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Board of Selectmen Minutes 03-23-17

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Board of Selectmen
March 23, 2017
Town Hall

Present: Stanley Wysocki
Thomas J. Frain
Jonathan Keep
Don Lowe, Town Administrator
Linda L. Day, Town Secretary

DOG COMPLAINT

Chairman Wysocki opened the public hearing pursuant to MGL Chapter 140, Section 157 to investigate a complaint filed by Mr. John O'Loughlin concerning dogs owned by Ms. Nina Balodimos and Mr. Petros Kotidis, 37 Annie Moore Road. The complaint filed described an incident when a pack of four German Shepherds (a mother and three puppies that are approximately 9 months old and 80 lbs. each) came over a stone wall onto Mr. O'Loughlin's property aggressively barking and chasing his livestock. The Board of Selectmen also received complaints from other residents stating that the dogs behaved aggressively as a pack scaring adults, children and other dogs in the neighborhood. One gentleman was bit twice in one day by one of the dogs and others expressed their concern for the safety of their children in the neighborhood. The Board of Selectmen also received of the police reports for the incidents that were reported to the Police Department.

Chairman Wysocki stated that the testimony will be limited to the issues directly related to the subject matter of the hearing. All discussion will go through the Chairman of the Board of Selectmen and all parties are expected to be civil. Chairman Wysocki stated the hearing will be recorded.

All parties planning to testify regarding the matter were sworn in and asked to identify themselves by giving their name and address when speaking. Those in attendance included: Mr. John O'Loughlin, 250 Long Hill Road; Mr. Charlie Conroy, 204 Long Hill Road; Mr. Mark Harwood, 42 Annie Moore Road; Todd and Shawna Crouteau, 195 Annie Moore Road; and Mr. William Bravo, 14 Annie Moore Road. Also in attendance was Police Chief Nelson, Animal Control Officer Susan Lathan and Assistant Animal Control Officer Phyllis Tower.

Ms. Susan Latham stated there has been a spiraling increase of problems with this particular group of dogs. Ms. Latham stated that the owner in spite of many conversations has not improved the conditions with the most recent incident being when one of the dogs jumped over a four-foot fence and was barking and growling at someone walking down the road. Ms. Latham stated it was at a point where the town needed to step in and make some decisions.

Although the Town of Bolton doesn't have a leash law, the law does require that any dog off the premises of its owner's property must be under the direct control of a person at all times. According to Massachusetts General Law, a dangerous dog is defined as one that, A.) Without justification, attacks a person or domestic animal causing physical injury or death; or B.) Behaves in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury or death.

Mr. Petros Kotidis stated that he moved to Bolton six months ago with his wife and daughter and they love dogs. They had no intent of creating this big problem, stating it was an accident. They are terribly embarrassed and understand that they need to find a solution. They have a six-foot fence throughout their property except for a four-foot section that they plan to replace with a six-foot section as soon as the ground thaws. Furthermore, the dogs will be moved further away from the road.

Ms. Balodimos stated that the incidents occurred when she took the German Shepherds for a walk in the orchards where they run free. The dogs have been in training since January and are being trained to be obedient dogs. Ms. Balodimos was willing to accept and abide by any restrictions the Board of Selectmen ordered but asked that the Board of Selectmen reconsider the restrictions when the dogs graduate from the training.

Ms. Latham recommended the six-foot fence also include additional fencing (approximately 18 inches) slanted on the top to prevent the dogs from escaping over the fence and a barrier on the bottom of the fence to prevent the dogs from digging under the fence. The dog owners didn't have any objection to installing the type of fence described by Ms. Latham and confirmed that the dogs would remain in the six-foot fenced in area throughout the day and not allowed on the four-foot section until it can be replaced. They also proposed replacing the fence near the road with a wooden stockade fence so that the dogs couldn't see out.

Mr. Bill Bravo, 14 Annie Moore Road stated that he was involved in the incident when one of the dogs jumped over the fence and rushed him and his dog as they walked along Annie Moore Road. Mr. Bravo is concerned for his daughters and other children in the neighborhood when they are at the bus stop that is in close vicinity of the fenced in area that contains the German Shepherds. He encouraged the Board of Selectmen to take action to control the dogs.

Mr. William Quinn, 60 Annie Moore Road stated that he was walking in the orchard and accosted by the dogs with the dog's owner in the distance. While nothing happen, it was very scary in the sense that the dogs behaved as a pack. He encouraged the Board of Selectmen to require that the dogs be leashed when outside the fenced in area, in the Lord's Orchard or on Conservation Land.

Mr. Andy Roberts, 56 Annie Moore Road and Mr. Charlie Conroy, 204 Long Hill Road didn't have an incident with the dogs but expressed their concern with public safety and that of their children.

Mr. Todd Crouteau, 195 Annie Moore Road stated that he was collecting maple sap from trees with his 10-year old son when the dogs approached them barking and snarling at them. He was thankful that he was with his son at the time of the incident. Ms. Shawna Crouteau was walking her two dogs in the orchard when four German Shepherds ran toward her barking aggressively. In both cases the Crouteau's did hear who the assumed was the owner calling the "puppies".

Mr. John O'Loughlin, 250 Long Hill Road stated that as a result of the incident when the German Shepherds were chasing his livestock one of his cows had a premature birth. He questioned the liability if something serious were to happen as a result of the German Shepherds actions. He was

also concerned that the six-foot fence on a snow packed embankment would not contain the dogs.

Mr. Mark Harwood, 42 Annie Moore Road stated that although his initial reaction was not to report the incident when he was bit twice by one of the dogs, he stopped to think about all the children in the neighborhood and decided it was best to report the incident and informed the dog owners that he was going to do so. Mr. Harwood stated that the dogs are wild and dangerous.

Mr. Harwood provided the Board of Selectmen with a letter from Ms. Cynthia Lord stating that the situation has become untenable and they can no longer walk their dogs in the orchard.

Mr. Harwood was disappointed to hear that he will be looking at a six-foot stockade fence at the end of his driveway when he has had the luxury of the view of the orchard. He finds the six-foot stockade fence to be in conflict of the scenic road bylaw.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to close the evidentiary hearing at 7:50 p.m. (Wysocki – yes, Frain – yes, Keep – yes)

Mr. Wysocki stated that based on the testimony heard from the owners of the dogs and their willingness to work things out there seems to be a protracted period of time where the incidents have continued despite good intentions. Although only one person was bit, the definition of a dangerous dog includes the potential threat or harm to individual or another animal.

Mr. Keep questioned the ability to control four intelligent dogs and keep them occupied and satisfied in a pen when the owners are working full time.

Ms. Latham stated that in terms of the incidents that have occurred there was only one complaint about the dogs getting out over the four-foot fence and the bulk of the complaints has been the dogs being out of control and acting in an aggressive manner.

As far as the dog owners are concerned they are lovely dogs. They don't want them to be classified dangerous dogs and will correct the problem if they are given the time to do so.

On a motion made by Frain and seconded by Keep, the Board of Selectmen determined that there has been a violation and deemed dangerous. (Wysocki – yes, Frain – yes, Keep – yes)

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to order the following. (Wysocki – yes, Frain – yes, Keep – yes)

- Immediate repairs be made to the four-foot fence area to prevent the dogs from escaping.
- Permanent fencing is to be six-foot high with additional fencing at the top of the fence that slants/cuts back and an 18-inch barrier at the bottom of the fence, beneath ground level, as soon as the spring thaw permits, to prevent the dogs from digging under the fence.

3. When the dogs are outside of the six-foot fence they must be on a three-foot leash, muzzled and walked one dog per person.

4. In terms of the parameters of the fence, it is to be such that it minimizes its impact on the neighborhood.

On a motion made by Frain and seconded by Keep, the Board of Selectmen ordered the leash, muzzle and the repairs to the four-foot fence area are done immediately and the rest of the upgrades to the fence be done as soon as the weather permits. (Wysocki – yes, Frain – yes, Keep – yes)

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to close the public hearing at 8:11 p.m. (Wysocki – yes, Frain – yes, Keep – yes)

HOUSE NUMBERING SIGNS

Mr. Matthew Bosselait met with the Board of Selectmen to request a variance to the house numbering sign bylaw, Chapter 118, Section 2. The Bolton Fire Association, a 501c3 charity, is proposing to sell house number signs to help the public safety personnel find a home in case of an emergency. The proposed signs will be 6 by 18 inches, green and made from the same type of material as the highway signs. The sign bylaw allows signs no larger than 12 by 12 inches. Mr. Bosselait stated that the Building Inspector and Fire Chief are both in favor of the proposal. The Board of Selectmen deferred to the Building Inspector to provide approval in writing, and if the written approval is received, Mr. Bosselait didn't need to meet again with the Board of Selectmen.

APPROVAL OF EVENTS

Just 'Cause 60 mile, 3 day, Breast Cancer Walk: Ms. Celeste Raduazo met with the Board of Selectmen to request approval for the Just 'Cause Walk on June 2, 3, and 4th, 2017. The walk starts in Harvard, and will pass through the towns of Bolton (East End Road to Sugar Road), Stow, Boxborough, Acton and Concord. On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this event. (Wysocki – yes, Frain – yes, Keep – yes)

Bicycles Battling Cancer Ride: Mr. Mark Walters met with the Board of Selectmen to request approval for the Bicycles Battling Cancer ride to pass through Bolton on Sunday, June 11, 2017. The ride will start in Marlborough and pass through Bolton at Wattaquodock Hill Road and Harvard Road for the 70 and 100 mile rides. Police Chief Nelson has approved the event. On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this event. (Wysocki – yes, Frain – yes, Keep – yes)

FINAL REVIEW AND VOTE ON BOARD OF SELECTMEN'S ARTICLE RECOMMENDATION

Town Counsel Brian Falk, Town Clerk Pamela Powell were present for the review of the Annual Town Meeting warrant.

Article 1: Accept Annual Reports: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain – yes)

Article 2: Unpaid Bills for Fiscal Year 2016: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain – yes)

Article 4: Off-Set of Snow and Ice Deficit: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain – yes)

Article 5: Reauthorization of a Revolving Fund for Web-based Municipal Software Services: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain)

Article 6: Reauthorization of a Revolving Fund for the Cadet Program: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain – yes)

Article 7: Amendment to the Code of the Town of Bolton, Division 1, Part 1, Administrative Legislation, Chapter 24, Finances - to add Section 24-2, Payments and Interest: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain – yes)

Article 8: Amendment to the Code of the Town of Bolton, Division I, Part I, Administrative Legislation, Chapter 24, Finances - to add Section 24-3, Revolving Funds: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article.

(Wysocki – yes, Keep – yes, Frain - yes)

Article 9: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-27. Inclusionary Housing - to Amend Subsection L. (1)(a): On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 10: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms Defined - to Amend Definition of Fast Food: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 11: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article III. Zoning District Regulations, Section 250-12. Schedule of permitted uses: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 12: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article VI. Definitions, Section 250-28. Terms defined - to Amend definition of Accessory Building or Use: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 14: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations – to add Section 250-19.1. Firefighting water supply: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 15: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations, Section 250-23. Business, commercial and industrial regulations - to Amend Subsection D: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 16: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article IV. General Regulations, Section 250-17. Driveways and Parking - to Add Subsection A (8): On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 17: Amendment to the Code of the Town of Bolton, Division I, Part III. Zoning Bylaw, Chapter 250. Zoning, Article V. Special Regulations – to add Section 250-23.3. Temporary moratorium on recreational marijuana establishments and marijuana retailers: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 18: Public, Educational and Governmental Access (PEG) and Cable Related Fund Acceptance: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 19: Stabilization Fund: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 20: Replenish Reserve Fund: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 22: Purchase of New Repeater System for Police and Fire Departments - \$271,855: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 23: Purchase of Route 117 Traffic Calming Speed Signs: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 24: Truck Repairs – Repair of Plow and Sander Trucks - \$35,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 25: Repairs to 938G Loader - \$9,140.54: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 26: Purchase of New 4WD 19, 500 Gross Vehicle Weight Truck - \$100,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 27: Route 117 Traffic Calming Project - \$20,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 28: Wastewater Treatment Facility Capital Stabilization Fund - \$70,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 29: Replacement of Boilers at Florence Sawyer School - \$30,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 30: Repair of Emerson and Florence Sawyer School Driveway - \$14,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 31: Carpet Replacement - \$17,200: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 32: Interior Painting - \$11,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 33: Repair and/or Replacement of Lockers - \$10,400: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 36: Repair Wilder Road Culvert - \$60,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 37: Repair Berlin Road Culvert - \$70,000: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Article 38: Authorize Town Election: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve this article. (Wysocki – yes, Keep – yes, Frain - yes)

Selectmen's Statement: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the Selectmen's Statement for the Annual Town Meeting Warrant with the understanding that the correct percentage of non-education budget growth will be confirmed and revised accordingly at the Advisory Committee meeting on Tuesday, March 28, 2017.

TOWN ADMINISTRATOR

Update on Minuteman: No update.

Update on contract with Whitewater for repair of Wastewater Treatment Plant: Mr. Lowe reported that the Whitewater was awarded the bid for the repair of the Wastewater Treatment Plant. The bid came in at \$69,200. Mr. Lowe stated that the bid proposal was on the home page of the Town's website and it will be an on-going practice to put all bid proposals on the website.

Designation as a Green Community: Mr. Lowe reported that the Town of Bolton will host the ceremony with Massachusetts Department of Energy Resources Commissioner Judith Judson to acknowledge the towns that have been designated as a Green Community. The ceremony will take place at the Houghton Building on March 30, 2017 at 10:00 a.m.

BOARD OF SELECTMEN'S BUSINESS

Board of Selectmen's Statement: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the Selectmen's Statement for the Annual Town Meeting Warrant with the understanding that the percentage of non-education budget growth will be confirmed and revised accordingly following the Advisory Committee meeting on Tuesday, March 28, 2017. (Wysocki – yes, Keep – yes, Frain - yes)

Appointments: On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to appoint Laura Roberts to the Human Services and Safety Committee and Stacy Haponik to the Historical Commission. (Wysocki – yes, Keep – yes, Frain – yes)

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to adjourn at 9:52 p.m. (Wysocki – yes, Frain – yes – Keep – yes)

Respectfully submitted by Linda L. Day

Bolton Town Hall, 663 Main St., Bolton, MA 01740 Ph: (978) 779-2297 Fax: (978) 779-5461
Hours: M, W, Th - 9:00am to 2:30pm, Tues - 9:00am to 4:00pm and 6:00pm to 8:00pm, Closed Fri-Sun

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