

MINUTES
BOARD OF SELECTMEN MEETING
JULY 13TH, 2015 at 6:30PM

CALL TO ORDER/OPENING

Chairwoman Provencher called the meeting to order at 6:30pm. Chair Dianna Provencher, Vice Chair Douglas Belanger, 2nd Vice Chair Sandra Wilson, Selectman Thomas E. Buckley, III, Selectman Harry Brooks and Town Administrator Kevin Mizikar were in attendance.

PUBLIC COMMENT PERIOD

No members of the public provided comment

1. SCHEDULED

a. MGL 140, Section 157 – Dog Hearing

A motion was made by Mr. Belanger and seconded by Mr. Buckley to open the public hearing.

Vote by Roll Call:

Provencher - Aye

Belanger – Aye

Wilson – Aye

Buckley – Aye

Brooks - Aye

The motion carried unanimously.

Ms. Provencher swore in all persons testifying in the matter. Ms. Provencher read the July 9, 2015 complaint filed by Patricia Dykas, Animal Control Officer regarding a female yellow lab know as Bella who is owned/kept by Brian and Colleen Sheard of 38 Craig Street in Rochdale. The dog attacked and injured Mary Paquette of 40 Craig Street in June 11, 2015, was subsequently quarantined for 10 days. Upon its release, the Animal Control Officer received 4 additional complaints about the dog being loose and charging at people walking on Craig Street.

Ms. Dykas stated that the dog is not under the owner's control and the neighbors live in fear and do not want to sit outside. Ms. Dykas noted the attack on Ms. Paquette was not a single bite but three serious bites. Ms. Dykas recommended the dog be euthanized.

Mr. Mizikar asked the age of the dog. Ms. Dykas responded 2.5 years old. Mr. Mizikar asked if any prior complaints have been made to the ACO. Ms. Dykas stated no complaints have been made to her prior to this incident. Mr. Buckley asked if the owners have a fence. Ms. Dykas responded that they do not have a fence. Mr. Mizikar asked Ms. Dykas to describe her interaction with the dog. Ms. Dykas responded that the dog was submissive, timid and fearful and she did not feel comfortable leaving her with the children. Ms. Dykas stated the dog is not very socialized and is very unstable. Mr. Buckley asked if there were any incidents when the dog was under quarantine. Ms. Dykas responded no. Ms. Wilson asked if the dog has had any training. Ms. Dykas did not know. Mr. Mizikar stated the responding Sergeant advised that the dog tried to bite Ms. Dykas. Ms. Dykas confirmed she did in fact try to bite her during the handoff and that the owner was nervous about handing her off.

Art Paquette, the victim's son, spoke of the dog attack and how his mother must bring her cane outside now. Mr. Paquette stated the dog has been loose numerous times and there are many elderly in the neighborhood. Mr. Paquette stated that Ms. Paquette has approached the owner about keeping the dog in the yard especially when her grandchildren were visiting to no avail.

Nancy Paquette, daughter-in-law of the victim, stated Ms. Paquette lives in constant fear of the dog and that it grabbed her grandson's pants and she had to chase it off. She stated Ms. Paquette won't get out of her car when the dog is in her driveway and that the dog is very protective of its owner when she is home.

Ms. Sheard, owner of Bella, stated that what happened to Ms. Paquette was awful but that Bella is not a mean dog. She has three children and Bella is very protective of them. Her husband works nights and the dog makes her feel safe. Ms. Sheard stated that her son went to give Ms. Paquette a hug and the dog attacked. She has had the dog chained and installed an electric fence but people are still calling the police even when the dog is in the yard. Ms. Sheard stated that the dog has not charged at anyone. She has calls in to Petco, the ASPCA and the MSPCA for help installing a fence in her yard. She stated she would not have the dog in the house if she felt she was vicious and said the dog should not be taken or put down.

Mr. Brooks asked if the dog has gotten loose since the incident. Ms. Sheard stated it has not and the one time the dog ran down the driveway to get a ball her husband yelled and she came back up into the yard.

Mr. Belanger stated that these hearings are most difficult but no resident should live in fear. Mr. Belanger expressed concern about the multiple bites and incidents since and stated he has not seen anything which would enable him to say to the neighborhood that the situation will be better. Mr. Belanger stated Ms. Sheard should have put all measures in place immediately following the attack. Ms. Sheard responded that things have changed; the dog is tied up now, not free to roam the yard and Ms. Paquette said stated to her that it she ok with the dog coming back. Ms. Sheard also stated she installed an electric fence before the dog came back but people were complaining about just seeing the dog in the yard. She was told by the Animal Control Officer that the electric fence was not sufficient so she took it out.

Mr. Buckley stated that this dog is also someone's pet and asked if the dog could be restricted to the back of the house using the electric fence. Ms. Sheard stated no because the fence goes in a circle at the same distance on all sides so she is looking into help to purchase a permanent fence as she can't afford it. Mr. Buckley stated he wanted to see a fence installed because the dog is protective of the children. Ms. Dykas stated she told Ms. Sheard not to install an electric fence because it comes right to the street so the dog comes charging down the hill and people do not know if it is going to stop in the yard. Ms. Dykas stated that both her and the Police have seen this dog loose and in the Paquette's yard since the attack and that her kids let the dog out when they are home alone. Mr. Belanger stated that the owner doesn't seem willing or capable of restraining the dog and the Board can't afford to allow it to harm anyone else. Mr. Belanger stated he feels badly for the dog because it's the dog owners who have not done the right thing. Ms. Sheard asked for a window of time to have a fence installed.

Mr. Brooks asked if a fence would solve the problem. Ms. Dykas stated it would not because there are multiple places the dog can get out such as the garage, front and back doors. Ms. Wilson asked if the dog could be placed in another location. Ms. Dykas responded that under the new State law this is not allowed and furthermore it has never been the Town's policy to move the problem somewhere else. Ms. Dykas acknowledged the dog is a member of the family but this type of behavior is now in her character.

A motion was made by Mr. Belanger and seconded by Mr. Buckley to close the public hearing.

Vote by Roll Call:

Provencher - Aye

Belanger – Aye

Wilson – Aye

Buckley – Aye

Brooks - Aye

A motion was made by Mr. Belanger to euthanize the dog but the motion did not receive a second.

Mr. Mizikar noted the dog must first be deemed either a nuisance or a dangerous dog. A motion was made by Mr. Buckley and seconded by Mr. Belanger to deem the dog dangerous. The motion carried unanimously.

A motion was made by Mr. Belanger to euthanize the dog but the motion did not receive a second.

Mr. Mizikar noted the Board can take one or more of 7 options under Mass General Laws for a dog deemed dangerous. Mr. Mizikar read aloud the options provided in the General Laws.

A motion was made by Ms. Wilson and seconded by Mr. Buckley to confine the dog to the premises of its keeper, require the dog to be muzzled and restrained when removed from the premises of the owner/keeper and require the owner/keeper provide proof of insurance in an amount not less than \$100,000 insuring the owner/keeper against any claim, loss, damage or injury to persons resulting from the dog.

Under discussion, Mr. Buckley asked if the dog could be trained and stated if it runs free even one time the issue should come back to the Board and the dog should be euthanized. Mr. Belanger noted that any violation of the Board order would require a new hearing but the outcome can't be predetermined. Mr. Mizikar noted that under Mass General Laws the dog could be seized and impounded if it is found to be in violation of the Board orders. Mr. Belanger expressed concern that if the owners can't afford a fence how can they afford a locked pen or dog run. Ms. Wilson stated the pen would not be as expensive as fencing the entire yard and it could connect to the back door. Ms. Wilson further stated she believes the dog can be trained as it is only two years old. Mr. Mizikar noted the Board cannot order the dog to be moved to a different location until measures are put in place; this is at the discretion of the owners.

The motion carried 3:2 with Ms. Wilson, Mr. Buckley and Mr. Brooks in favor and with Mr. Belanger and Ms. Provencher in opposition.

2. CORRESPONDENCE

a. Senior Center Donations

A motion was made by Ms. Wilson and seconded by Mr. Brooks to accept the Senior Center donation. The motion carried unanimously.

b. EMS Department Donation

A motion was made by Ms. Wilson and seconded by Mr. Belanger to accept the EMS Department donation. The motion carried unanimously.

3. NEW BUSINESS

a. Resignations

i. John Carlson – Inspector of Animals

A motion was made by Ms. Wilson and seconded by Mr. Brooks to accept with regret the resignation of John Carlson, Inspector of Animals, and to send a letter of thanks. The motion carried unanimously.

b. Appointments

i. Charles Larson – Student Police Officer – PD

A motion was made by Mr. Belanger and seconded by Mr. Buckley to appoint Charles Larson to the position of Student Police Officer subject to all hiring requirements. The motion carried unanimously.

ii. Department Assistant – Treasurer/Collector's Office

This item was moved to a future meeting agenda.

iii. Truck Driver – Highway Department

A motion was made by Mr. Belanger and seconded by Mr. Buckley to appoint Marc Vandall to the position of Truck Drive for the Highway Department. The motion carried unanimously.

iv. Joseph Fontaine – Special Police Officer – PD

A motion was made by Mr. Belanger and seconded by Mr. Brooks to appoint Joseph Fontaine to the position of Special Police Officer. The motion carried unanimously.

c. Rescind and Reappoint FY'16 Commission on Disabilities

A motion was made by Ms. Wilson and seconded by Mr. Belanger to rescind the FY'16 appointments to the Commission on Disabilities and appoint Harry Brooks and Jim Reinke to a 1 year term, John Cove to a 2 year term and Fred Swan and Bernadette Riley to a 3 year term. The motion carried unanimously.

d. Rescind and Reappoint FY'16 Registrar of Voters

A motion was made by Mr. Brooks and seconded by Ms. Wilson to rescind the FY'16 Registrar of Voters appointment and to appoint Len Ivel to the Registrar of Voters for a 3 year term. The motion carried unanimously.

e. MGL 268A, Section 20B Disclosure – Harry Brooks

Mr. Mizikar presented a disclosure filed by Harry Brooks due to his other position in the Town as a substitute teacher. Mr. Mizikar had no recommendation other than the Chair signing the disclosure to acknowledge the conflict. A motion was made by Mr. Belanger and seconded by Ms. Wilson to authorize the Chair to sign the disclosure for Harry Brooks without objection. The Motion carried with Mr. Brooks abstaining.

f. Employment Agreement – Michelle Buck – Town Planner/Director of Development & Inspectional Services

Mr. Mizikar presented an employment agreement with Michelle Buck, Town Planner/Director of Development and Inspectional Services which would make her a full time employee responsible for overseeing the Development and Inspectional Services Department.

A motion was made by Ms. Wilson and seconded by Mr. Brooks to sign the employment agreement with Michelle Buck. The motion carried unanimously.

g. Employment Agreement – John Prescott – Principal Assessor

This item was moved to a future meeting agenda.

h. Employment Agreement – Amy Perkins – Treasurer/Collector

Mr. Mizikar presented an agreement with Interim Treasurer/Collector Amy Perkins which would make her the permanent Treasurer/Collector. Ms. Perkins has been serving as the Interim Treasurer Collector since December of 2014 and has successfully passed all performance terms and has moved the department forward in a manner which has not occurred since Mr. Mizikar started. A motion was made by Ms. Wilson and seconded by Mr. Buckley to appoint Amy Perkins to the position of Treasurer/Collector. The motion carried unanimously.

i. Contract – Honeywell – Energy Project

This item was moved to a future meeting agenda.

j. Revised Appropriation Transfer Request

A motion was made by Mr. Belanger and seconded by Mr. Brooks to approve the revised appropriation transfer request. The motion carried unanimously.

k. MassDOT/FHWA Title VI Nondiscrimination Assurance

Mr. Mizikar presented a nondiscrimination assurance which must be signed by the Chair as the Town will be receiving FWHA and MassDOT funding. A motion was made by Ms. Wilson and seconded by Mr. Buckley to authorize the Chair to sign the MassDOT/FWHA nondiscrimination assurance. The motion carried unanimously.

4. DISCUSSION/OLD BUSINESS

a. Community Compact Cabinet Application

This item was moved to a future agenda.

b. MSBA Accelerated Repair Program

Mr. Mizikar presented an application to the MSBA which is the first step in the formal process to be considered for funding to repair the high school roof. A motion was made by Ms. Wilson and seconded by Mr. Brooks to authorize the Chair to sign the MSBA application. The motion carried unanimously.

c. Assign Selectmen to Annual Liaison Positions

Ms. Provencher in her role as Chair assigned the Selectmen to the various internal and external liaison positions for FY'16.

d. 3-5 Year Goals

This item was moved to a future agenda.

5. TOWN ADMINISTRATOR REPORT

Mr. Mizikar presented highlights from his Town Administrator report.

6. BOARD OF SELECTMEN REPORTS

Mr. Brooks noted that volunteers are needed to help the contractors put in the new playground at the Primary School.

Ms. Wilson thanked Vic Taylor for repairing/replacing the benches on the Common.

Mr. Belanger noted that National Grid is taking trees down using their prescribed method which removes compromised and weak trees near power distribution centers and lines. National Grid's arborist works with the tree warden and private residents where applicable to obtain permission to remove the trees. Some trees damaged by the ice storm are just now showing decay requiring them to be taken down. The Town has received

a grant to replant many of the trees taken down. Mr. Belanger also noted that Paxton will hold its 250th Founders Day on September 26th.

Ms. Provencher attended the groundbreaking for the Regional Emergency Communications Center in Worcester last week.

Mr. Buckley asked about the Asian Longhorn Beetle in Town. Mr. Mizikar responded he will look into this.

7. MINUTES

a. June 22, 2015

A motion was made by Ms. Wilson and seconded by Mr. Buckley to approve the minutes of June 22, 2015. The motion carried unanimously.

8. EXECUTIVE SESSION – MGL Chapter 30A, Section 21a, Exception #2 – Negotiations with nonunion employees

A motion was made by Mr. Belanger and seconded by Mr. Brooks to enter into executive session at 8:33pm and to resume in open session only for the purpose of adjournment.

Vote by Roll Call:

Provencher - Aye

Belanger – Aye

Wilson – Aye

Buckley – Aye

Brooks - Aye

The motion carried unanimously.

A motion to adjourn was made by Mr. Belanger and seconded by Ms. Wilson at 8:40pm. The motion carried unanimously.