

BOARD OF SELECTMEN – August 12, 2013

The meeting of the Board of Selectmen was posted and held at the WCAT Studios, 24 Hemlock Road, Wakefield, MA, with Chairman Tiziano Doto presiding, Selectman Brian E. Falvey, Selectwoman Betsy Sheeran, Selectman Paul R. DiNocco, Selectman Patrick S. Glynn, Selectwoman Phyllis J. Hull and Selectwoman Ann McGonigle Santos in attendance. Town Administrator Stephen P. Maio, Town Counsel Thomas A. Mullen and Clerk to the Board of Selectmen Sherri Eskenas were also present.

Chairman Doto called the meeting to order at 7:30 p.m.

Selectwoman Sheeran motioned to accept the Regular Board Minutes of July 15, 2013, seconded by Selectman DiNocco and so voted.

Selectman DiNocco motioned to accept the Board Minutes – Tour of Wakefield High School Projects of July 15, 2013, seconded by Selectwoman Sheeran and so voted.

Roger Maloney of 18 Prospect Street was before the Board for Public Participation. Chairman Doto advised Mr. Maloney of the rules of Public Participation in which he had 3 minutes to address the Board. No discussion from the Board is allowed. If more time is needed Mr. Maloney could petition the Board to extend for an additional one minute. Mr. Maloney stated that he needs at least thirty minutes to address his concern. Selectman Falvey motioned to extend to four minutes, seconded by Selectman Glynn and so voted. Selectwoman Sheeran suggested that Mr. Maloney wait until the next Board of Selectmen meeting of September 9, 2013 in which his concern could be put on as an agenda item rather public participation. After a few comments from Mr. Maloney he agreed that the need would be better as an agenda item.

Selectwoman Sheeran motioned to approve the appointments of Election Officers as presented for 2013-2014, seconded by Selectman DiNocco and so voted.

Selectman Glynn motioned to accept the request from Michael Sullivan Fire Chief of the Wakefield Fire Department to accept and expend a gift or gifts in the amount of \$1,000.00 from the Wakefield Rotary Club with thanks, seconded by Selectman DiNocco and so voted with Selectwoman Sheeran abstained.

Selectwoman Sheeran motioned to accept the request from Sharon Gilley Director of the Lucius Beebe Memorial Library to accept and expend a gift or gifts to the Library in the amount of \$509.00 from various donors with thanks, seconded by Selectman DiNocco and so voted.

Tiziano Doto addressed the Board regarding putting a 4-way stop sign at Grove and Hanson Streets. Selectwoman Sheeran motioned to approve putting a 4-way stop sign at Grove and Hanson Streets, seconded by Selectwoman McGonigle and so voted.

Phyllis Hull addressed the Board regarding submitting a request for donation of combat material to be placed in front of the World War II Memorial.

Selectwoman Sheeran motioned to authorize Phyllis Hull regarding the submission for donation of combat material seconded by Selectman Falvey and so voted.

At 7:45 p.m. Selectwoman Sheeran motioned to enter into the Public Hearing regarding an aggressive dog, seconded by Selectman Glynn and so voted.

Roll Call:

Selectwoman Hull – yes

Selectwoman McGonigle - yes

Selectman DiNocco – yes

Selectman Glynn – yes

Selectwoman Sheeran - yes

Selectman Falvey – yes

Chairman Doto – yes

Chairman Doto stated that Town Council Thomas Mullen will moderate the Public Hearing. Mr. Mullen stated the grounds rules for the hearing under Chapter 140 §157 a statute dealing with dangerous or nuisance dogs. Mr. Mullen stated that the Town Administrator's Office received a complaint regarding an aggressive dog and the Town issued a notice to the owner of the dog.

Mr. Mullen called Kenneth Stache the Animal Control Officer to the microphone and swore him in. Mr. Stache stated that Skylar the dog in question is a Pit Bull dog who is presently licensed by Maria Kopanas of 172 Montrose Avenue. Ms. Kopanas has two dog one of which is Skylar and the other a Boxer which have been running around loose. The first noted incident was on May 26, 2013 where the Police Report states two dogs loose at Heron Pond a Pit Bull and a Boxer. Skylar had bitten Robert Clendening a resident of Heron Pond as well as Mr. Clendening's dog on June 12, 2013. Skylar has also made several other attempts to attack other dogs at Heron Pond while unrestrained and off the property of 172 Montrose Avenue. After the attack on June 12, 2013 Mr. Stache placed the Pit Bull under a 10 day quarantine to the owner's property and issued 4 violations to the owner. The day of the attack according to the Town Clerk's records the dogs were not licensed. Ms. Kopanas the owner was ordered to license her dogs. On June 15, 2013 the Wakefield Police Department received a call of 2 dogs loose one of which is the Pit Bull which is currently under quarantine. The Police Department contacted the owner and the Animal Control Officer. The Animal Control Officer issued 4 additional fines and contacted the Director of Animal Health who issued a warning that any further violations of the quarantine will result in immediate court action. On June 24, 2013 the Pit Bull was released from quarantine at 8:00 a.m. and Ms. Kopanas was advised that the residents of Heron Pond were considering requesting a hearing with the Wakefield Board of Selectmen about the two dogs if any further incidents should occur. At 8:00 p.m. the Wakefield Police Department reported a Pit Bull loose at Heron Pond acting aggressive. The owner was located at 172 Montrose Avenue and 2 additional violations were issued to the owner. On June 25, 2013 the Animal Control Officer received a call from Ms. Kopanas stating her husband is returning from down south is immediately going to install a fence. The Animal Control Officer informed Ms. Kopanas that the residents of Heron Pond are going forward with requesting a public hearing. On June 26, 2013 the Animal Control Officer received a call from one of the owner's sons asking what the problem is with his dogs and that they are not aggressive. The Animal Control Officer informed the son that it would be best for all if he returned the Pit Bull back to the Humane Society that he got the dog from. On July 8, 2013 Town Administrator Stephen P. Maio requested Michael Plunkett the part-time Animal Control Officer check on the status of the Pit Bull at 172 Montrose Avenue. Mr. Plunkett confirmed that in fact the Pit Bull is still on the property at 172 Montrose Avenue. As of July 22, 2013 the owner Ms. Kopanas had failed to pay any of the ten violations issued to her. The Animal Control Officer turned all violations to the Wakefield Police Department prosecutor to start the procedure of summoning Ms. Kopanas to court for unpaid violations of the Canine

Control By-Laws. On August 2, 2013 no fence has been installed on the property at 172 Montrose Avenue to prevent dogs from roaming at large. Selectwoman McGonigle asked Mr. Stache if in his history of the Animal Control Officer has a dog owner ever violated a quarantine order that Mr. Stache's department has issued in which Mr. Stache answered never. Selectwoman McGonigle also asked if Mr. Stache has ever witnessed animal aggressive behavior by the dog named Skylar in which Mr. Stache answered yes. Selectwoman Sheeran asked Mr. Stache how long this dog has been housed in Wakefield. Mr. Stache answered that the earliest record is May 26, 2013 but in fact the dog was officially licensed on June 13, 2013 the day after the incident. Selectman Glynn asked Mr. Stache how long has the dog lived at 172 Montrose Avenue in which Mr. Stache did not have that information. Selectwoman Hull asked Mr. Stache for clarification regarding the installation of a fence at 172 Montrose Avenue. Mr. Stache answered that as of the morning of August 12, 2013 no fence has been installed.

Mr. Mullen called Robert Clendening to the microphone and swore him in. Mr. Clendening stated that he lives at 410 Salem Street, Unit 604 and that on June 12, 2013 he and his dog were the victims of an attack by a Pit Bull dog that resulted in bodily harm to both himself and his dog while he was out pushing his 18 month old grandchild in a carriage. There was no physical harm to his grandchild. The police, EMT's and the Animal Control Officer were all immediately called to the site. Mr. Clendening received multiple lacerations and puncture wounds on his right hand and forearm while his dog sustained numerous puncture wounds on his right rear leg and torso. Both Mr. Clendening and his dog required emergency medical treatment. Selectwoman Sheeran stated to Mr. Clendening that fortunately his grandchild was not injured.

Mr. Mullen called Suzanne Peavey to the microphone and swore her in. Ms. Peavey stated that she lives at 410 Salem Street, Unit 1310 and observed the Pit Bull dog who was supposed to be quarantined was out running loose outside her window.

Mr. Mullen called Kerry McQuilkin to the microphone and swore her in. Ms. McQuilkin stated she lives at 410 Salem Street, Unit 1006 and commented that she has lived at Heron Pond for 5 years and has a small dog which she walked down Montrose Avenue and is familiar with the Pit Bull dog. Ms. McQuilkin has never seen the dogs outside but when she would walk past the home of the Pit Bull dog with her dog she could tell the Pit Bull dog was aggressive by the way it was acting in the window. Since the attack on Mr. Clendening she has changed her walking route.

Mr. Mullen called James Capomaccio to the microphone and swore him in. Mr. Capomaccio stated he lives at 410 Salem Street, Unit 1201 and commented that he walks 2 to 3 times a week down Montrose Avenue and he has never seen the dogs but since the attack on Mr. Clendening he has changed his route. Selectwoman Santos asked Mr. Capomaccio when he walks in Heron Pond is he cognizant of the area and which he answered yes.

Mr. Mullen called Joanne Jandrys to the microphone and swore her in. Ms. Jandrys stated she lives at 410 Salem Street, Unit 206 and witnessed the attack on Mr. Clendening while she was walking her dog and called 911. She happened to have the keys to the Club House and was able to get Mr. Clendening and his dog in the Club House. While they were in there the Pit Bull dog tried to get in by banging up against the door. The Boxer dog was also there but did not exhibit aggressive behavior.

Mr. Mullen called Arthur Cote to the microphone and swore him in. Mr. Cote stated that he lives at 410 Salem Street, Unit 605 and is the Chairman of the Board of Trustees of Heron Pond and also witnessed the attack on Mr. Clendening and called 911. He advised the Board that there is a 35 pound weight limit for dogs that live in Heron Pond and asked that the Pit Bull dog be removed from the premises in which he lives. Mr. Cote had previously been made aware of two other incidents at units 305 and 1308 where the Pit Bull dog has tried to get inside of those units. Selectwoman Hull asked Mr. Cote if he has witnessed residents of Heron Pond letting their dogs run loose in which he answered no and that it is a requirement of Heron Pond residents to have their dog leashed. Selectwoman Sheeran asked Mr. Cote if this dog situation has caused any undue expenditures to the condominium association in which Mr. Cote replied just the letter that was sent to the owner of the dog from the attorney that represents Heron Pond.

Mr. Mullen called Lorraine Supino to the microphone and swore her in. Ms. Supino stated she lives at 410 Salem Street, Unit 1206 and has never seen the dogs but now carries a pipe with her when she walks her dog because of the attack on Mr. Clendening.

Mr. Mullen called Nancy Rodriguez to the microphone and swore her in. Ms. Rodriguez stated she lives at 410 Salem Street, Unit 812 and commented that she did not witness anything and have never seen the dogs but since the attack when her 5 grandchildren come to her home the parents drive up to the door rather than parking out front. Chairman Doto asked Ms. Rodriguez if she walks her grandchildren in Heron Pond and she answered yes.

Mr. Mullen called Robert Guarino to the microphone and swore him in. Mr. Guarino stated he lives at 410 Salem Street, Unit 602 and on May 26, 2013 he was walking his 7 pound dog in Heron Pond when a Pit Bull dog and Boxer dog approached him. He picked up his dog and the Pit Bull dog started to leap and lunge at his dog while he was holding it. He was able to make it back to his unit and safely secure his dog inside even while the Pit Bull dog was trying to gain access inside his unit. Mr. Guarino then called 911. Mr. Guarino also stated that he now has a fire arm license because of the attack on Mr. Clendening. He did comment that he does not want the Pit Bull dog put down.

Mr. Mullen called June Carroll to the microphone and swore her in. Ms. Carroll stated she lives at 410 Salem Street, Unit 302 and saw the attack on Mr. Clendening and called the police. Chairman Doto asked Ms. Carroll if she had seen the dogs prior to this incident in which she replied no. Chairman Doto then asked Ms. Carroll if she has seen the dogs since this incident in which she replied no.

Mr. Mullen called Rosemary Beckford to the microphone and swore her in. Ms. Beckford stated she lives at 410 Salem Street, Unit 1308 and witnessed the attack on Mr. Clendening. Soon after the attack Ms. Beckford's dog was in her unit at the windows barking and Ms. Beckford witnessed a Pit Bull dog and a Boxer dog at her door. The Pit Bull dog was jumping and trying to get in her unit. Ms. Beckford immediately called 911.

Mr. Mullen called Donna Clendening to the microphone and swore her in. Ms. Clendening stated she lives at 410 Salem Street, Unit 604 and is the wife of the victim Robert Clendening. She spoke about how she felt about the attack on her husband.

Chairman Doto called Attorney Joseph Hennessey to the microphone. Attorney Hennessey represents Maria Kopanas the owner of the dogs. He advised the Board that he has discussed remedies for the situation one being the enclosure of a 6 foot fence around whole yard. The other issue is with the back door that is not properly secure to keep the dogs in the house. Attorney Hennessey said that he has been to the house and that the Pit Bull in question is a 1 ½ year old rescued dog who is very playful and not violent at all.

Attorney Hennessey called Nick Kopanas to the microphone. Mr. Mullen explained to the Board that lawyers do not offer testimony only present testimony on behalf of their clients and therefore do not need to be sworn in and since the Kopanas family has legal counsel here at this public hearing Mr. Mullen recommended that Attorney Hennessey be allowed to ask questions to his clients and if the Board or Mr. Mullen has any questions after that they will be allowed to ask them also. Nikolas Kopanas came to the microphone and Mr. Mullen swore him in. Mr. Kopanas stated he lives at 172 Montrose Avenue and that they adopted the Pit Bull dog in November of 2012 and since the first day they got her she has always been a very nice and playful dog and has never bitten any of them or their other two dogs or even their friend's small dogs. Mr. Kopanas stated that their neighbor who owns a dog asked the Kopanas' if she could walk her dog through their yard which the Kopanas' let her. Since then Mr. Kopanas has noticed that his dogs would constantly try to go over to the back of the condominiums of Heron Pond. He asked his neighbor to stop going through his yard which she complied with but has since starting walking her dog through his yard again. Attorney Hennessey asked his client what steps they have taken to ensure that the dogs do not get out in which Mr. Kopanas replied that when he is home the dogs are constantly watch and that he is always with the dogs and locked downstairs but when he is not home the dogs are in their cage. Attorney Hennessey questioned Mr. Kopanas regarding the installation of the fence in which Mr. Kopanas answer just as soon as his father returns from Alabama. Attorney Hennessey presented pictures of dogs to the Board and asked Mr. Kopanas if those dogs in the picture were his dogs in which Mr. Kopanas answered yes. Attorney Hennessey asked Mr. Kopanas about the day that the Pit Bull dog got loose when he was supposed to be quarantined in which Mr. Kopanas answered that he was in the shower and his brothers friend came over and did not close the door tightly and the dogs got out. Selectman Falvey questioned Mr. Kopanas regarding his statement in which he previously said that his dogs are not aggressive. Mr. Kopanas answered that his dogs have never bitten any one or any dog before this incident. Selectwoman Sheeran stated to Mr. Kopanas that his dogs are not playful and she finds it indefensible that this has come this far. Selectman Falvey asked Mr. Kopanas if he has been apprised of the ramifications of what the Board can do in which Mr. Kopanas answered no. Selectman DiNocco asked Mr. Kopanas if his attorney has advised him on what the options this Board has in which Mr. Kopanas answered no.

Nikolas Afouxenides was sworn in and stated he lives at 210 Cabot Road, Tewksbury, MA and is a friend of Nikolas Kopanas. Mr. Afouxenides has a dog of his own and often visits the residence of 172 Montrose Avenue with his dog. He has never witnessed aggressive behavior with any of Mr. Kopanas' dogs.

Christos Kopanas was sworn in and stated he lives at 172 Montrose Avenue. Attorney Hennessey questioned Mr. Kopanas as to how they owned Skylar in which Mr. Kopanas answered Skylar was a rescued dog from Rhode Island. Mr. Kopanas also stated that the fence will be constructed as soon as his father returns from Alabama. Attorney Hennessey also questioned Mr. Kopanas regarding some of the options that the Board has and Mr. Kopanas said he does not agree with euthanizing the Pit Bull dog.

Maria Kopanas was sworn in and stated she lives at 172 Montrose Avenue. Attorney Hennessey questioned Ms. Kopanas about the dogs getting loose on the three occasions in which she answered she was at work on all of those occasions. Ms. Kopanas did state that she feels really bad at what has happened but she feels that her dog probably just wanted to play and if Mr. Clendening had not kicked the dog maybe the dog would not have bitten him. She also stated that a fence will be erected and that they will install a spring loaded door when her husband comes back from Alabama. Selectman Falvey asked Ms. Kopanas if she paid the violations. Ms. Kopanas stated she had mailed them in but forgot to stamp the envelope.

Attorney Hennessey recommended that the front and back door be spring loaded as well as the door on the fence; the dog be on a leash at all time when outside including when the dog is in the fenced in yard; the property to be inspected by the Animal Control Office once these recommendations have been installed.

Mr. Mullen laid out the options that are controlled by Massachusetts General Laws Chapter 140 § 157:

- Dismiss the complaint
- Deem the dog a nuisance (barking)
- Deem the dog dangerous

If the dog is deemed dangerous the Board shall order one or more of the following:

- Restraint of dog
- Confinement of dog to premises (securely enclosed)
- Muzzling and leashing when dog is removed from premises
- Insurance of not less than \$100,000.00
- Filing of identifying information with the Town of Wakefield
- Spraying of dog
- The dog be humanely euthanized

Selectman Falvey motioned to deem the dog a dangerous dog; seconded by Selectwoman Sheeran and so voted.

Chairman Doto motioned the dog needs to be temporarily out of the premises by August 14, 2013, a pen needs to be erected in compliance with the statute by August 19, 2013, a fence needs to be erected around the whole yard by August 31, 2013, front and back doors as well as doors to the fence needs to be spring loaded by August 19, 2013, a 3 foot 300 pound strength leash on the dog at all times when the dog is outside, a muzzle on the dog when it is outside of the property (dog to be euthanized if this order is not followed), proof of insurance of not less than \$100,000.00 to be provided to the Board; seconded by Selectwoman Hull and so voted. Attorney Hennessey represented that Ms. Kopanas assented to the removal of the dog, the spring loading of the doors and fencing in the entire yard. Mr. Clendening asked for clarification whether this was for the Pit Bull dog only which the Board replied yes.

At 10:51 p.m. Selectwoman Sheeran motioned to close the Public Hearing, seconded by Selectman DiNocco and so voted.

Roll Call:

Selectwoman Hull - yes

Selectwoman McGonigle – yes

Selectman DiNocco – yes

Selectman Glynn – yes

Selectwoman Sheeran – yes

Selectman Falvey – yes

Chairman Doto - yes

Chairman Doto called for a 5 minute recess.

At 11:00 p.m. Chairman Doto called the meeting back in session.

Selectwoman Sheeran motioned to approve the Seem Collaborative Lease Agreement; seconded by Selectman Falvey and so voted.

Selectwoman Sheeran motioned to approve the Odyssey Day School Lease Agreement; seconded by Selectman Falvey and so voted.

Brian Falvey addressed the potential parking garage on Main Street in which he said parking is vital to downtown.

Selectman Falvey motioned that the Board authorize the Town Administrator to issue a request for proposals for the sale of Town-owned land currently used as a parking lot and located east of Main Street, south and west of Crescent Street and north of Union Street provided that the request for proposals list the following as positive considerations which will be taken into account in evaluating proposals:

- The construction of a parking garage on the said land and the dedication of at least some space therein to municipal parking;
- A use that takes advantage of adjacent property's having recently been zoned as part of the Assisted Living Facility Overlay District;
- A proposal that assists with the redevelopment of one or more parcels of land in the downtown area and that makes an overall aesthetic contribution to the said area;
- A demonstrated record on the part of the proposer of successful past performance with similar projects; and
- Price

and provided further that such request for proposals make clear that the Board shall appoint a review committee that will score proposals based upon the foregoing considerations, that final decision-making power rests with the Board, that the Board reserves the right to reject any or all proposals in the best interest of the Town and to waive minor informalities, and that any resulting contract would be subject to Town Meeting approval; seconded by Selectwoman Sheeran and so voted.

Correspondence:

The Board received the following correspondence:

- Letter from Fire Chief Michael Sullivan
- Email from Police Chief Richard Smith
- Letter from Riverside Community Care
- Invitation from The Angel Fund
- Invitation from National Development
- Fiscal Year 2014 Notice to Assessors of Estimated Charges
- Email from Eric Sherman

Comments:

Town Administrator – MarketStreet RSVP by August 14, 2013

Selectwoman Hull – Thank you to the Town Administrator, Rick Stinson and the Traffic Advisory Committee regarding the stop signs at Vernon and Salem Streets; Sign By-Law needs to be fair and reasonable in what we ask the businesses to do

Selectman DiNocco – Downtown banners; Festival Italia tickets are still available

Selectman Glynn – Invitation from Davio's on August 21, 2013

Selectwoman Sheeran – Please remember the Food Pantry

Selectman Falvey – Public Safety Building IT Tour

Board Members signed weekly Warrants; Seem Collaborative Lease Agreement; Odyssey Day School Lease Agreement.

Selectwoman Sheeran motioned to adjourn at 11:28 p.m., seconded by Selectman Glynn and so voted.

Sherri A. Eskenas, Clerk