Duxbury Selectboard Meeting Minutes
Tuesday, November 12th, 2019

Note: The complete audio recording of this meeting may be found at www.duxburyvermont.org

SELECTBOARD MEMBERS PRESENT	Bob Magee, Mari Pratt, Dan Schillhammer, Kevin Garcia, Jerry McMahan
MINUTES PREPARED BY:	Jonathan DeLaBruere
CALL TO ORDER	The meeting was called to order at 6:00 PM by Bob Magee.
INTRODUCTION OF SELECTBOARD MEMBERS	Selectboard members introduced themselves and attendees were reminded to sign in using the sign-in sheet.

CHANGES TO THE AGENDA

DISCUSSION	1. Move Class 4 Roads Policy to November 25th Selectboard meeting 2. Move Scrabble Hill Road Project Update to New Business letter D		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

CITIZENS AND VISITORS TO ADDRESS THE BOARD

DISCUSSION			
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

APPROVAL OF MINUTES

DISCUSSION	1. Motion by Jerry, Second by Dan, All in Favor of approving the 10/28/19 Selectboard meeting minutes as amended. 2. Motion by Dan, Second by Kevin, All in Favor of approving the 11/6/19 Selectboard special meeting minutes as amended.		
ACTION ITEMS		PERSON RESPONSIBLE	DEADLINE

REVIEW OF SELECTBOARD MAIL

DISCUSSION	1. Central Vermont Regional Planning Commission – Letter requesting the annual dues. This is a budgeted item and will be handled by the treasurer. 2. Good Beginnings of Central Vermont – Asking for $300 from the town in the next fiscal year budget.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

REPORT: HIGHWAY FOREMAN

DISCUSSION	See attached report

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

REPORT: TOWN TREASURER

DISCUSSION	

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

REPORT: SELECTBOARD ASSISTANT

DISCUSSION	See attached report

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE

NEW BUSINESS

DISCUSSION	1. **Suffrage Scramble 5K** – Motion by Kevin, Second by Dan, All in Favor of allowing the race to move forward in Duxbury. There was discussion that this race is going to be smaller than the Leaf Peepers race, and there were no major problems that came up as a result of that race. 2. **Moretown Fire Department** – Stefan Pratt, Moretown Fire Chief, was present at the meeting and discussed that Duxbury has paid $3,000 per

fiscal year for fire service from the Town of Moretown. This coming year, they are going to be asking for $7,000.

3. **Waterbury Fire Department Discussion** – The Waterbury Fire Department is holding a bond vote on Tuesday, November 12th for $1 Million for the purchase of two pieces of apparatus. This is going to be a five-year bond that will certainly have an impact on what Waterbury Fire Department presents for a budget line item to the Town of Duxbury.

4. **Scrabble Hill Road Project Update** – Ken Robie, DuBois & King, and Dave Crawford, VHB, were both present to give a second alternative's presentation taking into consideration the questions asked at the last meeting.

   - Motion by Dan, Second by Kevin, of going with option #2 of the three options that were presented. The board members voted the following way:

     - Dan – Yes
     - Kevin – Yes
     - Jerry – Yes
     - Mari – No

   - Motion by Dan, Second by Kevin, All in Favor of having Dan touch base with the DeForges' and invite them to the next Selectboard meeting on Monday, November 25th, 2019.

5. **VLCT Executive Session Correspondence** – There was discussion about Jerry's correspondence with the Vermont League of Cities and Towns regarding the Duxbury Selectboard's use of Executive Session. Those documents are attached to the meeting minutes.

6. **Grant Projects Review** – The board walked through the grant projects that the town currently has in progress.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Reach out and let Donna know that the Suffrage Scramble Race can proceed in Duxbury	Jonathan	ASAP
Add Waterbury Fire Department Discussion to November 25th, 2019 Selectboard meeting	Jonathan	11/25/19
Send DeForge contact information to Dan	Jonathan	ASAP
Explore the option of creating Duxbury specific email addresses	Jonathan	11/25/19
Send grant worksheet to Selectboard members	Jonathan	ASAP
Add grant deadline and total spent columns in grant worksheet	Jonathan	ASAP

OLD BUSINESS

DISCUSSION	1. **Personnel Policy Review** – Motion by Kevin, Second by Dan, All in Favor of approving the updated Personnel Policy dated November 12th, 2019. The updated policy is included in the meeting minutes. 2. **Budget Review** – The board discussed that the external audit needs to be completed, so that the board has a better understanding of the town's finances, and last year's budget deficit.

ACTION ITEMS	PERSON RESPONSIBLE	DEADLINE
Send copy of the updated Personnel Policy to all town employees for acknowledgement signature	Jerry	ASAP
Reach out to Kyle to have him start working on his budget for the next fiscal year	Jonathan	ASAP

ADJOURNMENT	Motion by Kevin, Second by Dan, All in Favor of adjourning the meeting at 8:46 PM.

Foreman's Report

November 12th, 2019

Board Meeting

Road work/Crew work

- Fix 10/31-11/1 storm damage.
- Get trucks/plows/wings ready for winter road maintenance
- Plow, Sand, Salt during storms

Foreman Work

- Work with crew
- Work with Percy on flood damage
- Meet with FEMA, VTRANS about flood damage
- Plow, salt, sand

Equipment

- Truck 2 was supposed to go to Charlebois this week to be looked and have damage caused by blown tire, fixed. Due to the winter weather it was not brought up. Charlebois will be coming down in the next couple days to look at it and get an estimate for the insurance company.
- P/U will be going to Jeremy Gonyon, the week of thanksgiving to get the body work done to make it legal for inspection. The following week it will be brought to JW auto for tires and the VSI.

Going forward

- We will be trying to do final grading if possible over the next couple weeks. We have some more small washes and other spots that need some attention but will have to wait until it warms back up a bit.

Submitted by

Kyle Guyette

Road Foreman

Town of Duxbury
Selectboard Assistant Report
11/12/19 Selectboard Meeting

1. **Grants In-Process**

    a. **Crossett Hill Road Slide (Planning Phase) – FEMA (DR-4330)**

        i. FEMA has submitted a request for additional information to the town. A conference call to discuss this request was conducted on October 4, and the additional information was submitted to FEMA on October 18. A reimbursement request for this project has been submitted for $38,906.61.

    b. **Scrabble Hill Road Stabilization – Municipal Highway & Stormwater Mitigation FY19**

        i. DuBois & King and VHB are here this evening to discuss the concerns expressed by both the Selectboard and residents during the alternatives presentation.

    c. **Salt/Sand Shed – Municipal Highway & Stormwater Mitigation FY19**

        i. No Update – On hold until the determination on the grant application submitted for the Highway Department materials storage.

    d. **Camels Hump Road Scoping Study – Transportation Alternatives FY19**

        i. A list of design consultants was sent to the Selectboard for review prior to the October 28 meeting. During this meeting, one of the consultants will be selected to submit a request for proposals.

    e. **River Road Paving – Class 2 Town Highway Road Program**

        i. The Highway Department is working on replacing all of the critical culverts on the paved section of River Road in anticipation of this grant. This construction will take place in early 2020.

    f. **Ryan Road Culvert Replacement – Better Roads FY20**

        i. Construction will take place between July 1, 2020 and October 1, 2020.

g. May 2019 Flooding Event – VTrans Emergency Grant

i. Percy Inc. will be completing the work on River Road, Hart Road, Pleasant Street, and Crossett Hill Road next week.

h. April 2019 Flooding Event – FEMA (DR-4445)

i. All of the documentation regarding this event has been submitted to FEMA for review as of October 28. The remaining work to be completed includes ditching, stone lining, adding road material, grading, and adding guardrail to Richardson Road.

2. Grants – Under Review

a. Scrabble Hill Road Stabilization – Municipal Highway & Stormwater Mitigation FY20

b. Duxbury Highway Department Stormwater Project – Municipal Highway & Stormwater Mitigation FY20

c. Morse Road Culvert Replacement – VTrans Emergency Grant

3. Grants – Currently Writing

a. Main Street/River Road Intersection Improvements – Transportation Alternatives FY20

b. Duxbury Road Erosion Inventory – Better Roads FY21

c. Camels Hump Road Culvert Replacement – Better Roads FY21

d. Stevens Brook Road Culvert Replacement – Hazard Mitigation Grant Program

e. Atwood Road Culvert Replacement – VTrans Structures Grant

4. November 1' 2019 Storm

The wind and flooding event of October 31 - November 1 caused millions of dollars of damage around Vermont, leaving towns with debris cleanup and extensive road repairs. Vermont Emergency Management has been working with FEMA on a Preliminary Damage Assessment for the purposes of requesting a Public Assistance Disaster Declaration.

- The state will be requesting a Public Assistance Disaster Declaration by the end of November, and a decision by FEMA and the President usually takes between 2 and 8 weeks.

- A number of private residences have also been damaged to varying degrees. Towns are asked to ensure residents with damage report it to Vermont 2-1-1. This information will inform a decision to seek federal aid for private homeowners.

Gmail Jonathan DeLaBruere <duxbury.sb.assistant@gmail.com>

Fwd: Is this an improper use of executive session?

Jerry K. McMahan <jerrymcmahanvt@gmail.com> Wed, Nov 6, 2019 at 9:18 AM
To: Jonathan DeLaBruere <duxbury.sb.assistant@gmail.com>

Hi Jonathan,

I was looking at minutes from 10/28 and saw that you were charged with attaching the opinion from VLCT, so here it is. Sorry I did not originally copy you. In researching the open meeting law, I looked at executive session usage by 10 surrounding towns of similar size. Our executive session usage is not abnormal compared to other towns. What is abnormal is that our meetings last a lot longer than other towns' and we have a lot more special meetings. A different topic but it should be examined too.

Jerry

---------- Forwarded message ---------
From: **Jerry K. McMahan** <jerrymcmahanvt@gmail.com>
Date: Thu, Oct 10, 2019 at 11:42 AM
Subject: Is this an improper use of executive session?
To: <info@vlct.org>

Hello,
I would like some guidance on whether we may have conducted an executive session when it was not appropriate.

Last month we voted to go into executive session to discuss a personnel matter where public knowledge would place a person at a substantial disadvantage. This was at the request of a Town employee during the open meeting. In the session he informed us that he had applied for another position but that he would prefer to remain with us if he could be upgraded from part-time to full-time status. This information could obviously prejudice the perspective employer from considering him for the position. However, this situation does not appear to be explicitly covered by 1 VSA 313(a).

So, was use of executive session inappropriate, and if so is there an alternate method of dealing with such a situation?

Thank You,

Jerry McMahan
Town of Duxbury Select Board

Gmail Jonathan DeLaBruere <duxbury.sb.assistant@gmail.com>

Letter

Jerry K. McMahan <jerrymcmahanvt@gmail.com> Wed, Nov 6, 2019 at 1:30 PM
To: Jonathan DeLaBruere <duxbury.sb.assistant@gmail.com>

Garrett Baxter <gbaxter@vlct.org> Oct 10, 2019, 1:34 PM

Good afternoon Jerry,

The selectboard ordinarily doesn't need to make a specific finding that premature general public knowledge would clearly place the selectboard or a person involved at a substantial disadvantage with respect to personnel matters. The topics for which such a finding must be made are: a. contracts; b. labor relations agreements with employees; c. arbitration or mediation; d. grievances, other than tax grievances; e. pending or probably civil litigation or a prosecution, to which the public body is or may be a party; or f. confidential attorney-client communications made for the purpose of providing professional legal services to the body. 1 V.S.A. §§ 313(a)(1)(A)-(F). Outside of contracts and labor relations agreements, the permissible statutory reasons that selectboards most frequently enter executive session to discuss personnel matters are under 1 V.S.A. § 313(a)(3) "the appointment or employment or evaluation of a public officer or employee, provided that the public body shall make a final decision to hire or appoint a public officer or employee in an open meeting and shall explain the reasons for its final decision during the open meeting" or 1 V.S.A. § 313(a)(4) "a disciplinary or dismissal action against a public officer or employee; but nothing in this subsection shall be construed to impair the right of such officer or employee to a public hearing if formal charges are brought." I think the argument could be made that the fact pattern you provided could provide a basis for entering into executive session under 1 V.S.A. § 313(a)(3) as it concerns the employment of an employee so long as no decision is made while in executive session.

More information regarding the Open Meeting Law and the appropriate use of executive session and how to enter in can be found in our "Open Meeting Law FAQs" publication available on our website at: https://www.vlct.org/municipal-assistance/municipal-topics/vermonts-open-meeting-law

Sincerely,

Garrett A. Baxter

Garrett A. Baxter, Esq.

Senior Staff Attorney, Municipal Assistance Center

Vermont League of Cities and Towns

1-800-649-7915

Duxbury Selectboard Meeting
Tuesday, November 12th, 2019

Name	Address	Affiliation
Stefan Pratt	169 Hillcrest Ave S. Duxbury	Moretown Fire Dept.
Katie Martin	Waterbury Ctr	Press
Hadley L	Fayston	Press
Ken Robie	Milton, VT	D+K
[illegible]	S. Burlington	VHB Project Mgr
Jonathan DeLaBruere		Town of Duxbury