



MANCHESTER-BY-THE-SEA

BOARD OF SELECTMEN • TOWN HALL
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MINUTES OF THE BOARD OF SELECTMEN

June 10, 2019

6:30 p.m.

Town Hall, 5

MEMBERS PRESENT: Chairperson, Mr. Boling, Ms. Driscoll, Mr. Steinert, Mr. Bodmer-Turner and Ms. Jaques

MEMBERS ABSENT:

STAFF PRESENT: Town Administrator, Mr. Federspiel, BOS Clerk, Ms. Hunter, BOS/TA Executive Assistant, Ms. Nathan, Harbormaster Pike, Interim Police Chief Fitzgerald, Police Officer Locke, Animal Control Officer Ms. Demuele, Town Counsel, Mr. Corbo

GUESTS:

PRESS:

Mr. Steinert convened the meeting at 6:32 p.m.

1) Election of Chair and Vice Chair

Mr. Boling was nominated to serve as Chair of Board of Selectmen. *Ms. Jaques moved to approve his nomination; Mr. Bodmer-Turner seconded the motion. The motion passed unanimously.*

Ms. Driscoll was nominated to serve as Vice-Chair of Board of Selectmen. *Mr. Boling moved to approve her nomination, Ms. Jaques seconded the motion. The motion passed unanimously.*

Mr. Bodmer-Turner was formally welcomed to the Board of Selectmen having been duly elected on May 21, 2019.

Public Comment:

Ms. Thorne, 9 Sawmill Circle – stated the steps into Town Hall are in disrepair, the grouting around the steps is being chipped away. She is concerned this could become a more significant problem.

2) Ambulance Billing Policy – 2nd Read and Adoption

Edits discussed at previous Board meeting had been incorporated in the Ambulance Billing Policy. There were no additional comments regarding the policy.

Mr. Bodmer-Turner moved to approve the Ambulance Billing Policy; Ms. Jaques seconded the motion. The motion passed unanimously.

3) Consent Agenda

- BOS Minutes – May 20, 2019
- [Longevity Benches](#) – Winthrop Field, Pleasant Grove Cemetery, Powder House Hill Entrance and Hinckley Veterans Park
- [Harbor Advisory Committee](#) – Reed Park Fees/Bow & Stern Moorings
- People’s United Bank – Business Card Resolution Form
- Neurofibromatosis Northeast – Coast to the Cure Bike Ride
- Approve [Budget and Reserve Fund Transfers](#) Requests

Longevity Benches, Harbor Advisory Committee recommendation and Reserve Fund Transfers were pulled from the Consent Agenda for further discussion.

Ms. Jaques moved to approve the remaining items in the Consent Agenda; Ms. Driscoll seconded the motion. The motion passed unanimously.

Longevity Benches:

Ms. Bonneville, 23 Woodholm Road, presented a request for 4 new Longevity Benches on Town property. There are donors for the new benches. Locations were outlined in the Board’s meeting materials. Ms. Jaques asked if the benches were ADA compliant, they are according to Ms. Bonneville. The benches are also guaranteed to not rust and come with a 3-year warranty.

Mr. Bodmer-Turner asked if the Town will add the benches as a line item in the annual budget. Mr. Federspiel indicated there was funding available to cover the benches in the DPW maintenance budget. Mr. Federspiel also stated DPW was aware of the project and supported the effort on behalf of the community.

Harbor Advisory Committee (HAC):

Harbormaster Pike informed the Board the HAC recommended installing Bow & Stern moorings on small boats at Norton Point and Whittier Cove in order to reduce future dredging costs, improve navigation and reinstate some hibernated moorings.

Ms. Jaques moved to approve the motion to install Bow & Stern moorings in the area of Norton Point and Whittier Cove; Mr. Bodmer-Turner seconded the motion. The motion passed unanimously.

The HAC also proposed signage as presented to the Board for Reed Park. Payment and reservations for dock space will be collected through the Dockwa App. Dock personnel will be available on weekends and at busy times to supervise and assist. A computer tablet will be on hand to collect fees for those boaters who do not have access to Dockwa App. Because there is no power or water available on this dock during the first year of operation, the HAC agreed that fees should be at a reduced rate of \$60 per night and \$8 an hour for all vessels and for all periods. Dockwa recommends a minimum rate of \$3 a foot for overnight transients.

Ms. Jaques asked why \$3.00 a foot was recommended by Dockwa? Harbormaster Pike replied it is an industry standard. Mr. Steinert agreed pricing should reflect lack of amenities. Mr. Boling stated he would like to take the recommendation of the HAC. Mr. Bodmer-Turner requested an update during the season and analysis at the end of the boating season to evaluate pricing and usage.

Mr. Bodmer-Turner moved to accept the recommendation of the HAC regarding docking fees at Reed Park; Ms. Driscoll seconded the motion. The motion passed unanimously.

Budget Transfers:

- 1) Request to move \$20K from Life Insurance line item to Worker's Compensation
- 2) Request to move \$15K within the Fire Department Budget (salaries) to \$3K for building repairs and \$12K to repair of equipment (fire trucks.)
- 3) Request to move \$1,900.00 from Finance Committee salaries to BOS salaries to compensate Ms. Hunter's excellent work.
- 4) – Request to move \$1,500.00 from IT salaries to expenses for an Extended Warranty for 2 additional years

Reserve Fund Transfers:

- 1) \$12.5K to cover Street Light Account while National Grid adjusts billing for LED lights. Funds will be returned to Reserve Fund.
- 2) \$7K to Police Salaries to cover extra overtime necessitated by vacancies and new officers attending the police academy.

Ms. Jaques moved to approve Consent Agenda items: Longevity Benches and Budget and Reserve Fund Transfers; Mr. Bodmer-Turner seconded the motion. The motion passed unanimously.

4) Correspondence

- Senior Care Re: Age & Dementia Friendly Cape Ann Community Summit
- Xfinity Re: Changes to Xfinity Packages with Cinemax
- DEP Re: Notice of Audit Findings AUL Audit Inspection
- MMAAA Re: Recognition of Andrea Mainville as Certified Government Accountant
- North Shore Home Consortium Re: FY 2018 Home Funds
- Jeff Conley Re: Mill Street Speed Bumps
- Mary Foley Re: Request for Parking Signage on Pulaski Drive
- Thompson L. Smalley Re: Request for Removal of Tree

Mr. Boling noted correspondence from Mr. Conley, Ms. Foley and Mr. Smalley will be placed on the Board's July agendas for further discussion, consideration and resolution.

5) Town Administrator's Report

- Town Common Redesign – Members of the Community Preservation Committee have pushed back on using asphalt for the revised pathways. The

design consultant prefers asphalt given that historically the paths were originally dirt/gravel his second choice would be to use gray paver stones. Both options will be estimated for further consideration. On the 24th the Board will conduct a formal public tree hearing to remove some of the trees as part of the permitting process for the upgrade to Town Hall Common.

- Compost Odors – The MAC has been complaining about odors from the compost site. The Town is working with Black Earth to see what can be done to improve the situation. A new facility may be discussed at a future meeting.
- Farmers to You Program – is considering new sites for the program as the meeting room at the wastewater plant is not a secure location.
- Radio System estimates are inconsistent and will be reviewed with both vendors to understand more fully the cost discrepancies.
- District MOU – The District proposed a Memorandum of Understanding documenting agreements with the Board regarding various aspects of construction of the new Memorial School. The MOU has been provided. Edits were discussed. Mr. Federspiel will incorporate the recommended edited version which will be forwarded to the District for their comments and final recommendations.
- Mr. Federspiel will be out of the office June 17-19.

Ms. Jaques moved to approve the Memorandum of Understanding with the District as amended; Mr. Bodmer-Turner seconded the motion. The motion passed unanimously.

6) Public Hearing – Nuisance/Dangerous Dogs Residing @ 12 Woodcrest Rd.

Ms. Jaques moved the Board Open a Public Hearing on Nuisance/Dangerous Dogs Residing at 12 Woodcrest Rd.; Ms. Driscoll seconded the motion. The motion passed unanimously.

Mr. Corbo, Town Counsel, introduced himself and described the process for the hearing. He stated his role was to facilitate the proceedings according to MA State Law Chapter 140, Section 157. The hearing will be in two parts. The first part is the evidence to be presented and the second part is deliberation. Testimony will be taken from witnesses including the Victim, responding Police Officer and Animal Control Officer.

Ms. Jaques read her Disclosure of Appearance of Conflict of Interest Statement which is in the record.

Mr. Corbo indicated in September 2017 the dogs were found to be nuisance dogs due to excessive barking. Tonight's hearing is not related to the barking issues but rather a recent biting incident. All individuals giving testimony were asked to stand and be sworn in. Mr. Corbo administered the oath to those wishing to testify.

Ms. Locke 4 Running Ridge Row – read her statement describing the incident of May 11, 2019. She stated the dogs were wildly charging the line of their electric fence and barking ferociously. Just after passing the Circle, one of the dogs leapt into the road at her and her dog, attacking and biting them.

Stated Ms. Locke: “I tried to hold onto my dog, but the big Glass dog knocked me down from behind. It was growling and biting me and going after my dog. The dog knocked

me down repeatedly, each time I landed on my own dog. I had extreme fear that I couldn't get away. I was screaming for help. I saw a pick-up truck parked in front of the Glass house. Ultimately, I was able to make my way toward the truck and toss my dog into the truck bed. I was knocked down again by the Glass dog. I got up and somehow launched myself into the back of the truck, hoping the Glass dog would not follow behind."

"It was a terrifying experience with much growling, biting, noise, teeth and several falls face down on the road and on top of my dog. I was very shaken." Ms. Locke indicated she had pictures of the dog bites. Mr. Corbo was reluctant to enter the pictures of the bite marks into the record; however, Ms. Jaques thought it important to document the impact of the bites on Ms. Locke. Pictures were entered into evidence.

[Ms. Locke's full statement is in meeting materials for the June 10, 2019 meeting.](#)

Mr. Bodmer-Turner ask if witness statements were available for previous incidents. It was stated by Chief Fitzgerald that not all incidents were formally reported. Mr. Steinert asked if the dogs were lunging? Ms. Locke replied the more aggressive dog was lunging prior to jumping over the electric fence.

Police and ambulance were dispatched to 12 Woodcrest Road. Witnesses were questioned and the incident was formally reported by Ms. Locke, Witnesses statements and Police Statements. [Complete statements are part of the record and on file.](#)

Mary Barth, 17 Woodcrest Rd. stated she had experienced a similar situation but did not call in the incident, she instead spoke directly with Ms. Glass. Ms. Barth stated she walked by the Glass dogs many times, the dogs know me. On one occasion the dog Sugar jumped over the electric fence, she yelled at Sugar, calling her by name and managed to get Sugar off her dog.

Mr. Boling asked if the dog was aggressive? Ms. Barth stated she was barking and put her mouth on her 3-year-old basset hound but eventually responded to Ms. Barth. Mr. Steinert asked if her testimony at the hearing was on record? Ms. Barth stated she reported the incident the same day Ms. Locke was attacked.

Mr. Bodmer-Turner asked if she had notified anyone previously? Ms. Barth stated she had spoken with Ms. Glass and Ms. Glass' father-in-law. Mr. Steinert asked if Ms. Barth had seen both dogs outside the electric fence? Ms. Barth replied only the dog Sugar in the bright pink collar who barks and acts more aggressively.

Mr. Boling asked if the dogs came over the fence or approached the fence and what was the dog's demeanor? Ms. Barth stated the dogs were not particularly friendly and she walked on the opposite side of the street. Ms. Jaques asked when you walk by the property do you feel barking is protective or aggressive? Ms. Barth stated she is concerned about Sugar who is the more aggressive dog and has not walked on Woodcrest since the incidents.

Mr. Corbo asked if Ms. Barth was concerned about the electric fence collar on the dog? Ms. Barth replied yes. Ms. Jaques asked if the invisible fencing zone around the border of the property was where the dogs usually stayed. Ms. Barth replied yes.

Police Officer Locke stated she was not related to Ms. Locke and read her statement which is on record.

Mr. Bodmer-Turner asked Officer Locke if she had seen the dogs when she first arrived? She had not seen the dogs. Mr. Boling asked if she had spoken with family members. Officer Locke stated Mr. Glass senior was standing with family and described the injuries as a bite mark on the woman's rear end and on the neck of her dog.

Mr. Bodmer-Turner asked if she had directed Mr. Glass senior to take the dogs in? She had not, the dogs were already inside.

Animal Control Officer Demuele read her statement which is on record.

Ms. Jaques asked Officer Demuele if she verified the fence was working? Officer Demuele had not. Mr. Boling asked if Ms. Glass told you Sugar was the aggressor? Officer Demuele confirmed she had. Ms. Jaques asked Officer Demuele why she felt Sugar was the aggressor? Officer Demuele replied Sugar is the dominant dog of the two. Mr. Bodmer-Turner asked if Office Demuele had driven by or made an unannounced visit to the Glass home? She had not.

Michela Hirnak, 9 Woodcrest Road stated she was the neighbor across from the Glass house and observed Ms. Locke's attack. Ms. Hirnak stated once Ms. Locke was in the back of the pickup truck she was terrified after being knocked to the ground three times and bitten. Ms. Hirnak is a walker and she has encountered the dogs being aggressive even when walking without a dog. The dogs are aggressive and barking when she opens her front door. Ms. Locke is an adult; she is concerned about children walking dogs in the neighborhood.

Sheila Hill, 2 Running Ridge Row stated she had made a statement to the Police last week to inform the Police Department of her experience with the Glass dogs. She has been frightened by the dogs who bark and charge at her when she is walking. She has yelled "no" at the dogs and they continue to bark and charge at the far end of the property. Additionally, Ms. Hill stated the behavior of the dogs has been escalating recently. Ms. Jaques asked if the dogs had gone through the fence when Ms. Hill was walking past? They had not gone through the fence.

Mr. Cohen, the Glass' lawyer asked for a copy of Ms. Hill's report.

Keith Bellucci, 6 Running Ridge Row stated he and his wife have two young sons who do not like to walk in the neighborhood because of the barking dogs. The dogs are often barking and aggressively running to the property line. He is concerned if the dogs get out, they may knock down a child. The dogs cannot control themselves it is up to owners to control the dogs.

Mr. Bodmer-Turner asked when Mr. Bellucci was walking with his sons, did he observe the dogs at the fence line? He has observed the dogs at the fence line but never beyond the fence.

Mr. Locke, 12 Running Ridge Row stated his wife was an emotional wreck after the incident. She did not know how the incident was going to end. Most recently he walks their dog in a different direction. He does not want to hear of another incident, it's a serious issue for the neighborhood and the Town.

Ken Warnock, 5 Running Ridge Row stated he lives in a good neighborhood with several dogs on the street. He has a young son and wants to know when the neighborhood is safe for the kids to be outside playing. He does not want to see harm coming to people. Mr. Steinert asked if Mr. Warnock had seen the dogs outside of their electric fence? He had not.

Mr. Cohen, Attorney, Boston Dog Lawyers, stated he represented the Glass' who feel they could have handled the situation better. However, they are responsible people and are not expecting to fight the definition of dangerous dog. The Glass' immediately reached out to the Locke's who did not respond.

The Glass' have increased the voltage on the electric fence and moved the fence back from the curb. They have three quotes from fence companies to install a physical fence at the back of the house. They will change their routine and not leave the house with the dogs outside and the dogs will be on a leash until the fence is installed

Mr. Glass, 12 Woodcrest Rd. stated he believes Sugar is the dog in question and her collar was not operating correctly and feels the incident never should have happened. He has contacted 3 fence companies, the dogs will wear their collars all day every day, there will be an adult present and the fence proposed will be at the back of the property configured at the rear door.

Mr. Boling stated the decision-making process regarding the fence is a concern especially if the event were to happen again. Mr. Boling specifically asked what the time frame was to have the fence installed? Mr. Glass is not sure when the fence can be installed.

Ms. Jaques stated the electric fence was down during the incident and the collar was not appropriately configured. What has been done to make sure this does not happen again? Mr. Glass stated the prongs on the collar have been extended and the fence adjusted to maximum shock capacity.

Mr. Bodmer-Turner requested confirmation of the designation for dangerous dog in 136 A. Mr. Cohen confirmed Sugar fits the definition of dangerous dog. Mr. Corbo suggested the Board issue an order that both dogs are behind a fence when outside stating the fence is a remedy.

Ms. Jaques moved to close the evidentiary part of the hearing; Ms. Driscoll seconded the motion. The motion passed unanimously.

Mr. Corbo stated the Board was to decide if the dog Sugar fits the definition of a dangerous dog. There was no evidence presented that the other dog did anything more than bark in the background. Mr. Corbo stated the question was definitively answered that Sugar participated in the attack. Mr. Boling stated that was where he was going.

Ms. Jaques moved Sugar be designated a dangerous dog based on the facts introduced in the hearing and the testimony presented during the hearing; Ms. Driscoll seconded the motion.

The Board entertained a friendly amendment to the motion indicating the motion add – the dog known as Sugar based on stipulation of the owner.

Ms. Jaques moved Sugar be designated a dangerous dog based on the facts introduced in the hearing, the testimony presented during the hearing and based on the stipulation of the owner; Ms. Driscoll seconded the motion. The motion passed unanimously.

Mr. Boling stated he did not believe a follow-up order by the Animal Control Officer (ACO) was sufficient to protect public safety. Mr. Corbo suggested a microchip to help identify in the future which dog was the aggressor. The ACO confirmed the dogs were neutered.

Mr. Bodmer-Turner asked if the dogs were off the property should they be muzzled or restrained?

The Board is determining the safety of the neighborhood. If the dogs are on a leash the leash should be held by an adult. Also, the Board should issue an order to install a physical fence outdoors. Mr. Boling agreed with the leash and asked should the dogs be muzzled?

Ms. Driscoll stated she agreed with the dogs in the front yard on a leash and with an adult holding the leash but did not favor muzzling. Mr. Steinert expressed concern with the dogs off the property and the possible attack and injuring of a child. He feels it's important to protect the people in the neighborhood. Mr. Steinert went on to state to avoid an additional incident a muzzle may be necessary. Ms. Jaques wants Sugar muzzled.

Mr. Boling stated he would like to circle the wagons and do this right and reasonably resolve the issue. Mr. Cohen stated the hearing authority is the Board and the hearing authority makes the decision.

Mr. Boling requested the opinion of the Chair of the Animal Control Board, Ms. Bisner. Ms. Bisner stated if people are afraid the remedy needs to resolve that fear. Ms. Bisner recommended the dog be seen by an animal behaviorist at Tufts Veterinary Clinic. Information was shared with Mr. Cohen.

Ms. Hirnak, 9 Woodcrest was concerned a 5-foot fence was not sufficient to contain the dogs and what would happen when the dogs started digging?

Keith Bellucci, 6 Running Ridge Row expressed concern for the size of the dogs.

Mr. Cohen, Dog Bite Lawyer, threatened to leave the hearing and appeal any decision made by the Board because of additional consideration be giving to witnesses during this part of the hearing.

Mr. Boling stated he understood exactly the role of the Board and had confirmed with Counsel that he could request additional information at this point in the hearing. The board would be making the decision on this important matter that impacts the residents of the Town.

Mr. Locke, 4 Running Ridge Row, stated his only additional concern was a 5-foot fence was not high enough to contain the dogs.

Mr. Warnock, 5 Running Ridge Row restated his concern for children outside and requested the Board assure enough restraint is applied to the dogs.

Mr. Boling stated the fenced in enclosure will be of 6-feet or more. Mr. Steinert stated walking a dangerous dog in public due to bites could require a muzzle. Ms. Driscoll did not agree with muzzling the dog.

The Board concluded its discussion with the following order:

1. The Glass family shall install a physical fence, whose enclosed area shall be directly accessible from the house, of durable construction no less than six feet high through which the dogs cannot see the street. The Animal Control Officer shall review and approve the fence to be installed.
2. Leashing: At all times “Sugar” is outside and not in the enclosed area she will be kept on a leash having a minimum tensile strength of 300 pounds, not exceeding three feet in length and held by an adult.
3. The Glass family is to maintain the electric fence. At all times the dogs must wear their electronic collars.
4. The Glass family is allowed 90 days from June 13, 2019 to install a confined area outdoor fence. The Animal Control Officer may extend the 90-day provision with confirmation of a signed contract specifying a firm completion date with a fencing installation company.
5. The Animal Control Officer is to physically inspect the fence once every 60 days for a period of 6 months to confirm the dogs are not attempting to dig under the fence.

All requirements of the order shall remain in place as long as the dogs continue to reside at the property.

Ms. Jaques moved to approve the order and close the hearing, Ms. Driscoll seconded the motion. The motion passed unanimously.

7) Executive Session

- 1) Per M.G.L. Ch. 30A, Sec. 1 (a)(2) To discuss contract negotiations with non-union personnel: Town Administrator**
- 2) Per M.G.L. Ch. 30A, Sec. 1 (a)(1) To discuss complaint regarding Town staff member.**

Return to Open Session not anticipated.

Meeting Documents:

- Town Administrator's Report
- Consent Agenda Items as Listed
- Ambulance Billing Policy
- Reserve Fund and Budget Transfer Documents
- Correspondence Items as Listed
- Longevity Bench Placement Map and Detail Information
- KP Law Nuisance and Dangerous Dogs G.L. c. 140 – 157
- Ms. Jaques Disclosure of Appearance of Conflict of Interest Form
- Ms. Locke statement Re: Glass Dog Attack at 12 Woodcrest Road
- Police Department Officers Reports Re: Glass Dog Attack
- Notice of Hearing to Mr. and Mrs. Glass
- Victim/Witness Statements Re: Glass Dog Attack
- Memo Police Response to Barking Dog Complaints
- Harbor Advisory Committee Re: Reed Park/Signage and Fees

Upcoming BOS Meeting

- June 24, 2019 – Open Meeting
- July 8, 2019
- July 22, 2019