

# Town of Newbury, MA

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## Board of Selectmen's Meeting Minutes 9-10-13

BOARD OF SELECTMEN'S MEETING  
SEPTEMBER 10, 2013

Chairman Story opened the meeting at 7:00 p.m. with the pledge of allegiance to our flag led by Veteran, Donald Jarvis. In attendance were Selectmen Story, Bear, Walker and Town Administrator Tracy Blais. Selectmen Bulgaris and Mountain were absent.

Under Board and Committee Reports, Planner Martha Taylor reminded the Board of the joint meeting scheduled on Wednesday, September 18<sup>th</sup> for a Water Supply Protection Overlay District Special Permit hearing for 67/69 Newburyport Turnpike.

On the recommendation of Town Administrator Tracy Blais, Eric Svahn was appointed to the Public Safety Complex Committee **on a motion by Selectman Bear, seconded by Selectman Walker and voted unanimously.**

Blais presented a "use of facilities form" for consideration of the Board. Media Committee forms sent to the Board for review on August 9<sup>th</sup> were tabled to the next meeting for the full board's consideration.

The Board discussed the Veterans Service District options for the town. The first option is an IMA (Inter Municipal Agreement) with Newburyport, Amesbury, Merrimac, and Salisbury. The second option is to join the Eastern Essex District. Veterans Agent Kevin Hunt addressed the IMA, noting that it can be used for twenty-five years and there would be no change in services for Newbury veterans. Hunt will work directly for Newburyport but will serve the five towns. A home rule petition will also be sought. Hunt advised he hopes to have a full time person to answer phones and an administrative assistant to help with data processing when everything is in place. Blais noted both options will cost the town approximately the same. Newbury must ask to join the Eastern Essex District and a vote of their board is needed to be accepted. Selectman Walker commented that Hunt has been a great agent through the years. He asked if a decision was needed tonight and Hunt replied it was not but he had hoped for one so they could move forward with the IMA. In order for the Board to fully understand their options, Blais was asked to contact Terry Hart, Agent for the Eastern Essex District and invite him to attend the meeting of September 24<sup>th</sup> to explain their organization. A decision will be made at that time. Kevin was thanked for his input.

Disclosures of Appearance of Conflict of Interest were approved and filed for brothers Daniel and Stephen Jenkins who are Police Officers in Newbury.

TA Blais reported that Sam Joslin had recently been appointed Board Director of the Massachusetts Federation of Building Officials (MFBO). The mission of the Federation is to increase public awareness of the crucial role building officials play in ensuring public safety in the building environment, to advocate for responsible and reasonable building code development, and to be involved in the legislative process whenever their profession or the safety of the citizens of the Commonwealth may be impacted. She also advised that Michelle Branciforte had received the Massachusetts Accredited Assessor Designation after completing two years of coursework. Both were congratulated.

Frank Bertolino was acknowledged for assisting the Byfield Community Arts Center with their lease. He also drafted a comparative market analysis for them. A letter of appreciation has been sent to Mr. Bertolino.

TA Blais announced she had received certification of our "free cash" from DOR in the amount of \$848,263.

In response to a letter received from Deborah Choate, Chair of the Triton Regional School Committee, Neil Harrington, Town Manager for Salisbury was reconfirmed as our representative for contract negotiations with the Triton Regional Teachers' and Instructional Assistants' Associations **on a motion by Selectman Bear, seconded by Selectman Walker and voted unanimously.**

A one day liquor license for Historic New England at Spencer-Peirce Little Farm for their Harvest Festival on September 28<sup>th</sup> & 29<sup>th</sup> from 12 to 6 p.m. **was approved on a motion by Selectman Walker, seconded by**

**Selectman Bear and voted unanimously.**

Donald Jarvis a veteran of Afghanistan and Iraq addressed the Board regarding raising awareness of PTSD and the need for service dogs for these veterans. He noted the cost for a trained service dog is \$8K. He advised he was trying to promote programs to understand and support these veterans and to promote fundraisers to help with the cost of these service dogs. Jarvis was applauded for his work as a spokesperson for PTSD. An interview with our Media Committee was scheduled to further promote his work.

At 7:30 p.m. a public hearing in accordance with Chapter 140 §157 was declared open by Chairman Story. The purpose of this hearing is to determine whether or not Titus, a dog owned by Linda Hanscom of 18 South Pond Street should be declared dangerous and/or a nuisance. ACO Carol Larocque made a brief statement regarding her response to complaints. Out of twelve responses, she noted that she found the dog barking twice. The letter of complaint initiating this hearing, issued July 1, 2013 and signed by eight residents, was read. Also read and entered into the file were three letters of support for Ms. Hanscom and her dog Titus. Chairman Story noted another reported incident after the initial letter of complaint was issued caused Titus to be placed under a temporary restraining order. The gate to the yard was left open by a contractor and Titus got loose and charged at a neighbors screen door. Hanscom has since purchased a lock for the gate. Story commented he and Chief Reilly visited Ms. Hanscom two days later and found Titus confined to the house. The yard which is fenced also houses two dozen chickens. During our visit with Titus I found him friendly and not aggressive, stated Story. If he is out in the yard and a car drives by he will run back and forth and bark. Chief Reilly observed that since 2011 in response to barking dog complaints, his cruisers drive to a nearby location and listen. No barking has been reported at these times. I also met with Titus and found him to be friendly but "enthusiastic". At first when I visited the house he would charge the fence and bark but now he knows my car and only barks. These barking complaints have been logged between 10 a.m. and 8 p.m. From our observations, Titus is not aggressive and does not bark excessively. We have also spoken to the mailmen in the area and they have had no problems with Titus. Sometimes a uniform excites a dog. Selectmen Walker queried, in a public hearing situation under MGL, aren't we here to determine the fate of the dog? Chief Reilly commented that they had been working with Ms. Hanscom to remediate the barking.

Decreasing the line of sight by inserting slats in the chain link has been suggested as a deterrent.

Chairman Story opened the hearing to public comment. Carol McPhee, 20 South Pond Street, spoke in support of Linda and Titus. She noted that her grandson, Willy, hand feeds Titus every Sunday when he is visiting.

Alberta Nutile, 51 Hay Street cited the two dog bite incidents reported in the complaint. Both times Titus was being walked on a leash when he was attacked by dogs unleashed. Titus was not the aggressor. In response to Ms. Becker's complaint which refers to Chapter 140, section 157, it states that no dog can be deemed dangerous by barking and growling. A nuisance dog barks all day continuously which could disturb a sick, elderly or sleeping person. This is a normal dog behind a fenced area and the complaint should be dropped, she noted.

Catherine Ardrey, 26 Green Street, told of her terrifying experience when she and her dog Bosco were attacked in their yard by a pit bull. She had been to the police earlier in the week to report this dog but was told there was nothing they could do as Newbury does not have a leash law. Ardrey recounted that every time she sees a large aggressive dog like Titus she relives this experience and associates it with the pit bull that attacked her. That incident coupled with Titus' aggressive behavior when I walk past his yard has caused me to avoid using South Pond Street. Alberta Nutile responded that Titus is not a pit bull. He is an American Staffordshire Terrier mix.

Selectman Walker intervened noting that this was a very difficult presentation from Ms. Ardrey and that her experience has certainly changed her life.

Sue Becker, 22 South Pond Street advised that she did not initiate the letter of complaint but was approached by neighbors to put it together. Hanscom's dog while walking on a leash attacked an old basset hound and also attacked a little dog on Kingsford Street. He has shown vicious tendencies towards other dogs.

Charles Crocker, 8 South Pond Street, stated he witnessed the dog fight on Kingsford Street between Zeus and Titus. Titus was on a leash but Linda was being dragged by him. She does not always have control – she is a little lady with a big dog. General safety is my concern.

Linda Hanscom, 18 South Pond Street, explained that Titus is not a pit bull as suggested by some. He is a big dog, weighing 91 pounds but he is not dangerous. Zeus came onto Titus and I threw myself onto Titus to stop the fight.

Chairman Story asked Ms. Hanscom to explain the collar she just purchased. Hanscom noted that when the dog barks the collar sprays citronella up across his nose to stop the barking. She also noted that while the restraint order was in place she was using a muzzle. Selectman Walker commented that it seems that Titus has a problem with other dogs not with people. He asked if the muzzle was effective when walking Titus and did it make him unhappy. Hanscom replied, yes, he tried to rub it off. Walker asked ACO Larocque, as our expert, what observations she had regarding the use of a muzzle. Larocque advised they usually have the dogs walk with the

muzzle if it does not irritate them but you must work with them. Put it on, remove it, give them a treat and keep repeating this routine. They will get used to wearing it.

Angel Beauparlant, 25 Withington Street, stated they live behind Linda and have had no problems with Titus. Mrs. Beauparlant advised she has two dogs of her own and they play with Titus and the chickens.

Joan McPhee, 20 South Pond Street noted she has taken care of Titus when Linda was working and she has no fear of him.

A Newburyport resident, Marjorie Killam stated she had witnessed the Newburyport incident and Titus was only responding to an attack by a dog not on a leash.

Dorothy Saffarewich, 23 South Pond Street commented that Hanscom lets her dog out at 7 a.m. and he barks constantly. Once you are awake, you cannot go back to sleep. When Linda is walking him, he is always pulling and she cannot control him. He needs training.

Lara Mataac, 19 South Pond Street said she lives across from Linda and a lot of opinions have been voiced. Linda has been trying to correct the issues in the complaint.

A Newburyport resident stated he walks by Linda's every day and talks to the dog if he is out. He has never taken an aggressive posture with me. He noted he has used a product called Halt on aggressive dogs in the past. Titus is only protecting his territory and his owner. Alberta Nutile suggested Linda carry Halt to protect her dog when walking him.

Chief Reilly reminded the Board they were here to decide whether or not Titus is to be considered dangerous or a nuisance. If he is deemed dangerous there are restraint measures that can be taken and if deemed a nuisance there are remedial actions for excessive barking. If aggrieved by the Board's decision an appeal can be made at District Court within ten days. Selectman Bear noted the few dogs I've known have a protective mode. Perhaps a muzzle should be used or can we place Titus on probation. Story commented that Hanscom has taken great strides to address the concerns of her neighbors – barking is improved with the use of the bark collar, changes in the fencing and the lock on the gate improve security. The question is how do you prevent an unleashed dog from attacking when he is walking on a leash. Walker noted there has been a lot of evidence presented here tonight and a muzzle makes a lot of sense to me. Story added that he is not a nuisance dog to me – he lives with chickens.

Peter Murphy who lives behind Linda has reported that his dog plays with Titus and he did not feel Titus barks anymore than the other dogs in the neighborhood.

Selectman Walker moved to dismiss the charge of being a nuisance, seconded by Selectman Bear and voted 3-0 unanimously. Selectman Bear moved to dismiss the dangerousness charge, seconded by Selectman Walker (in response to the Chief's input). Story noted that efforts are being made to curtail some of his aggressive behavior and he hoped the neighbors could come together and make it a community effort to help put screening in place and also with positive suggestions. I'd like to see this neighborhood working together, he stated. The Board voted 3-0 unanimously to dismiss the dangerousness charge and the hearing was closed.

A new business license for Bussone d/b/a In the Barn was tabled to the next meeting as Ms. Bussone was not present.

Barry Fogel and Rod L'Italien briefed the Board on the Chapter 21E cleanup at the former Circle Finishing site on Rte. 1, which was destroyed by fire in 1993. A Phase IV remedy implementation plan (RIP) has been filed with DEP.

The RIP includes soil remediation by excavation and remediation of the abutting wetland by removal of the impacted sediment. An area of wetland will be cut off by cofferdams to isolate the affected sediment for removal.

This process will be permitted under a NOI which has been filed with the Conservation Commission. The work when permitted is expected to take four to six weeks. The Conservation hearing is scheduled for September 17<sup>th</sup>.

Chairman Story wished them "good luck" with this ongoing endeavor.

Five one-day liquor licenses were approved for Protection Fire Co. #2 for functions on 9/27, 10/12, 10/18, 11/16, and 12/1 from 7-11 p.m. **on a motion by Selectman Bear, seconded by Selectman Walker and voted unanimously.**

**The minutes of the August 20<sup>th</sup> meeting were approved as presented on a motion by Selectman Bear, seconded by Selectman Walker and voted unanimously.**

A letter from Arcadis U.S., Inc. outlining the Phase IV RIP for the former Circle Finishing site was read and filed.

Warrants were signed by the Selectmen for TA Blais.

The meeting was adjourned at 9:55 p.m. on a **motion by Selectman Walker, seconded by Selectman Bear and voted unanimously.**

Respectfully submitted,

Kathleen Sirois, Admin. Asst.