

**TOWN OF NEWBURY
BOARD OF SELECTMEN**

MINUTES

DATE: February 9, 2016

PRESENT: Chairman Geoffrey Walker, Selectmen Chuck Bear, Damon Jespersen, J.R. Colby and Selectwoman, Alicia Greco

Call to Order:

At 7:00 p.m. a motion was made by Chairman Walker, seconded by Selectman Bear and voted unanimously to open the meeting. Chairman Walker called the meeting to order with the salute to the flag.

Board and Committee Reports:

Eric Svahn, 14 Old Farm Way, Chairman of the Municipal Building Committee updated the Board on the progress of the charge that the Board of Selectmen had given to the Municipal Building Committee of comparing the original plan for a Public Safety Facility Complex, which included Town Hall renovations and a Public Safety Police and Fire Complex to the plan for a combined Town Hall and Police Station and a plan for a combined Town Hall and Police Station with the future ability to address the needs of the Fire Department. Eric updated the Board about the time-line of information currently being compiled, and the schedule of joint meetings and public workshops which will be held prior to bringing the information to the April 26, 2016 Annual Town Meeting.

Town Administrators Report:

Town Administrator, Tracy Blais reported that due to the recent storm, the areas of continued concern that experienced severe erosion on Plum Island include Fordham, Dartmouth, and Harvard Ways. Emergency Management, Conservation Commission Agent, Doug Packer, and Building Commissioner, Sam Joslin have assessed the area several times and will continue to do so.

Ms. Blais met with Susan Noyes to discuss the new website. The software has been procured and work is being completed with all department managers to update information. The expectation is that the new website will go live on May 1st, will look better and be more user friendly.

Ms. Blais explained that lack of communication has been a common theme since her tenure. It is the hope that in this years' budget proposal, dedicated funding will support a position solely for IT and communication.

Selectwoman Greco offered help from the Media Committee as directed by the Committee's mission.

A preliminary presentation of the draft by the engineers, followed by input from Newbury residents for the Olga Way parking plan was to occur at the 2/4/2016 meeting of the Plum Island Study Group. Under the MGL, Open Meeting Law, the meeting wasn't properly posted, and therefore, had to be canceled. The coordination of bringing all involved participants together again pushed the rescheduling of the meeting to March. Ms. Blais reported that the Plum Island Study Group feels that the parking plan is outside of the scope of their work. An informational session conducted by the Board of Selectmen has been recommended.

Selectman Jespersen felt the parking plan does work itself into the issues that the Plum Island Study Group is looking at as it may be a revenue source for reinstating services that have been cut.

The Board of Selectmen agreed to host the preliminary presentation of the draft for the Olga Way parking plan in March.

A meeting is scheduled with a representative from R.J. Kelly Company to review and discuss space availability at the R.J. Kelly Office Building on 12 Kent Way in Byfield. Five months remain in which to make a plan to relocate employees that are currently housed in the temporary trailers.

Budget preparation continues to move forward. Due to the date change for Town Meeting, an extra Board of Selectmen meeting may be necessary during this budget season.

The draft management letter was received from Municipal Resources, Inc., the group assessing the Fire Department management structure. Ms. Blais will review the letter with the consultant and Fire Chief next week and provide a copy to the Board for review and action. The review of Town owned and leased fire apparatus will begin in March. It is the hope to have the review completed by the end of March.

New Business:

Cole Ablow and Dr. Keith Ablow overview of newly formed group, GreenER:

Following an introduction made by resident, Dr. Keith Ablow, son Cole Ablow, age 13, of Newbury, and Anna Weinburgh, age 14, of Hamilton, gave Selectmen an overview of the vision of their newly formed group, GreenER. Cole and Anna, moved by the importance of historic town greens, are in the early stages of creating a not for profit organization, which will seek to improve the condition of historic town greens, beginning with the greens in their hometowns. Their goal is to seek donations and perhaps partner with larger organizations to revitalize town greens.

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Colby and voted unanimously to encourage GreenER to pursue ideas and come back to Selectmen with proposals when they have them.

Review and approval of Commercial Clam Permit Application (hardship request) for Jon Cowles, 10 6th Street, Newbury, MA for the remainder of 2015-2016 season:

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Colby to accept the hardship request and approve the application of Jon Cowles for a Commercial Clam Permit.

Discussion:

Selectman Bear questioned if Mr. Cowles had met with the Fish Commissioners to review his request. No indication of that was made in the documentation and therefore he was hesitant to approve without confirmation.

Amended Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear and voted unanimously to approve the application of Jon Cowles for a Commercial Clam Permit contingent on hearing positive or negative feedback from the Fish Commission or Shellfish Warden.

Nuisance/Dangerous Dog Hearing - Owner: Nicholas Dorazio, Dog: Trooper:

Chairman Walker called the hearing to order at 7:31 p.m.

Police Chief Michael Reilly explained that at the behest of ACO Carol Larocque and complainants Gerard and Leslie Riley of 17 Parker River Drive, under MGL Ch. 140 § 157, a Nuisance/Dangerous Dog Hearing was requested before the Board regarding the dog Trooper, an adult, male, German Shepherd, owned by Nicholas Dorazio of 16 Cobbler's Lane, Beverly, MA 01915. The dog is currently living with Dorazio's parents, David and Susan Dorazio of 19 Parker River Drive, Byfield.

On May 6, 2014 a hearing was held by the Board of Selectmen concerning the same dog. The dog had broken away from its owner and had attacked the neighbor's (Riley's) dog. At that hearing, the Board of Selectmen deemed the animal to be dangerous and ordered that when outside on the property it was to be secured in its kennel and when outside of its kennel it was to be muzzled. Since that time a kennel has been built. The dog has escaped at least once and attacked the neighbor's dog again. Complaints have been received that the dog consistently barks from the time it is put outside in its kennel in the morning until it is taken in at night. The kennel is directly on the property line underneath the Riley's bedroom window. During the May 2014 hearing the Dorazios said they would try a bark collar for the dog, but there has been no relief from the barking.

Chief Reilly reported that there may be a resolution to the immediacy of the situation because Nicholas and Kimberly Dorazio have purchased a home with plans to close on the sale at the end of February. The dog Trooper will be moving with them to their new home. This does not alleviate the current situation with the location of the kennel and the constant barking.

Gerard and Leslie Riley of 17 Parker River Drive explained that although Nicholas and Kimberly Dorazio have purchased a home and plan to close on the sale at the end of the month, closings are often postponed and the date may not be concrete. They said the Dorazio's do not currently live at 19 Parker River Drive. They moved out 6 or 8 months ago but their animals continue to live there and are cared for by their parents, David and Susan Dorazio. Therefore, problems with the dog continue. It was discussed at the May 2014 hearing that the Dorazio's would erect a fence along the property line. They were agreeable to that but never completed the fence. It was ordered by the Board of Selectmen that the dog was not to be off the property without a muzzle, but that direction has been ignored many times. The bark collar was used for two or three weeks, which briefly alleviated the barking problem. No consideration is made for neighbors as the dog is left outside in the kennel throughout the day and barks continuously.

During the May 2014 hearing, the Riley's were assured by the Dorazio's that another attack would not happen but the Riley's reported it has happened. In September of 2015, the dog broke free from the owners, made a bee-line for the Riley's house and tried smashing through their screens to get at their dog and children. The broken screens were offered as evidence by the Riley's.

Gerard Riley read a letter to the Board written to Chief Reilly by Craig Collins of 18 Parker River Drive. In his letter, Mr. Collins explained the aggressive nature of the dog Trooper in approaching him and his family, and expressed concern for the whole neighborhood and the children within it, should no action be taken.

The Riley's are asking the Board to order the removal of the kennel from the property line to another area of the Dorazio property where the dog will not be disturbed by their children and dog playing. They

are also asking the Board to reiterate the muzzle order. As it was revealed that the Dorazio's have purchased a home and will relocate the dog, a firm date of removal was requested as well. If the Dorazio's refuse to comply or fail to comply with the orders, the complainants are asking the Board of Selectmen to order the dog removed from the property.

Mr. Riley also reported that Mrs. Dorazio often films the Riley's while they are out in their yard. He requests that type of harassment be stopped immediately.

Nicholas Dorazio of 16 Cobbler's Lane, Beverly, MA explained that the issue was not about the dog but about a feud between neighbors. He stated the Riley's complain about whatever may be in the Dorazio's yard which includes dogs, chickens, chicken coops, and a tree house. Nicholas Dorazio is a disabled Veteran and the location of the kennel provides him easy access. The poured concrete slab of the enclosed kennel would be difficult to relocate and is an established shelter for the dog. He stated that the dog does not bark. Since May 2014, two bark collars have been used on the dog and he feels the collars have been successful. Should the batteries fail he said the dog may bark then, but it usually does not bark. He felt the dog barks when the neighbors cross over and enter his yard to video his dog. He feels that because of the neighborhood feud, the complaints will continue no matter what transpires. The Dorazio's are closing on a house at the end of February and plan to immediately relocate their animals to their new home at that time. No firm closing date has been established, but if all goes smoothly, he is optimistic that the closing will occur by the end of the month.

Chairman Walker reviewed the ruling given to the Dorazio's in 2014 that stated "When Trooper is outside on his property he will be in the kennel area on the chain and when off property he will be on a proper leash and Baskerville muzzle. A little time was given to see if the no-bark collar works to stem the barking problem." Chairman Walker asked ACO Carol Larocque to report what she had observed and what had been reported to her since that ruling.

ACO Carol Larocque, reported that there had been two occasions reported that the dog Trooper had gotten away and had not had the muzzle on, which is in violation of what the Board of Selectmen had ordered. She explained some dogs figure out the mechanics of a bark collar and in that way, learn how to bark with the collar on. Bark collars do work but need to be plugged in each night to recharge. Carol suggested the solution to the problems is to walk the dog with a muzzle on and when not being walked, keep the dog in the house.

Chairman Walker questioned Mr. Riley as to whether he felt that after Trooper broke through the screens of his door, did he feel that if the dog came into his yard again; would he bite the Riley's dog and his children? Mr. Riley responded that there was no doubt in his mind. As a precaution, he leaves a baseball bat on his front porch. When the dog broke through the screens in September of 2015, he was hit in the snout with the baseball bat which caused him to retreat. He asked the Board to consider his family and neighborhood in their decision.

With multiple complaints about the dog, multiple witnesses, and fear for the safety of children, Chairman Walker called on Nicholas Dorazio to help formulate a solution that helps alleviate the problems. Nicholas reported he was having trouble on how to do that because prior to the feud, the Riley's children played with his dog.

Selectman Colby asked if the dog spent nights in the house which was confirmed by David Dorazio. David Dorazio offered to take responsibility for the dog and will leash and walk the dog until the dog can be moved to his new home. Selectman Colby asked Nicholas Dorazio if he felt everything was going well with the sale and closing of his new home and if he thought the closing would occur at the end of

February. Nicholas confirmed he felt confident it would occur then. Selectman Colby asked if it would be unreasonable for the dog to spend time in the house and be walked when it was needed.

David Dorazio felt that the kennel would be difficult to move but could be used as a carport when the dog was removed from the property.

ACO Carol Larocque then reported to the Board that the Riley's told her that until the Dorazio's close on their new home, they were agreeable to having the dog stay in the house and when the dog was to be walked, have it be muzzled with a Baskerville muzzle and on a secure leash.

Gerard Riley stated that they were agreeable to that provided that a firm date of removal could be established.

Selectman Jespersen stated he was not in favor of setting an end date as sometimes closings can be held up. If a firm date was established and the closing was postponed, the order would expire and no longer stand. He suggested setting a motion that Trooper will not be left unattended outside. He will be muzzled and walked on a leash until he is able to permanently leave the property.

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear that Trooper no longer be left kenneled and unattended outdoors, and only be allowed out of the house while muzzled and on a leash.

Discussion:

Selectman Bear stated that the Riley's agreement was based on an end date. If no end date was established there would be no agreement. Gerard Riley confirmed this and explained the reason he was adamant about an end date was because things have been left open ended in the past with no resolution. The installation of the fence, which wasn't completed, is a perfect example.

Amended Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear that Trooper is not to be outside unattended and when he is outside he is to be walked on his property, on a secure lead with a muzzle, March 15, 2016.

Discussion:

Selectwoman Greco asked ACO Carol Larocque if she could assure the children and other dogs would be safe. ACO Larocque reported she could not guarantee anything, but if the dog's muzzle was put on properly and it did escape, it could not bite anyone or other dogs.

Chief Reilly voiced concern that if the closing fell through, if March 15th came and went, and the order expired, what happens then? Should that occur, the issue would have to come back before the Board of Selectmen.

Selectwoman Greco stated that should that happen, she suggested removing the dog from the property. The recent change in Massachusetts State Law, which prohibits removing a nuisance or dangerous dog from one community and sending it to another community, was discussed. It was noted that although the animal cannot be removed, euthanasia can be ordered if all else fails.

Chairman Walker summarized that through the first motion made, another level of behavior control, levels of protection and noise abatement have been recommended for the Dorazio's dog Trooper. Success would rely on the caretakers of the dog. If the problems then continue to exist, if valid

complaints are further received, and it is found there is no way to alleviate the problems, further action may need to be ordered.

Gerard Riley stated that he and his wife understood the original motion and they are fine with all of it. They are agreeable to the dog no longer being kenneled outdoors, to being kept inside as much as humanely possible, and to be muzzled and securely leashed when walked. The Riley's would like peace and quiet and to feel safe in their own home. He continued to be uncomfortable about the inability to establish a firm date for moving the dog and asked for Nicholas Dorazio's word and assurance that the order would be followed and the problems would end.

Chairman Walker asked Nicholas Dorazio if he and his family would be able to accomplish the order outlined in the first motion and to alleviate the problems that have been presented to the Board. He reiterated that success would rely on the caretakers of the dog. Nicholas replied that he felt the orders in the motion could absolutely be accomplished by him and his family. It was his intent to immediately move the dog when he and his wife moved into their new home.

Motion: The first motion, made by Selectman Jespersen and seconded by Selectman Bear was voted unanimously. The motion stated that Trooper no longer be left kenneled and unattended outdoors, and only be allowed out of the house while muzzled and on a leash.

Chairman Walker thanked all for attending. The hearing was closed at 8:15 p.m.

Acknowledgment of ACO Carol Larocque and the Greater Newbury Elder Pet Fund:

The efforts of Animal Control Officer and founder of the Greater Newbury Elder Pet Fund, Carol Larocque, were recognized by Police Chief Michael Reilly as he presented Carol with a letter of commendation. The very successful, Greater Newbury Elder Pet Fund was established to support and assist elderly pet owners in providing for their pets.

Review, approve and sign – 2016 Entertainment License as follows:

Mark Friery, Plum Island Grille, Inc., 2 Plum Island Turnpike

Motion: A motion was made by Selectman Bear, seconded by Selectman Jespersen and voted unanimously to approve and sign the 2016 Entertainment License for Mark Friery, Plum Island Grille, Inc., 2 Plum Island Turnpike.

Review, approve and sign - 2016 Business License Renewals as follows:

Stephen J. Bandoian, dba Olde Newbury Boat Co., 84 Newburyport Turnpike, Auto/Marine
U.S. #1 Auto/Marine, Stephen J. Bandoian, Trustee, Offshore Conservation Trust, 84
Newburyport Turnpike, Used Car Dealer's License, Class II
Kyla & Lara Goss, dba Diamonds from the Ruff, 4 Riverside Drive, Animal Care (grooming)
Eileen Cashman, dba Lalobarun Ranch, 83 Scotland Road, General Business/Equine
Breeding/Boarding/Sales
Seacoast Cycle, Kevin Moazeni, 4 Newburyport Turnpike, Used Car Dealer's License, Class II
Mohammed Almadani, dba Ampet, Inc., 34 High Road, General Business: Auto/Marine,
Gasoline Sales, Automotive Repair, Sale of Related Goods

Motion: A motion was made by Selectman Bear, seconded by Selectwoman Greco and voted unanimously to approve all business license renewals as presented.

Vote to sign Town of Newbury, March 1, 2016 Warrant for Presidential Primary

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear and voted unanimously to sign the Town of Newbury, March 1, 2016 Warrant for Presidential Primary.

Vote to approve and sign ABCC Form 43, Liquor License #079400002, 2016 Change of Officers/Directors, Oldtown Country Club, Inc., Marsh Avenue, Newbury, MA

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear and voted unanimously to approve the Change of Officers/Directors for Oldtown Country Club, Inc., Marsh Avenue, Newbury, MA.

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear and voted unanimously to sign ABCC Form 43, Liquor License #079400002, 2016 Change of Officers/Directors, Oldtown Country Club, Inc., Marsh Avenue, Newbury, MA.

In accordance with the provision of M.G.L. Ch61A, Vote to set the Public Hearing date of April 12, 2016 for Notice of Intent to Sell for Other Use, dated January 21, 2016 for 323R High Road, Assessors Map R5 Lot 18, Owner: Joseph Story II.

Motion: A motion was made by Selectwoman Greco, seconded by Selectman Colby and voted unanimously to set the Public Hearing date of April 12, 2016 for Notice of Intent to Sell for Other Use, dated January 21, 2016, for 323R High Road, Assessors Map R5 Lot 18,

Owner: Joseph Story II.

Old Business:

As per MGL c. 51, §15, Choose and vote to appoint a new member to the Board of Registrars to fill the seat vacated by the resignation of Nancy Jones. Recommendations made by the Chairs of the Democratic Town Committee and the Republican Town Committee.

Motion: A motion was made by Selectwoman Greco, seconded by Selectman Bear and voted unanimously to appoint Cary Boyd to the Board of Registrars to fill the seat vacated by the resignation of Nancy Jones.

Citizen's Concerns - None

Correspondence:

All correspondence was reviewed.

Review of Meeting Minutes:

January 26, 2016

Motion: A motion was made by Selectman Jespersen, seconded by Selectman Bear and voted unanimously to accept the January 26, 2016 minutes as presented.

Warrants:

Motion: A motion was made by Selectman Bear, seconded by Selectman Jespersen and voted unanimously to sign the warrants as presented.

Meeting Updates - None

Executive Session:

Review and approval of Executive Session meeting minutes:

January 12, 2016

January 26, 2016

Motion: At 9:00 p.m. a motion was made by Selectman Jespersen, seconded by Selectman Bear to enter into executive session.

A roll call vote was taken: Chairman Walker, yes; Selectman Bear, yes; Selectman Jespersen, yes; Selectman Colby, yes; and Selectwoman Greco, yes. Selectman Jespersen announced that the meeting would not reconvene at the conclusion of the Executive Session.

Respectfully submitted,
Ellen Jameson
Executive Administrator