



## Board of Selectmen Minutes 09-08-16

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Board of Selectmen  
September 8, 2016  
Houghton Building

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

Chairman Wysocki called the Board of Selectmen's meeting to order at 7:00 p.m.

### EXECUTION SESSION

On a motion made by Wysocki and seconded by Frain, the Board of Selectmen voted 3-0 by roll call (Wysocki – yes, Frain – yes, Keep – yes) to enter into executive session at 6:30 p.m. pursuant to MGL Chapter 30A, Section 21 (a) to discuss strategy with respect to contract negotiations with non-union personnel. The Board announced it would reconvene to open session.

### PUBLIC HEARING – NASHOBA VALLEY WINERY

The Board of Selectmen held a public hearing on the application of Nashoba Valley Spirits, Ltd., 92-100 Wattaquodock Hill Road, Bolton, MA 01740 for a new 19H Pouring License under Chapter 138 Section 19B(n), Section 19C(n) and 19E(o) to pour wine, beer and distilled spirits, produced by Nashoba Valley Spirits, Ltd. and sold under the Nashoba brand name, for consumption on the premises at all locations on the grounds of the farm and vineyards including, but not limited to, all buildings and land appurtenant and contiguous to the farm and vineyard.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the application as submitted for a new 19H pouring license to pour wine, beer and distilled spirits for the consumption on the premises. (Wysocki – yes, Frain – yes, Keep – yes)

### TOWN EVENTS

**Town-wide Yard Sale:** Bolton Local will sponsor the 7<sup>th</sup> annual yard sale on October 15, 2016; rain date October 16, 2016. Participants will sign up in advance; maps providing the location of all yard sales will be available; the Town Common and Slater's will serve as common areas for people to set up. Police Chief Nelson has approved the event. On a motion made by Keep and seconded by Frain, the Board of Selectmen voted to approve the town-wide yard sale on October 15, 2016 with a rain date of October 16, 2016. (Wysocki – yes, Frain – yes, Keep – yes)

**Halloween Parade and Party:** The Halloween parade and party is scheduled for Saturday, October 29, 2016 from 3:00 to 5:00 p.m. The parade will start at the library and proceed down Main Street to Mechanic Street ending at Florence Sawyer School. On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the event as requested by Ms. Regan, Parks and Recreation members. (Wysocki – yes, Frain – yes, Keep – yes)

### TOWN ADMINISTRATOR REPORT

**Update on Minuteman:** The election to borrow funds for the Minuteman school project is scheduled for September 20, 2016 from 12 noon to 8:00 p.m.

**Update on the meeting with the Department of Transportation:** Mr. Lowe contacted Mr. Barry Lorian, Department of Transportation to schedule a meeting to discuss safety issues on Route 117 near the Nashoba Regional High School. The meeting will commence outside at the Nashoba Regional High School to witness the area of concern followed by a meeting in the Media Center. The Board of Selectmen from each town, Mr. Harold Brown, DPW Director, Bolton's School Committee members and a representative Public Ways Safety Committee will be invited to the meeting.

### DISCUSSION AND POSSIBLE VOTE ON TOWN ADMINISTRATOR CONTRACT

Chairman Wysocki reported that the executive session held this evening pursuant to MGL Chapter 30A, Section 21 (a) to discuss strategy with respect to contract negotiations with non-union personnel is being continued to the next Board of Selectmen's meeting on September 22, 2016 at 6:30 p.m.

### DOG COMPLAINT

Chairman Wysocki opened the public hearing pursuant to MGL Chapter 140, Section 157 to investigate a written complaint filed by Ms. Tracy K. Lindsay, 104 Green Road concerning a dog named Alley owned by Suzanne Sipowicz of 122 Fox Run Road.

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. All parties planning to testify regarding the matter were sworn in and asked to identify themselves by giving their name and address. Those in attendance included: Ms. Suzanne Sipowicz, 122 Fox Run Road; Ms. Linda Collette, 122 Fox Run Road; Paula Storm, Alley's Groomer and Doggie Day Care; Bryan Day, Bolton UPS Driver; Ms. Lavallee, Bolton Postal Worker; Ms. Helene Demmer, 12 Deer Path; Mr. Charles Goldman, 117 Fox Run Road; Ms. Lynn Vittorioso, 138 Fox Run Road; Mr. and Mrs. Joel (and Tracy) Lindsay, 104 Green Road, Julie Szesuil, 311 Still River Road, Ms. O'Shea, 54 Kettlehole Road; and Heather Tanashian, 106 Green Road. Also in attendance was Animal Control Officer Susan Lathan, and Assistant Animal Control Officer Phyllis Tower.

Tracy Lindsay read her complaint aloud, stating that the incident took place on August 17, 2016, at 6:30 p.m., while she and her daughter Natalie were walking their 1 year old female husky Bemo. As they approached Fox Run Road from Kettlehole Road they were met by a tall middle-aged woman, later to be identified as Ms. Linda Collette, walking two dogs on the opposite side of the road towards them. As Ms. Lindsay called out

"Are your dogs friendly?" the two dogs lunged forward and one of the dogs, known to be Alley, escaped from its leash and began viciously biting, growling and attacking Bemo on the neck and body. Ms. Lindsay tried to kick the dog away, falling to the ground a couple of times, but the dog kept coming back. After injuring her finger and suffering several scratches, Natalie was able to grab Alley's collar while Ms. Lindsay ran away with Bemo. Ms. Lindsay confirmed that no one went to the hospital. Ms. Lindsay stated that she wrote about the incident on social media and received comments from people who had been attacked by this dog either themselves, their children or dogs.

Mr. Joel Lindsay read aloud a statement from his daughter Natalie about the incident. The incident was reported to the Animal Control Officer Susan Latham and the Police Department. Animal Inspector Phyllis Tower quarantined the dog.

Ms. Linda Collette stated that there was a lot of activity in the neighborhood that evening and the dogs were very inquisitive. When she approached Ms. Lindsay and her daughter Natalie both Alley and Toby were pulling on their leash and Alley squirmed off her leash, ran at the husky and was aggressive while the husky stayed motionless. Ms. Collette had a hard time getting control of Alley and Natalie was able to get control of her so she could be put back on the leash. Alley's leash is a two part leash that has a strap for her muzzle and is also connected to another part that goes around her neck. Ms. Collette stated that Alley is a wonderful dog with children but is curious about other dogs.

Ms. Suzanne Sipowicz, the owner of the dogs stated that she has been walking Alley on the same leash for 6 years and it is the first time she got off the leash. She is not the friendliest dog but plays with other dogs and has never bit anyone. After this incident, Ms. Sipowicz immediately bought a new leash that is twice the thickness and offered to put a second leash on Alley just in case the first leash failed.

The Board of Selectmen heard from individuals in the audience stating that Alley was an aggressive dog and provided information to back up their statement while others stated that they take care of Ms. Sipowicz's dogs, visit her home, walk their dogs together, etc. and have never had a problem.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to close the evidentiary hearing at 8:02 p.m. (Wysocki – yes, Frain – yes, Keep – yes)

Ms. Latham reminded the Board of Selectmen that Alley was declared dangerous in 2012 and although she has heard of incidents no one has filed a formal complaint since the last incident. Ms. Sipowicz claimed that the two people bit by Alley was a result of them entering her property.

Mr. Lowe stated that as a result of the last incident Alley was ordered to be confined within the 6 foot in height fenced in area around the pool at all times, when not in the house. He clarified that once a dog is designated to be dangerous the designation never goes away according to the law. Ms. Latham suggested that the dog be muzzled in addition to the collar and leash so that if it the collar and leash fails Alley is muzzled and can't bite.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to declare a violation of the order issued in 2012. (Wysocki – yes, Frain – yes, Keep – yes)

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to order that Alley be leashed, harnessed and muzzled at all times. (Wysocki – yes, Frain – yes, Keep – yes)

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to amend the previous motion and ordered that Alley be muzzled with the type of muzzle for purposes of not being able to bite anyone. The muzzle should be independent of the leash and harness and the harness should be designed to allow the owner to control and restrict the lunging. The leash, harness and muzzle must be on the dog at all times it is outside the yard. (Wysocki – yes, Frain – yes, Keep – yes)

On a motion made by Keep and seconded by Frain, the Board of Selectmen voted to close the hearing at 8:27 p.m. (Wysocki – yes, Frain – yes, Keep – yes)

#### SIGN AND BANNER REQUEST

Ms. Donna Henderson requested approval for the placement of a sign at 713 Main Street for her new business Bella Studio, Permanent Makeup. The sign will be 5' by 4' and located on the existing post in front of 713 Main Street.

Ms. Henderson also requested permission for a temporary banner over the entry way on the right hand side of the building that will eventually be replaced with a permanent sign. Ms. Henderson anticipates the sign being watermelon with white or black lettering.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve a 5' by 4' sign on the existing post on the front lawn and a temporary banner on the side of the building for up to four months when it will be replaced with a 2" by 6' permanent sign (Wysocki – yes, Frain – yes, Keep – yes)

#### BOARD OF HEALTH BROADCAST POLICY

Mr. Christopher Slade, Chairman of the Board of Health provided a copy of the Board of Health Broadcast Policy that included a revision to #2 as suggested at the last Board of Selectmen's meeting.

- The Board of Health will decline Bolton Access Television's offer to broadcast the twice monthly regular meetings.
- Hearings that involve more than the owner and direct abutters, who are notified directly, as well as any variance actions to Title 5 (the state code), will be broadcast at Bolton Access Television's discretion.
- Hearings, as required by state law, involving changes to Board of Health regulations will be broadcast at Bolton Access Television's discretion.
- The Board of Health will attend by invitation any joint meetings concerning bylaws, policies, or projects regardless of whether the meeting is broadcast.

Mr. Wysocki and Mr. Frain didn't have any questions regarding the revised policy. Mr. Keep was willing to accept #2, #3 and #4 on a trial basis for six months but continued to object to #1 stating that declining to have meetings broadcast goes against the idea of transparency.

On a motion made by Frain and seconded by Wysocki, the Board of Selectmen voted to accept the Bolton Board of Health Broadcast Policy dated August 23, 2016 subject to their review in six months. (Wysocki - yes, Frain – yes, Keep – no)

#### FORMATION OF A SAFETY AND SUSTAINABLE WATER SUBCOMMITTEE

Mr. Keep proposed forming a Safety and Sustainable Water Subcommittee to research our geology and hydrology, research programs available through Massachusetts Resource and Massachusetts Department of Environmental for water conservation and come up with a voluntary program

of educate and for conserving water when we are in a drought. Mr. Lowe will work with Mr. Keep to draft a mission statement for review and approval by the Board of Selectmen at the next meeting. The Board of Health will be kept apprised of the Subcommittee formed.

#### CAMP VIRGINIA

The last time Ms. Ashley Davies, Land Protection Specialist for the Sudbury Valley Trustees (SVT) met with the Board of Selectmen the plan was to have some volunteers update Open Space Recreation Plan (OSRP) which is part of the land grant application. When it seemed unlikely the OSRP could be updated and the required appraisal obtained in time to meet the deadline for land grant the effort to apply for the grant was withdrawn.

The Girl Scouts were very disappointed and said they would be putting the property on the market in the fall for \$975,000.

Ms. Davies stated that the land grant application would allow the SVT to pre-acquire the land prior to the July grant cycle if the plan is to convey the land to the town after the town receives the grant award.

Ms. Davies stated that if we fell short of the fundraising a lot or two could be carved out to sell.

Mr. Troup encouraged the Board of Selectmen to form a subcommittee to work with Ms. Davies to acquire this property.

Ms. Davies will follow up with the Girl Scouts to see what form of assurance they need from the Town. Mr. Lowe will continue to work with Ms. Davies on this project.

#### UPDATE ON THE WILDER ROAD CULVERT

Mr. Harold Brown, DPW Director and Ms. Leslie Caisse, Administrative Assistant met with the Board of Selectmen to continue discussions regarding the best option for fixing the Wilder Road culvert. The lowest quote received for the proposed 42 inch pipe is \$3,710 and the culvert box would cost \$12,490.

Mr. Brown stated that a 42 inch in diameter pipe would not be sufficient and a 6 foot in diameter pipe would be required to meet the Department of Environmental Protection (DEP) requirements if the culvert box wasn't installed. Mr. Brown stated that there wouldn't be any savings because of having to refile with the Conservation Commission for the order of conditions.

Mr. Frain stated that Mr. Greg Roy from Ducharme and Dillis proposed a 4 X 5 foot box culvert in the order of conditions filed with the Conservation Commission and he didn't mention anything about the DEP requirements. Mr. Roy offered to meet with town officials to discuss the options. Mr. Brown explained that it is necessary to have the larger pipe so that half the culvert can be buried instead of putting the culvert on a foundation.

Mr. Brown said the \$186,000 appropriated at town meeting is an estimate based on the worst case scenario. Mr. Brown suggested that the Board of Selectmen read the Massachusetts Stream Crossing Act and the Division of Ecological Resources guidelines that dictate the standards to be used.

If the Board of Selectmen were to approve the project this evening, the timeline would put the project out to November/December.

Mr. Wysocki expressed his disappointment in the time wasted discussing this project when nothing has been accomplished and funds have already been spent. Mr. Frain didn't agree with Mr. Wysocki's accusation and stated that he was doing due diligence considering the project is going to cost an estimated \$186,000 of taxpayer's money.

Mr. Brown stated that he looked into a 12 foot plate to put over the culvert to stop the drop, but he has concerns and it is not in the budget.

On a motion made by Keep and seconded by Frain, the Board of Selectmen voted to postpone the Wilder Road Culvert project until the Spring of 2017. (Wysocki – yes, Frain – yes, Keep – yes)

#### RECOMMENDATION AND VOTE ON OPEN LIEUTENANT POSITION

Police Chief Nelson introduced Sergeant Hamburger and recommended that he be appointed to the position of Lieutenant. Chief Nelson stated that two Sergeants applied for the Lieutenant position and while both candidates performed well in the testing, Sgt. Hamburger scored the highest overall. He has served 11 years in Bolton; 7 years as patrolman and 4 years as Sgt. Police Chief Nelson recommended that Sgt. Hamburger's current pay rate of \$31.93 be increased to \$37.56 which is Step 4 on the 10 step pay scale. Police Chief Nelson stated that once this is finalized he will then be looking to backfill the Sergeant position. Mr. Frain stated that he has heard a lot of good things about Sgt. Hamburger.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the appointment of Sergeant Hamburger to Lieutenant. (Wysocki – yes, Frain - yes, Keep – yes)

Police Chief Nelson informed the Board of Selectmen that he needs to hire an entry level police officer which is in the current budget and would like to meet with the Board of Selectmen at their next meeting to discuss the promotion of a patrol officer into the 2<sup>nd</sup> Sergeant position.

#### BOARD OF SELECTMEN BUSINESS

**Operating Norms for the Board of Selectmen:** Mr. Wysocki was made aware of a town resident who reached out to the Superintendent of the Nashoba Regional School District about a particular issue concerning chrome tablets being distributed to high school students and represented himself in a way that implied he was tasked by the Board of Selectmen to report back to them. Mr. Wysocki wanted to remind everyone that the Board of Selectmen would very rarely delegate the Board's responsibilities to a private citizen. Mr. Frain stated that he read the emails and talked with the individual at length and didn't see anywhere that he represented himself as an agent of the Board of Selectmen.

Secondly, Mr. Wysocki wanted to remind his colleagues that the Board of Selectmen should only act as a Board and shouldn't act on their own to ask, require, force or demand any documents or information. When asked by Mr. Frain to clarify his statement, Mr. Wysocki explained that Mr. Frain contacted Superintendent's Office, introducing himself as a Selectman and Attorney, and requested water test reports and Mr. Keep requested a meeting with School Officials about an incident at the high school that had already been resolved. Mr. Frain stated that when he didn't receive the water test results prior to school starting as discussed in a previous meeting he contacted Superintendent's Office directly. He may or may not have identified himself as a Selectmen but did in fact identify himself as a parent of children attending the Emerson School. Mr. Frain cautioned Mr. Wysocki to be more careful about what is said in public if it has not been verified.

**Family Movie Night at the Town Common:** Ms. Megan O'Leary met with the Board of Selectmen to inform them of a movie night scheduled for Friday, September 30, 2016 at 7:00 p.m. at the Town Common. Ms. O'Leary provided a drawing of the signage to advertise the event.

Ms. O'Leary asked the Board of Selectmen if they could come to an agreement regarding the funding for the police details for Town Common events. She suggested that when the event is a fundraiser the Conservation Trust be responsible for the payment of the police details and when the event is not a fundraiser the Town pay for the detail officers. Police Chief Nelson suggested one detail officer for the movie night and two detail officers for the Christmas tree and Menorah lighting celebration to be scheduled.

Mr. Lowe will review the Police contract to determine the rate for a detail officer on a week day versus weekend but stated it would either be \$45.00 or \$67.50 x 4 hour minimum x the number of detail officers.

On a motion made by Keep and seconded by Frain, the Board of Selectmen voted to authorize payment for the detail officers for the movie night and Christmas tree and Menorah lighting celebration to be paid out of the Police Department wage line item for 2016. (Wysocki – yes, Frain – yes, Keep – yes)

In 2017 the Board of Selectmen will revisit the discussion regarding the payment for the detail officers for events at the Town Common.

**Appointment:** On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to appoint Lisa Vickers to the Bolton Cultural Council. (Wysocki –yes, Frain – yes, Keep –yes)

**Pay Changes for Ambulance Squad:** Ms. Margy Diaz, Ambulance Director met with the Board of Selectmen to continue the discussion regarding the proposal to increase the pay rate for the ambulance squad. On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to approve the request to increase the hourly rate for the ambulance squad from \$17.50 to \$20.00 with a 2 hour minimum. (Wysocki – yes, Frain –yes, Keep – yes)

**Policy and Procedures for Expenditures from the Bolton Ambulance Gift Account:** The Board of Selectmen reviewed the draft policy establishing guidelines and procedures for the use of funds in the Bolton Ambulance Gift Account. Ms. Diaz and the squad are extremely disappointed that the annual holiday party will not take place based on the proposed policy. Historically, the holiday party has been happening for more than 24 years and it is a proud moment for the squad to know that people they helped donated funds to show their appreciation.

Mr. Frain suggested that the ambulance squad start a non-profit 501c3 which would solve the problem. Ms. Diaz stated that years ago they had sole ownership of an account and the Town recommended that it be handled the current way. They receive gifts via thank you notes that more often than not says please do something nice for the squad. They also receive a lot of donations made "in memory of" and sometimes they receive donations earmarked for something specific which is required to be accepted by the Board of Selectmen. Ms. Diaz submits everything through the Town Accountant and has never been talked to about anything that is inappropriate. Ms. Diaz questioned what would happen with the donations they currently have if they filed for a 501c3 status.

Ms. Diaz stated that they love their job but sometimes it is not pleasant and to have the understanding they are appreciated goes a long way.

Mr. Lowe stated that it was important to note that no one is stating that there has been a mis-appropriation of funds and the only reason the policy includes the language stating "Any payments for alcohol or tobacco are expressly prohibited" is because it is prohibited by the Department of Revenue.

Mr. Keep stated that this discussion came up for a reason and recalled in last year's budget process there was a request for equipment. Ms. Diaz agreed and stated that the Board of Selectmen were well aware of the request and no one said don't spend this money on the gator. The Board of Selectmen deferred approving the policy and will provide Mr. Lowe with any comments or revisions to the policy for review.

Mr. Troup referred to how a portion of the cost for trips and luncheons for our seniors is paid for out of the Council on Aging budget. He suggested that the Board of Selectmen receive a report on the accounting of the ambulance gift account on an annual basis. Mr. Wysocki stated that there is more transparency in the current way the funds are handled.

Mr. Wysocki is not opposed to receiving a quarterly report. Mr. Brian Berube stated that with a 501c3 it needs to be managed and can be full time job to fulfill the requirements of the 501c3 obligations.

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

#### **Poison Ivy Spray**

Brian Berube, Chairman of the Conservation Commission, informed the Board of Selectmen that the Conservation's Vegetation Management Plan includes the option to spray for poison ivy as needed. A public hearing was held regarding the proposed Vegetation Management Plan and no one attended the hearing or requested any revisions to the plan. Mr. Brown does not spray on a regular basis and only sprays when he is requested to do so. The herbicide used is ½ the strength of Roundup and is not sprayed near the wetlands and water supplies. The Conservation Commission isn't trying to eradicate the poison ivy but manage the poison ivy in the public areas such as Bower Springs prior the Tom Denney Nature Camp. Mr. Frain expressed his concerns with the herbicide being used ("Roundup") in areas with people and pets are walking.

The executive session scheduled to discuss strategy with respect to collective bargaining for the Fire Union, as the Chair finds that an open meeting may have a detrimental effect on the Board's bargaining position was deferred to the next Board of Selectmen's meeting.

On a motion made by Frain and seconded by Keep, the Board of Selectmen voted to adjourn at 11:11 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  
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