms of three years. Vacancies shall be filled within 60 days by the Board of Selectmen by appointment for the unexpired term. All members shall serve without compensation. Three members of the Commission shall constitute a quorum.
- 12.4.2 The Commission shall include among its regular or alternate members, if practical, a Duxbury property owner who resides in each District containing more than one property owner, one Duxbury resident chosen from two nominees put forward by the Board of Realtors covering Duxbury, one Duxbury resident chosen from two nominees put forward by the chapter of the American Institute of Architects covering Duxbury, and one Duxbury resident chosen from two nominees put forward by the Duxbury Rural and Historical Society. If within thirty days after submission of a written request for nominees to any of the organizations herein named insufficient nominations have been made, the Board of Selectmen may proceed to make appointments as it desires.
- 12.4.3 The Board of Selectmen may at its sole discretion, appoint up to a maximum of four (4) alternate members to the Commission for three (3) year terms. The available alternate members with the longest continuous length of service as an alternate may be substituted and vote on a one for one basis, in place of any regular member(s) who may be absent or has/have an actual or apparent conflict of interest, or in the case of a vacancy in the regular memberships.
- 12.4.4 Each member shall continue to serve in office after the expiration date of his or her term until a successor is duly appointed.
- 12.4.5 Meetings of the Commission shall be held at the call of the Chairman, at the request of two members and in such other manner as the Commission shall determine in its Rules and Regulations.

- 12.4.6 A quorum is necessary for the Commission to conduct a meeting. At least three (3) members of the Commission (or Alternate Members with voting rights as to a matter(s) under consideration) must be present.

12.5. Commission Powers and Duties

- 12.5.1 The Commission shall exercise its powers in administering and regulating the Construction and Alteration of any Structures or Buildings within the District as set forth under the procedures and criteria established in this Bylaw. In exercising its powers and duties hereunder, the Commission shall pay due regard to the distinctive characteristics of each Building, Structure and District area.
- 12.5.2 The Commission, after public hearing, may by vote of two thirds (2/3rds) of its regular members (not to include alternate members) from time to time adopt, and from time to time amend, reasonable Rules and Regulations not inconsistent with the provisions of this Bylaw or M.G.L Chapter 40C, setting forth such forms and procedures as it deems desirable and necessary for the regulation of its affairs and the conduct of its business, including requirements for the contents and form of applications for Certificates, hearing procedures and other matters. The Commission shall file a copy of any such Rules and Regulations with the office of the Town Clerk. Fees for all Commission matters shall be set by the Board of Selectmen.
- 12.5.3 The Commission, after a public hearing duly posted and advertised at least 14 days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Duxbury, may adopt and from time to time amend guidelines which set forth the designs for certain Exterior Architectural Features which will meet the requirements of the District. No such design guidelines shall limit the right of an applicant for a Certificate to present other designs to the Commission for approval.
- 12.5.4 The Commission shall at the beginning of each fiscal year hold an organizational meeting and elect a Chairman, a Vice Chairman and Secretary, and file notice of such election with the office of the Town Clerk.
- 12.5.5 The Commission shall keep a permanent public record of its resolutions, transactions, decisions and determinations and of the vote of each member participating therein.
- 12.5.6 The Commission shall undertake educational efforts to explain to the public and property owners the merits and functions of a District.

12.6. Alterations and Construction Prohibited Without Certificate

- 12.6.1 No Building or Structure, or any part thereof, which is within a District shall be Constructed or Altered in any way which affects the Exterior Architectural Features visible to the unaided eye from any point of the public way on which the underlying lot or property has frontage, viewed from a point that is no closer to the Building or Structure than the closest edge of pavement, or paved sidewalk if any, unless the Commission shall have first issued a Certificate with respect to such Construction or Alteration, except as this Bylaw otherwise provides
- 12.6.2 No building permit for Construction of a Building or Structure or for Alteration of an Exterior Architectural Feature within a District and no demolition permit for demolition or removal of a Building or Structure within

a District shall be issued by the Town or any department thereof until a Certificate as required under this Bylaw has been issued by the Commission.

12.7. Procedures for Review of Applications

- 12.7.1 Any person who desires to obtain a Certificate from the Commission shall file with the Town Clerk and the Commission an application for a Certificate of Appropriateness or non-Applicability or of Hardship as the case may be. The application shall be accompanied by such plans, elevations, specifications, material and other information, including in the case of demolition or removal a statement of the proposed condition and appearance of the property thereafter, as may be reasonably deemed necessary by the Commission to enable it to make a determination on the application. The date of the filing of an application shall be the date on which a copy of such application is received by the office of the Town Clerk.
- 12.7.2 The Commission may appoint one of its members to initially screen applications for Certificates to informally determine whether any application includes and/or is submitted with sufficient information upon which the Commission may reasonably take its required actions. Within fourteen (14) days following the first filing of an application for a Certificate with the Town Clerk, the Commission, at an otherwise appropriately convened meeting, or its appointee may determine without need for a public hearing that insufficient information has been provided, in which case the application may be once returned to the submitting party, with written advice as to what was considered to be lacking, and the applicant will then thereafter be required to re-file the application before any further Commission action is required. Any second filing of essentially the same application must be formally acted upon by the Commission as is otherwise provided in this Bylaw.
- 12.7.3 The Commission shall determine within fourteen (14) days of the filing of an application for a Certificate whether said application involves any Exterior Architectural Features which are within the jurisdiction of the Commission.
- 12.7.4 If the Commission determines that an application for a Certificate does not involve any Exterior Architectural Features, or involves an Exterior Architectural Feature which is not subject to review by the Commission under the provisions of this Bylaw, the Commission shall forthwith issue a Certificate of Non-Applicability.
- 12.7.5 If the Commission determines that such an application involves any Exterior Architectural Feature subject to review under this Bylaw, it shall hold a public hearing on the application, except as may otherwise be provided in this Bylaw. The Commission shall hold such a public hearing within forty-five (45) days from the date of the filing of the application. At least fourteen (14) days before said public hearing, public notice shall be given by posting in a conspicuous place in Town Hall and in a newspaper of general circulation in Duxbury. Such notice shall identify the time, place and purpose of the public hearing. Concurrently, a copy of said public notice shall be mailed to the applicant, to the owners of all adjoining properties and of other properties deemed by the Commission to be materially affected thereby, all as they appear on the most recent applicable tax list, to the Planning Board, to any person filing a written request for notice of hearings, such request to be renewed yearly in December, and to such other persons as the Commission shall deem entitled to notice.
- 12.7.5.1 A public hearing on an application for a Certificate need not be held if such hearing is waived in writing by all persons entitled to notice thereof. In addition, a public hearing on an application for a Certificate may be

waived by the Commission if the Commission determines that the Exterior Architectural Feature involved, or its category, is so insubstantial in its effect on the District that it may be reviewed by the Commission without a public hearing. If the Commission dispenses with a public hearing on an application for a Certificate, notice of such application shall be given to the owners of all adjoining property and of other property deemed by the Commission to be materially affected thereby as above provided, and ten (10) days shall elapse after the mailing of such notice before the Commission may act upon such application.

12.7.6 The Commission shall grant a Certificate, or issue a written decision, within sixty (60) days from the date the pertinent application was filed (or re-filed in the event the application was once returned for lack of information), unless the applicant consents in writing to a specific enlargement of time by which such an issuance may occur. In the absence of any such enlargement of time, should an issuance not be forthcoming within the prescribed time, the applicant is entitled as of right to a Certificate of Hardship.

12.7.6.1 If the Construction or Alteration for which an application for a Certificate of Appropriateness has been filed shall be determined to be inappropriate and therefore disapproved, or in the event of an application for a Certificate of Hardship, the Commission shall determine whether, owing to conditions especially affecting the Building or Structure involved, but not affecting the District generally, failure to approve an application will involve a substantial hardship, financial or otherwise, to the applicant and whether such application may be approved without substantial detriment to the public welfare and without substantial derogation from the intent and purposes of this Bylaw. If the Commission determines that owing to such conditions failure to approve an application will involve substantial hardship to the applicant and approval thereof may be made without such substantial detriment or derogation, the Commission shall issue a Certificate of Hardship.

12.7.7 By the concurring vote of at least three members who were present throughout any relevant public hearing and the Commission's discussion leading up to its finding, the Commission must adopt a specific written findings setting forth the basis on which it was initially determined that the application in question involved an Exterior Architectural Feature subject to approval by the Commission and may then:

- A. Grant an appropriate Certificate for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property; or
- B. Grant an appropriate Certificate for the work to be performed, to remain effective regardless of any subsequent change in the ownership of the property, with conditions and limitations requiring architectural or plan modifications as to those matters not excluded under Section 9 of this Bylaw which are within the Commission's review jurisdiction; or
- C. Deny the application with a written statement of the basis for the denial, at which time it may provide written recommendations for changes not excluded from the jurisdiction of the Commission by Section 9 of this Bylaw which, in a subsequent application, might be acceptable to the Commission; or
- D. Deny the application with a fact specific written statement of the basis for the denial without further recommendations, if essentially the same application has previously been the subject of a prior denial accompanied by written recommendations pursuant to sub-paragraph 7.7C above.

12.7.8 Should the Commission, during the course of reviewing an application, find that it does not have review jurisdiction under this Bylaw it shall make an appropriate finding of Non-Applicability.

12.7.9 Each Certificate or written decision upon an application by the Commission shall be dated and Signed by the

Chairperson or such other person as the Commission may designate and shall be deemed issued upon filing with the Town Clerk.

- 12.7.10 Each Certificate or written decision upon an application by the Commission shall be promptly served on the applicant by the Town Clerk who shall promptly forward a copy thereof to the applicant at the address shown on the application, by first class mail, postage prepaid, and a copy shall be further provided to the Building Commissioner, Planning Board and Board of Selectmen.
- 12.7.11 Nothing contained in this bylaw shall be deemed to preclude any person contemplating construction or alteration of a Building or Structure within a District from consulting informally with the Commission before submitting any application referred to in this bylaw on any matter which might possibly be within the scope of the Bylaw, and such informal consultations are in fact encouraged. Nothing contained in this bylaw shall be deemed to preclude the Commission from offering informal advice to a potential applicant prior to receiving an application. However, any such preliminary advice offered by the Commission shall not be deemed to set a precedent nor in any way limit the Commission in the exercise of its functions under this bylaw.

12.8. Criteria for Determinations

- 12.8.1 In deliberating on applications for Certificates, the Commission shall consider, among other things, the historic and architectural value and significance of the site, Building or Structure; the general design, proportions, detailing, mass, arrangement, texture, and material of the Exterior Architectural Features involved; and the relation of such Exterior Architectural Features to similar features of Buildings and Structures in the surrounding area.
- 12.8.2 In the case of new Construction or additions to existing Buildings or Structures, the Commission shall consider the appropriateness of the scale, shape and proportion of the Buildings or Structure both in relation to the land area upon which the Building or Structure is situated and in relation to Buildings and Structures in the vicinity. The Commission may in appropriate cases impose dimensional and setback requirements in addition to those required by applicable statute or bylaw, however, such requirements shall not further limit the maximum floor area ratio and height of a Building as defined and permitted in the Duxbury Zoning Bylaw.
- 12.8.3 When ruling on applications for Certificates on solar energy systems as defined in Section 1A of Chapter 40A, the Commission shall consider the policy of the Commonwealth of Massachusetts to encourage the use of solar energy systems and to protect solar access.
- 12.8.4 The Commission shall not consider interior arrangements or architectural features not subject to public view.
- 12.8.5 The Commission shall not make any recommendation or requirement except for the purpose of preventing developments incongruous to the historic aspects or the architectural characteristics of the surroundings and of the District.
- 12.8.6 The Commission may impose requirements on the screening and location of above ground features of septic systems. Such requirements shall not conflict with requirements of the Duxbury Board of Health.

12.9. Exclusions

12.9.1 The Commission's review jurisdiction shall not include the following:

- A. Temporary Buildings, Structures, seasonal decorations or Signs subject, however, to conditions pertaining to the duration of existence and use, location, lighting, removal and similar matters as the Commission may reasonably specify.
- B. Terraces, walks, patios, driveways, sidewalks and similar Structures, provided that any such Structure is Substantially at Grade Level
- C. The number of the residents' personally owned or leased and regularly used motor vehicles which may be routinely parked within the boundaries of a residential property.
- D. Storm windows and doors, screen windows and doors, and window air conditioners.
- E. The color of paint applied to the exterior surfaces of Buildings or Structures.
- F. The color of materials used on roofs.
- G. Signs of not more than two (2) square feet in Display Area in connection with use of a residence for a customary home occupation or for professional purposes, provided only one such Sign is displayed in connection with each residence and if illuminated is illuminated only indirectly; and one Sign in connection with the nonresidential use of each Building or Structure which is not more than six (6) square feet in Display Area, consists of letters painted on wood without symbol or trademark and if illuminated is illuminated indirectly.
- H. The reconstruction, substantially similar in exterior design, of a Building, Structure or Exterior Architectural Feature damaged or destroyed by fire, storm, or other disaster, provided such reconstruction is begun within one year thereafter and carried forward with due diligence.
- I. The point of access served by handicapped access ramps designed solely for the purpose of facilitating ingress or egress of a physically handicapped person, as defined in M.G.L c.22 s13A.

12.9.2 Nothing in this Bylaw shall be construed to prevent the following;

- A. Ordinary maintenance, repair or replacement of any Exterior Architectural Feature within a District which does not involve a change in design, material or the outward appearance thereof.
- B. Landscaping with plants, trees or shrubs.
- C. The meeting of requirements certified by a duly authorized public officer to be necessary for public safety because of an unsafe, unhealthful or dangerous condition.
- D. Any Construction or Alteration under a permit duly issued prior to the effective date of this Bylaw.

- E. Upon request the Commission shall issue a Certificate of Non-Applicability with respect to Construction or Alteration in any category not subject to review by the Commission in accordance with the above provisions.

12.10. Categorical Approval

- 12.10.1 The Commission may determine from time to time after a public hearing, duly advertised and posted at least fourteen (14) days in advance in a conspicuous place in Town Hall and in a newspaper of general circulation in Duxbury, that certain categories of Exterior Architectural Features, Structures or Buildings under certain conditions may be Constructed or Altered without review by the Commission without causing substantial derogation from the intent and purpose of this Bylaw.

12.11. Enforcement and Penalties

- 12.11.1 No Alteration or Construction of any Building or Structure wholly or partially in a District for which a Certificate is required by this Bylaw shall deviate from the terms and conditions of such a Certificate.
- 12.11.2 The Building Commissioner of the Town of Duxbury shall enforce this Bylaw upon a determination by the Commission that a violation exists, and subject to the approval of the Town Manager, may institute proceedings in Superior Court pursuant to M.G.L. c.40C § 13 for injunctive or other relief and/or imposition of fines.
- 12.11.3 The Commission, upon a written complaint challenging some enforcement action by the Building Commissioner, received by the Town Clerk within five (5) days following such decision, by a Person Aggrieved, or other citizen of or property owner in the Town of Duxbury, shall hold a timely public hearing to determine whether or not the Building Commissioner's action should be upheld, in whole or in part.
- 12.11.4 Whoever violates any of the provisions of this Bylaw shall be punishable by a fine of not less than \$10.00 nor more than \$500.00 for each offense under the provisions of M.G.L. c.40C §13. Each day during any portion of which such violation continues to exist shall constitute a separate offense.

12.12 Appeals

- 12.12.1 An appeal of a determination of the Commission, except as to the propriety of a decision to invoke the provisions of M.G.L. c. 40C § 13 (institution of an action in Superior Court) by the Building Commissioner, may be taken by a Person Aggrieved by filing a written request with the Town Clerk, acting as an agent of the Commission, within twenty (20) days of the issuance of a Certificate or a disapproval. In the event of such an appeal, the Duxbury Town Manager, or his delegate, shall make a timely request to the Metropolitan Area Planning Council that it promptly designate an arbitrator(s) with competence and experience in such matters to hear such an appeal. If such a person(s) is/are so designated he/she/they must hear the appeal in a timely manner and issue a written decision within forty-five (45) days of the request as specified in M.G.L. c. 40C § 12. The arbitration decision shall be binding on the parties, unless a Complaint seeking a further appeal is filed in Superior Court within twenty (20) days from the filing of the arbitration decision with the Town Clerk, pursuant to M.G.L. c. 40C § 12A.

12.13. Validity and Separability

12.13.1 The provisions of this Bylaw shall be deemed to be separable. If any of its provisions, sections, subsections, sentences or clauses shall be held to be invalid or unconstitutional by any court of competent jurisdiction, the remainder of this Bylaw shall continue to be in full force and effect.

12.14. Appendices

Appendix 1: Winsor Local Historic District

The Winsor District shall be a District area under this Bylaw. The location and boundaries of the Winsor District are defined and shown on the Local Historic District Map of the Town of Duxbury, Sheet 1 - 2010 which is a part of this bylaw. The delineation of the District area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 1.

Appendix 2: Bradford Local Historic District

The Bradford District shall be a District area under this Bylaw. The location and boundaries of the Bradford District are defined and shown on the Local Historic District Map of the Town of Duxbury, Sheet 2 - 2010 which is a part of this bylaw. The delineation of the District area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

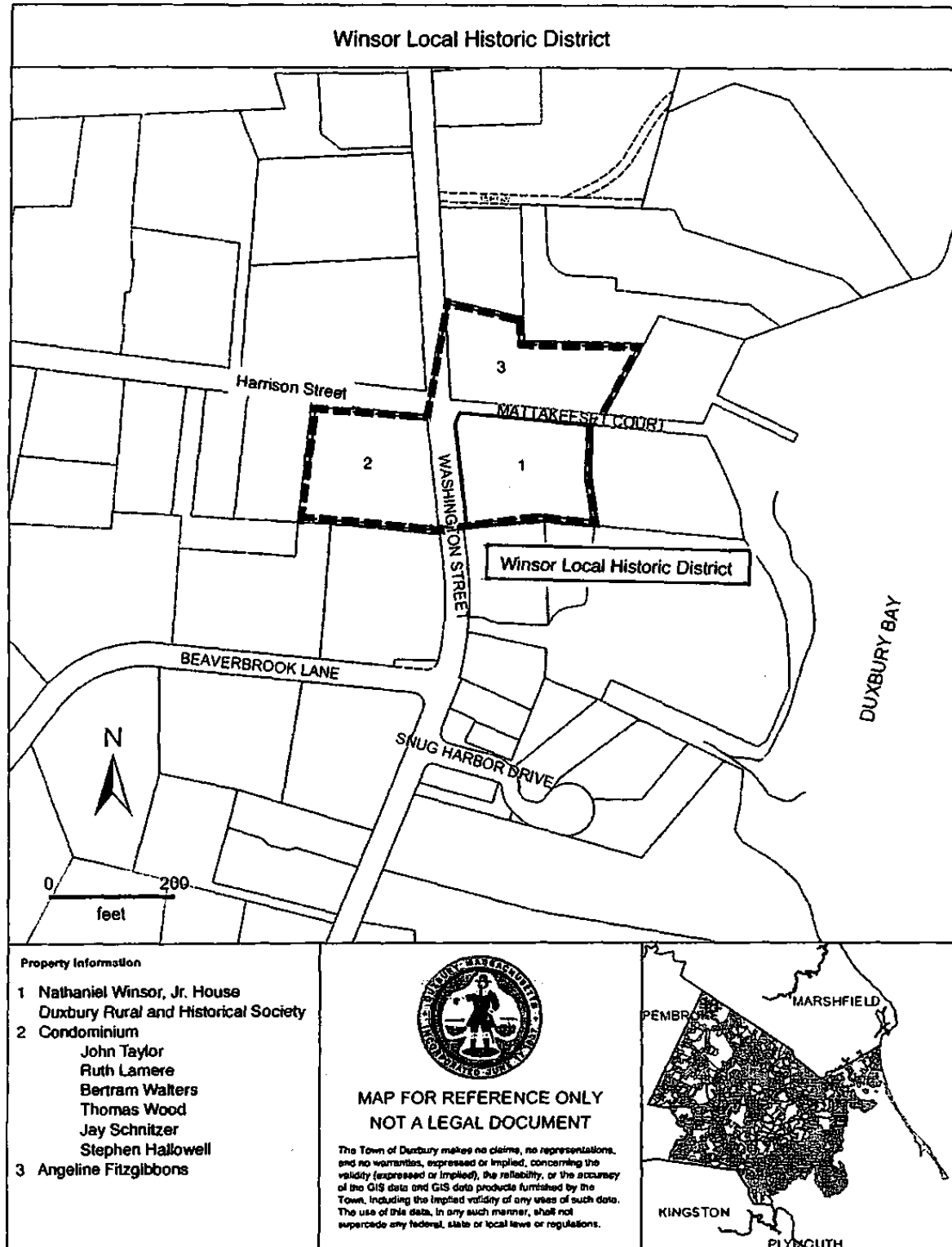
This map shall be amended to reflect the removal of Parcel 10 from inclusion in the Bradford Local Historic District.

Amended to exclude the "Fitzgibbons Property" (Parcel 10 on Map #2) and changes to the Final Report dated 12-07-10 shown in a hand out with strike- outs at the Annual Town Meeting and on file at the Town Clerk's Office.

Appendix 3: First Parish Church Local Historic District

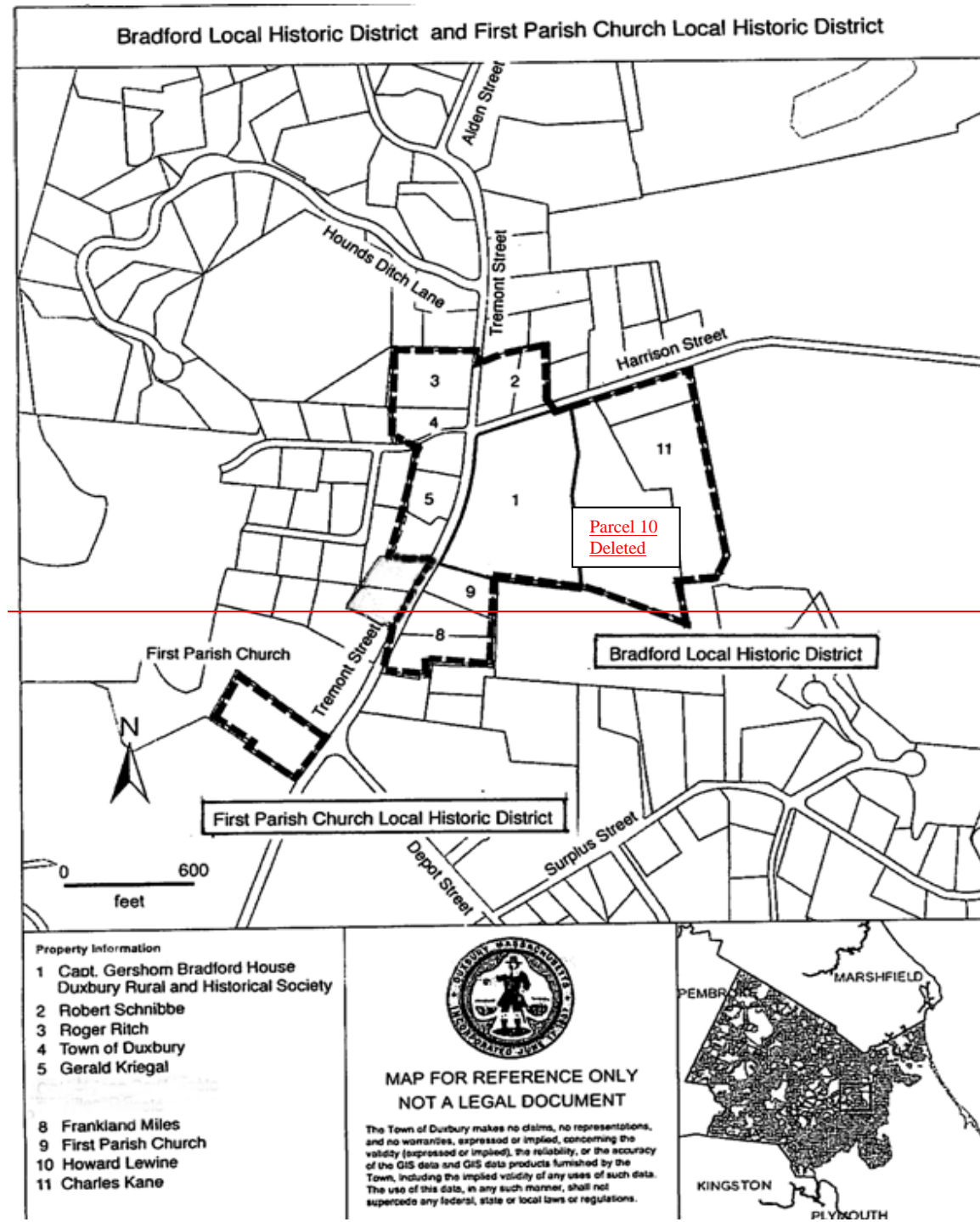
The First Parish Church District shall be a District area under this Bylaw. The location and boundaries of the First Parish Church District are defined and shown on the Local Historic District Map of the Town of Duxbury, Sheet 2 - 2010 which is a part of this bylaw. The delineation of the District area boundaries is based on the parcel boundaries then in existence and shown therein, except as otherwise apparent on Sheet 2.

Duxbury Local Historic District Bylaw Appendix 1 Local Historic District Map of the Town of Duxbury Sheet 1 - 2010



Duxbury Local Historic District Appendix 2 & Appendix 3 (Church)

Local Historic District Map of the Town of Duxbury Sheet 2 - 2010



Voting Article 31, as amended, 2/3 vote required. Yes – 194 No – 68
Motion carried.

Article 32 – Fire Hydrants – Moved and seconded that the Town vote to amend Chapter 7, Section 10 of the General Bylaws as follows: (Insertions to original text are shown in ***bold italicized print***. Deletions from the original text are shown in ~~strike through format~~.)

7.10 FIRE HYDRANTS

7.10.1 No person shall plant any tree, plant or bush or erect any fence or other structure so that it obstructs the view of a fire hydrant from the nearest street or highway, ***or so that it obstructs the operation of a fire hydrant.***

7.10.2 Any property owner with a tree, plant, bush, fence or other structure which obstructs the view or operation of a fire hydrant as described in 7.10.1, shall remove the tree, plant, bush, fence or other structure within ten days of receiving written notice from the Fire Department.

~~7.10.2~~ 7.10.3 No person shall remove or otherwise interfere with snow stakes at or near any hydrant.

~~7.10.3~~ 7.10.4 Violation of this by-law shall be punished by a fine, the amount of which shall be set by the Board of Selectmen. Each day a violation continues shall be a separate offense.

Motion carried.

Article 33 – Amend Duxbury Protective Bylaw (ZBL) – Accessory Structure, Citizen Petition – Moved and seconded that the Town vote to amend Section 302 of the Duxbury Protective Bylaw as follows:

Definition of an Accessory Structure:

Existing Description to be amended:

Accessory Structure

A structure, such as, a detached garage, shed, swimming pool, tennis court, pier, or greenhouse, located on the same lot with and accommodating a use accessory to the principal structure, or use of the lot, except a pier may be located on a lot adjacent to the principal structure.

Proposed Citizens Petition Amendment:

Accessory Structure

A structure, such as, but not limited to, a detached garage, shed, swimming pool, tennis court, pier, greenhouse, or a structure with finished living space that is not a “dwelling unit”, located on the same lot with and accommodating a use accessory to the principal structure, or use of the lot, except a pier may be located on a lot adjacent to the principal structure.

There was a motion to indefinitely postpone Article 33. **2/3 vote required.**
Did not receive the requisite 2/3 vote - Motion failed.

There was a motion to move the previous question (Article 33). **2/3 vote required.**
Received the requisite 2/3 vote called by the Moderator and motion carried.

Voting Article 33 – **2/3 vote required. Yes – 183 No - 61**
Motion carried.

There was a motion for Reconsideration of Article 33.
Motion failed.

Article 34 – Amend Duxbury Protective Bylaw (ZBL), Accessory Structure (definition), Planning Board – Moved and seconded to indefinitely postpone this Article.

2/3 vote required.
Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 35 – Amend Duxbury Protective Bylaw (ZBL), Accessory Apartments – Moved and seconded that the Town vote to amend Section 410 of the Duxbury Protective Bylaw as follows: (Insertions to original text are shown in ***bold italicized print***. Deletions from the original text are shown in ~~strike-through format~~.)

410.6 Accessory Apartment Special Permit Regulations and Restrictions

1. General – No accessory apartment shall be constructed in a single family dwelling without a special permit from the Board of Appeals as provided hereunder. For the purpose of this provision, single-family dwellings authorized under a special permit for a Residential Conservation Cluster or Planned Development shall be ineligible for an accessory apartment. Application for a special permit may be made to the Board of Appeals in the usual manner. The Board of Appeals may grant a special permit under 906.2 and Site Plan approval under 410.5 provided the following conditions are met. No construction shall commence without issuance of a building permit by the Zoning Enforcement Officer and no use or occupancy of the accessory apartment may occur until the Zoning Enforcement Officer has issued a certificate of occupancy.
2. The Board of Appeals may approve an application for a special permit to construct an accessory apartment where:
 - a. The accessory apartment does not exceed eight hundred fifty (850) square feet in area.
 - b. The accessory apartment does not require alteration or addition to the single-family dwelling in such a manner that there is any exterior change to the dwelling, so that the accessory apartment is located wholly within the building footprint in existence at the time of the special permit application. For the purpose of this section, exception shall be made only for installation of exterior doorways and means of egress at grade in conformance with Massachusetts Building Code.
 - c. The area of the lot on which the single family dwelling is located shall not be less than twenty thousand (20,000) square feet.
 - d. Sufficient parking area shall be provided, including at least one (1) additional space to serve the accessory apartment. Said ~~addition~~ ***additional*** space shall have access to the driveway serving the dwelling.

- e. The applicant shall be an owner-occupant of the premises, and shall remain an occupant of either the principal dwelling or the accessory apartment.
- f. The Board of Health certifies that the existing or proposed septic system and expansion area comply with the requirements of Title 5 of the State Environmental Code and the Rules and Regulations of the Duxbury Board of Health, and is capable of serving both the single-family dwelling and the accessory apartment.
- g. The applicant submits floor plans of the proposed accessory apartment, a site plan in conformance with Section 410.5, and a plot plan as required under Section 905, all being acceptable to the Board of Appeals.
- h. The single-family dwelling is at least ten (10) years old at the time of the application for an accessory apartment special permit, and no additions or alterations as would have created additional living space were constructed in the single-family dwelling within ~~five (5) years~~ **one (1) year** of the date of application for special permit hereunder.
- i. ***Upon approval, the Board of Appeals may require the applicant to record a restriction verifying that the apartment is accessory to a single family dwelling and that no application shall be made under Chapter 183A to convert the accessory apartment to a condominium.***

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 36 – Resolution Regarding Density – Moved and seconded that the Town vote to adopt the following:

Whereas the Town of Duxbury adopted a Comprehensive Plan in 1999 which endorses single density for lots;

Be it resolved that this Town Meeting reaffirms and supports single density;

And that we expect our Town Boards, Committees and employees to enforce single density planning.

There was a motion to remove the following clause: “Whereas the Town of Duxbury has become home to double density sites in the past few years;”

Moved and seconded to accept amendment – **Motion carried.**

Non-binding vote: Yes – 93 No – 59

Article 36 - Motion carried.

Article 37 – Amend Duxbury Protective Bylaw (ZBL), Bed & Breakfast – Moved and seconded that the Town vote to amend Article 300 of the Duxbury Protective Bylaw definition of a Guest House as follows: (Insertions to original text are shown in ***bold italicized print***. Deletions from the original text are shown in ~~strike-through format~~.)

~~Guest House~~ ***Bed and Breakfast*** – A structure originally built as a dwelling, in which the operator resides, and not more than four guest units are offered for overnight lodging with or without meals

and,

vote to amend Article 400 of the Duxbury Bylaw Section 410.3 #8 as follows: (Insertions to original text are shown in ***bold italicized print***. Deletions from the original text are shown in ~~strike through format.~~)

8. Bed and Breakfast/~~Guest House~~ within existing footprint of an existing single-family dwelling, in which the operator resides.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 38 – Amend Duxbury Protective Bylaw (ZBL), Lot Coverage – Moved and seconded to indefinitely postpone this Article.

2/3 vote required. Yes – 102 No – 44

Motion carried.

Article 39 – Amend Duxbury Protective Bylaw (ZBL), Open Space (definition) – Moved and seconded to indefinitely postpone the article.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 40 – Amend Duxbury Protective Bylaw (ZBL), Parking Regulations - Moved and seconded to indefinitely postpone the article.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 41 – Amend Duxbury Protective Bylaw (ZBL), Use Variances – Moved and seconded that the Town vote to amend Article 900 of the Duxbury Protective Bylaw Section 906.3

Variances as follows: (Insertions to original text are shown in ***bold italicized print***. Deletions from the original text are shown in ~~strike through format.~~)

To grant upon appeal or upon petition with respect to particular land or structures a variance from ~~including a use variance~~ the terms of this Bylaw where the Board of Appeals specifically finds that, owing to circumstances relating to the soil conditions, shape or topography of such land or structures and especially affecting such land or structures but not affecting generally the zoning district in which it is located, a literal enforcement of the provisions of this Bylaw would involve substantial hardship, financial or otherwise, to the petitioner or appellant, and that desirable relief may be granted without substantial detriment to the public good and without nullifying or substantially derogating from the intent or purpose of this Bylaw. **Variances do not include use variances.**”

2/3 vote required. Yes – 57 No – 78

Motion failed.

There was a motion for Reconsideration of Article 41.

2/3 vote required.

Did not receive the requisite 2/3 vote called by the Moderator and motion failed.

Article 42 – Re-zone Land, Owner Petition - Moved and seconded to indefinitely postpone this Article.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

There was a motion for Reconsideration of Article 42.

2/3 vote required.

Did not receive the requisite 2/3 vote called by the Moderator and motion failed.

Article 43 – Street Acceptance, Citizen Petition – Moved and seconded that the Town vote to accept the layouts of Cushing Drive and Ice House Road as public ways in the Town of Duxbury, in accordance with the descriptions and plans now on file in the Town Clerk’s Office, which are incorporated by reference; and authorize the acquisition in fee simple, by purchase, or by taking by eminent domain, the property within said ways.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 44 - Potential Well-Site (Teakettle Lane) - Moved and seconded to indefinitely postpone this Article.

Received the requisite vote called by the Moderator and motion carried.

Article 45 – Utility Easement, Percy Walker Pool – Moved and seconded that the Town authorize the Board of Selectmen to grant NSTAR ELECTRIC COMPANY, its successors and assigns, or any licensee from it (hereafter called the Grantee) an easement to locate, relocate, erect, construct, reconstruct, install, operate, maintain, patrol, inspect, repair, replace, alter, change the location of, extend or remove transformers, together with service conductors and other necessary equipment and apparatus (“Equipment”), along, upon, under, across and over that certain parcel of Town owned land, namely:

Being a certain parcel of land situated at 175 St. George Street, Duxbury, as shown on a Deed dated March 25, 1936 and recorded in Book 1706, Page 2992 with the Plymouth County Registry of Deeds;

To provide rights for the Grantee, on terms and conditions deemed to be in the best interest of the Town by the Board of Selectmen.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 46 – Utility Easement, Millbrook Water Station – Moved and seconded that the Town vote to authorize the Board of Selectmen to grant VERIZON NEW ENGLAND, INC. and NSTAR ELECTRIC COMPANY, their successors and assigns, or any licensee from them (hereinafter called the Grantees) an easement to access, operate, maintain, connect, extend, replace, and remove poles, which may be maintained at different times with the necessary conduits, cables, wires, anchors, guys, supports and fixtures appurtenant thereto for the transmission and/or distribution of telecommunications and/or electricity, upon, over and across that certain parcel of Town owned land namely;

Being shown on Duxbury Assessors Maps as Parcel 130-509-056 which is shown on a plan titled “Exhibit A” on file with the Office of the Town Clerk,

To provide rights for the Grantees, on terms and conditions deemed to be in the best interest of the Town by the Board of Selectmen.

2/3 vote required.

Received the requisite 2/3 vote called by the Moderator and motion carried.

Article 47 – Pilgrim Nuclear Power Station – Moved and seconded that the Town vote to adopt the following:

Pilgrim Nuclear Power Station should not be relicensed to extend operations another 20 years until and unless:

- a) some third party assumes responsibility for cleanup after a severe nuclear reactor accident to pre-accident conditions, sets a cleanup standard, and identifies a funding source;
- b) all control rods have been inspected for cracking, material distortion and any other indication of degradation and those showing any of the foregoing replaced;
- c) Entergy either replaces all submerged electric cables, splices and connectors not designed or qualified for submerged or moist environments or develops a comprehensive aging management program to preclude moisture and adequately tests all cables that have been exposed to an environment for which it was not designed; and
- d) due to persistent levels of radioactive tritium in samples from Pilgrim’s monitoring wells onsite, Pilgrim Nuclear Power Station’s Buried Pipes and Tanks Inspection and Monitoring Program consists of a more robust inspection system, cathodic protection, a base line inspection prior to any license extension, and an effective monitoring well program that adheres to well-established protocols for proper design of monitoring networks. The current monitoring system does not meet reasonable standards for monitoring network design. The Clerk of Duxbury shall forward the text of this Article to the Town of Duxbury’s State and Federal delegations, to all Select Boards within the Emergency Planning Zone of Pilgrim NPS, the Nuclear Regulatory Commission and Entergy Corp., so that the intent of the Citizens of Duxbury is widely known.

Received the requisite vote called by the Moderator and motion carried.

Article 48 – Stabilization Fund - Moved and seconded to indefinitely postpone this Article.

Received the requisite vote called by the Moderator and motion carried.

Article 49 – Free Cash - Moved and seconded to indefinitely postpone this Article.

Received the requisite vote called by the Moderator and motion carried.

The Annual Town Meeting was adjourned sine die at 11:10pm on Tuesday,
March 15, 2011

Total-	\$77,684,701.00
Tax Levy-	\$59,341,810.00
Free Cash-	\$673,311.00
Other available Funds-	\$3,994,580.00
Borrowing-	\$10,775,000.00

Attendance:

	<u>3-12-10</u>	<u>3-14-10</u>	<u>3-15-10</u>
Prec. 1 -	234	220	78
Prec. 2-	332	233	116
Prec. 3-	228	156	50
Prec. 4-	167	98	21
Prec. 5-	177	99	19
<u>Prec. 6-</u>	<u>135</u>	<u>94</u>	<u>27</u>
Total	1,273	900	311

Respectfully submitted,

Nancy M. Oates
Duxbury Town Clerk