

BOARD OF SELECTMEN AND SEWER COMMISSIONER'S MEETING

July 25, 2016

Francis Faulkner Room 204

Regular Meeting 7:00 PM

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TOWN CLERK
ACTON

Present: Peter J. Berry, Janet K. Adachi, Franny Osman, Katie Green, Town Manager Steven Ledoux, Lisa Tomyl, Recording Secretary

Absent: Chingsung Chang

Mr. Berry opened the meeting at 7:07 PM and led the Pledge of Allegiance

Citizen's Concerns

None

Chairman's Update/ Operational Update

Mr. Berry – received letter from Mass DOT, notification that Acton is eligible for highway funding for Kelly's Corner. Long way from getting funding, but we are eligible. Meeting on Town committee is on August 10th for the design structure. Talk in town about recognizing our public safety officers in light of recent events nationally in Baton Rouge and Dallas. We want to make the Police Department and Fire Department aware that we regard their service very high. The Police Department is particularly fortunate under the guidance and leadership of Frank Widmayer and responds to citizens' concerns with empathy and professionalism. We are unaware of any complaints of excessive force. The principal reasons for calls are domestic violence and mental health issues – very sensitive issues that require highly trained personnel. We appreciate our Police Department and thank them for their hard work. Received an email from a citizen (Stuart Ellis) suggesting that we honor our police and firefighters by placing small (American) flags at the Public Safety Building (8"x12" on wooden sticks). Concord Water project hearing is September 12th. Attended the Discovery Woods Grand Opening on July 24th, the Town was well represented at the event. Town committed CPA funds totaling \$150,000.00 towards the playspace. Mr. Berry summarized the many projects that have been funded by the Community Preservation Fund since 2002.

Mr. Ledoux – Appearing in front of Department of Energy Resources tentatively on August 11th for a hearing on our electric aggregation plan; in addition, he did a TV show (Acton TV) with Marlena Patton from Peregrine. Tomorrow performing an assessment center all day to fill the vacant Fire Chief position – 3 internal candidates. Sports Pavilion at NARA -- the first gifted house has been placed on its foundation.

Mr. Berry added that the Board and the Town Manager have begun filming the Acton Agenda where different members of the Board and the Town Manager go over the Selectmen agenda. It is filmed on the Thursday before the Board of Selectmen meeting, and runs on Friday evening, Saturday and Sunday.

Public Hearings and Appointments

Dangerous Dog Hearing, Order to Show Cause – Mr. Berry read the public hearing notice at 7:12 PM. Hearing began at 7:19 PM. All parties involved and as witnesses were sworn in by Ms. Osman. Nina Pickering-Cook representing as Town Counsel, Deputy Chief Rich Burrows, Tack Palmer- ACO, and Patrol Officer David Joachim. Mr. Palmer read his statement of the events leading to the public hearing. Ms. Green inquired if Mr. Palmer had any initial recommendation or additional measures to present. Mr. Palmer stated that the Board needs to deem if the dog is dangerous first. Officer Joachim read his police report from June 7th, but was not present for the dog bite that occurred on May 21st. Mr. Berry inquired if the dog is currently licensed and has a rabies vaccination, Mr. Palmer stated that at time of first bite, the dog had no vaccinations, but is now vaccinated (rabies). Ms. Osman questioned to Mr. Palmer if there were any incidents before May 21st. MR. Palmer only has on record the information of the 3 incidents.

Officer Joachim searched records and no further records of calls for this address and dog bite/aggression. Mr. Palmer explained that there is a 10-day quarantine after a reported dog bite. June 21st there were no physical bites on the other dog.

Elizabeth Halloran – owner. Lived in complex since 2001. Claims that the dog never had a problem before another person in the complex got a pit bull and the dog became aggressive due to being nervous around it. Lapsed in vaccinations and licensing due to taking care of a sick father in Franklin and had been running back and forth (between Acton and Franklin). Has owned the dog for 2.5 years. Only other caretaker of dog is a boyfriend and won't let him take the dog out on leash anymore. Ms. Green made inquiries regarding length of ownership and states she keeps the dog on leash. Ms. Adachi questioned Mr. Palmer regarding what are the requirements for vaccinations Mr. Palmer stated that all dogs must have their rabies shot by 6 months of age along with registration. Ms. Osman inquired regarding the May 23rd incident that the patrol officer was called to the area for a report of an ongoing animal issue – the dog was on the leash in the area of kids riding on bikes and dog was on a slacking leash. Ms. Halloran stated that she now walks the dog in the rear of the building to avoid being around people.

Mr. Berry questions Ms. Halloran regarding the length of current ownership of the dog and his concern that Ms. Halloran had not followed up with vaccinations until July 11th. Ms. Halloran confirmed that she was concerned about not following up with vaccinations, and reiterated about being busy being the power of attorney for her father and going back and forth to Franklin.

Lindsay Robertson and daughter Rachel were sworn in in the beginning of the hearing. Ms. Robertson's daughter was the bite victim from the May incident. Ms. Robertson stated that this was not the first incident when the dog has bit someone and showed aggressive behavior. Everyone is afraid of this dog in the complex. Her dog is scared of "Eviee". Ms. Robinson showed a picture of the bite her daughter received via a cell phone picture. The Board reviewed the picture of the bite.

Ms. Adachi confirmed the breed of Eviee as being referred to as a shepherd dog and Ms. Robertson's dog as a Pit Bull, but much smaller than Ms. Halloran's dog. Ms. Green inquired if Ms. Robertson's daughter was playing with the dog (Eviee) and asked Ms. Robertson's daughter if she went to pet the dog. Ms. Robertson's daughter stated "I went to pet the dog and the dog bit me."

Mr. Berry closed the hearing. Ms. Pickering-Cook clarified the definition and difference between a nuisance dog and a dangerous dog under the MGL statute.

Ms. Green reiterated that the dog has bitten a person and has shown aggression around other dogs – it is clear that it is a dangerous dog under MGL 140, § 157 definition. Ms. Adachi agrees. Ms. Green moved to define the dog as a Dangerous Dog, MS. Adachi second. All Ayes. (4-0)

Mr. Palmer recommends number 3 under GL140 §157 that the dog be muzzled all times outside of the apartment. It does not need to be on a chain but on a leash or a tether. Ms. Green inquired to Mr. Palmer how does the Animal Control Officer follow up if the order is not followed through. Mr. Palmer would consult Town Counsel for further recommendation. Ms. Green asked the owner if the dog will be spayed. Ms. Holleran plans to spay the dog. Ms. Green would like to add #6 under GL140 §157 that the dog be spayed in the order.

Motion the dog under chapter. 140 §157 C3 that whenever the dog is removed from the premises (interior of the apartment building outside of the apartment) – tethered but not chained under GL Chapter 140 §157 - Ms. Green moved, Ms. Osman seconded. All Ayes (4-0).

Selectmen Business

Business Inventory Database Presentation, Economic Development Committee – Larry Kenah and Doug Tindal from the EDC presented a power point presentation regarding the survey they are going to be starting regarding a voluntary database in separate waves determined by the type of business they operate. Town Manager Ledoux is supportive of the project. Ms. Adachi thinks a great project as well. Going to be for the use of your committee – is it going to be accessible or is it going to be password protected. Mr. Kenah stated that it will have limited availability. When the volunteers plan to be visiting businesses in Town, the EDC will make sure that they notify the Police Department, and will carry identifiable ID, notify the Beacon, Action Unlimited, and the Town website. The Board fully supports the project.

Discussion on Letter of Non-Opposition, Mass Wellspring – representing Mass Wellspring is Stephanie Lipton to bring the Board up to speed for the reason why another letter of non-opposition is needed. They have secured a location on the Maynard/Acton border at 18 Powder Mill Road. Mr. Berry – asked if she would be willing to negotiate a host payment in lieu of taxes – Ms. Lipton stated she would have to go back to her board for an answer since they are listed as not-for-profit. The Department of Public Health has classified marijuana dispensaries as non-profit. Mr. Berry looking for a note from Roland verifying the business is zoned for health care.

Ms. Adachi moved to provide a new letter of non-opposition to supersede the previous letter dated July 9, 2015 to Mass Wellspring to operate a registered medical marijuana dispensary at 18 Powder Mill Road, with the letter to be signed by the Town Manager on behalf of the Town of Acton acted duly noted at a Board of Selectmen meeting held on July 25, 2016., with the subject that the applicant will provide a redacted copy of the business plan in a reasonably timed period. Ms. Green seconded. All Ayes (4-0).

Deputy Chief Rich Burrows requests that they (Police Department) be involved with the security teams going over the security plans.

FY17 Sewer Operation and Maintenance (O & M) Rate Setting – Steve Barrett, Finance Director presented to the BOS the FY17 Sewer operation and maintenance rate recommendation. Mr. Barrett requests a vote on no change in rate from FY16. Ms. Adachi move to accept recommendation of Finance Department regarding the sewer district rates for FY17 specifically residential .12156 per cubit feet and commercial at .1727 per cubit feet and industrial .1727 per cubit feet . Ms. Green second. All Ayes (4-0)

Town Bylaws Change Discussion, Appointment (Election) of (Temporary) Assistant Town Moderator and Electronic Voting at Town Meeting – Town Moderator Peter Ashton requesting to add 2 warrant articles to the potential Fall Town Meeting regarding electronic voting and appointment of an Assistant Town Moderator. Ms. Green noted that the temporary moderator will be elected at town meeting – Mr. Ashton confirmed that this would happen at the beginning of Town Meeting. Ms. Adachi suggests that the Town Moderator be allowed to suggest candidates.

Discussion on Fall Town Meeting Including Closing of Town Warrant – Mr. Ledoux listed a recommendation for criteria for calling a special town meeting: if items couldn't wait for annual town meeting from the July 11th meeting. Potential items include ratification of the fire contract – part of the provision is starting Advanced Life Support (ALS) and having to give Central Middlesex Emergency Response Association (CMERA) 6 months notification that the Town will withdraw from external Paramedic service – so notification needs to be given by December 31st. Two items that Mr. Ashton talked about were electronic voting, and a potential land purchase – the Lazarro property on River Street. Getting an appraisal done now on it. Also Senior Center Lease. Mr. Ledoux recommends keeping the warrant open in case there are some citizen petitions. Will discuss closing the warrant at the August 8th meeting.

Consent Agenda

Ms. Green moved to approve consent items 7-18, Ms. Adachi second. (4-0)

Ms. Green moved to adjourn, Ms. Adachi seconded. Meeting adjourned 10:10 PM.

Respectfully Submitted,



Lisa Tomyl, Recording Secretary



Franny Osman, Clerk