

BOARD OF SELECTMEN

May 28, 2013

Minutes

The Board of Selectmen met on Tuesday May 28, 2013 at 7:00 p.m. in the Town Hall Clark Room. Those present were Selectmen Peter Scavongelli, John Gorecki, Timothy F. Hult, John D. Williams, and Douglas A. G. Stevenson. Town Administrator Timothy D. Goddard was also present.

Community Input

There was no community input.

Swearing-In Ceremony for New Police Officer

Town Clerk Charlene Hinton, Police Chief John Fisher and (new) Police Officer Andrew Corwin were present.

Mr. Scavongelli said tonight Charlene will swear-in Andrew (Drew) Corwin as a Police Officer for the Town of Carlisle. Police Chief John Fisher spoke about Drew and his background and the interview process he went through. Andrew introduced his family and friends. After the official swearing-in, Andrew's father pinned his badge on his uniform.

Mr. Scavongelli noted that the Highland Building discussion would not occur tonight. It will be on the June 11, 2013 agenda.

Mr. Gorecki brought the Board's attention to Eagle Scout candidate Richard Chelton who was present this evening to discuss his proposed project of constructing handicapped voting booths for Town Hall. Mr. Gorecki said because he is the Eagle Scout Advisor for Troop 135, he would recuse himself from this discussion.

Richard Chelton, who resides on School Street, explained that he is working on handicapped accessible voting booths. He said they will be handicapped accessible but can be used by all voters.

Richard was requesting from the Selectmen approximately \$490.00 for the materials for the project.

In reply to Mr. Stevenson, Richard said there will be three (3) booths that will be double booths but slightly different in design from the regular booths.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to authorize up to \$500 from the Town Administrator's small capital funds to be spent on Richard Chelton's Eagle Scout project to build handicapped accessible voting booths.

Appointments

The Medical Marijuana Study Committee should consist of a representative from the Board of Health, Zoning Board of Appeals, Planning Board, Board of Selectmen, and the Police Chief.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to appoint Donna Margolies as the Board of Health's representative and Lisa Davis Lewis as the Board of Appeals representative to the Medical Marijuana Study Committee for terms that will end on June 30, 2014.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to appoint Chief John Fisher to the Medical Marijuana Study Committee for a term that will end on June 30, 2014.

On a motion made by Mr. Williams and seconded by Mr. Gorecki, it was unanimously **VOTED** to re-appoint Jerry Lerman to the Finance Committee for a three year term that will end at the close of the 2016 Annual Town Meeting.

Investigative Hearing – Nuisance/Dangerous Dog

Mr. Scavongelli said this public hearing was scheduled for the purpose of investigating complaints the Board received regarding dogs owned by Mr. Eric Lawson of 650R Bedford Road.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to open the Public Hearing, pursuant to MGL Ch. 140, sec. 157, for the purpose of investigating several complaints received by the Board of Selectmen regarding dogs owned by Mr. Eric Lawson at his address of 650R Bedford Road, with the intent of reaching disposition tonight.

In regard to how the public hearing would proceed, Mr. Scavongelli said the Board will hear testimony under oath and they will consider evidence concerning the complaints they believe will be helpful to the investigation. He said the Board will hear evidence in support of the complaints as well as evidence in opposition to the complaints. Mr. Scavongelli said after hearing all testimony and evidence, the Board of Selectmen will make a determination for any appropriate remedial action.

Mr. Scavongelli said it is important to note that the Board of Selectmen will need to understand that problematic dogs fall into two categories under the law in Massachusetts. They are: nuisance dogs and dangerous dogs. He explained that a nuisance dog is described as one who is annoying and barks. A dangerous dog however is one who is described as having a vicious disposition.

The Board heard testimony from the following complainants.

Rebecca Parker, 97 Canterbury Court – Mrs. Parker said on Sunday, April 21, 2013 while she was walking on Canterbury Court she saw a German Shepherd in the road. He came at her in an aggressive manner and bit her below her left hip, breaking the skin. Mrs. Parker said another German Shepherd came up the street but by this time she grabbed a stick before the dogs came at her. They were growling and trying to attack her again. She called the police when she got home and then went to Emerson Hospital Emergency room. Mrs. Parker said because these dogs were unknown, the hospital staff administered six painful shots that day and since had a seventh and will also require two more to complete the series.

Mrs. Parker said when she came home she was asked by the Lt. Crowe to identify the dogs. She said she was still very upset and in a lot of pain and afraid to see the dogs again. Mrs. Parker said she feels that it was the Lawson's dogs that attacked her.

In reply to Mr. Scavongelli, Mrs. Parker said she believed that these dogs were dangerous.

Mr. Scavongelli said that the report that we read seemed to have some uncertainty. Mrs. Parker said she was really upset when she went to identify the dogs.

In reply to Mr. Stevenson, Mrs. Parker said she never saw the dogs before.

David Parker, 97 Canterbury Court – Mr. Parker said he had an experience with the dogs on a Sunday morning in February 2013. The two German Shepherds were in his driveway. He was concerned about the dogs because they looked dangerous.

Mr. Williams asked if these were the same two dogs he saw when he was with Mrs. Parker when she went to identify the dogs at the Lawson's. He said he believed so.

Dr. Tiffany J. Rule, 94 Canterbury Court – Dr. Rule said on Dec. 9, 2011 two German Shepherds came in her yard where her two (2) children were playing. She said they came running in crying. One dog grabbed one of the children by the snow pants. Dr. Rule spoke about another incident in November, 2012 when she and her husband were confronted by the two German Shepherds in her driveway at about 6:00 a.m. She said one dog was particularly aggressive and was growling as it approached them. Dr. Rule said she reported this incident to the Police too.

In reply to Mr. Scavongelli, Dr. Rule said she believed that these dogs belonged to Mr. Eric Lawson and she added that she believed they are dangerous because they have now bitten someone.

Mr. Stevenson said in Dr. Rule's complaint/notes the veterinary diagnosis for these dogs is dominance – aggressive. He asked her if she would consider this behavior we have discussed with these two dogs as dominance aggressive. She said yes.

Dr. John Rule, 94 Canterbury Court – Dr. Rule recalled the incident in November, 2012 when he and his wife were confronted by the two German Shepherds in their driveway. He said until that time he had not heard about the dogs, however his wife explained that these were the dogs that came after their children about a year ago. They did not know where the dogs had come from.

In reply to Mr. Williams, Dr. John Rule said he was not aware of another pair of German Shepherds in the neighborhood.

Dog Officer, Robert Dennison - Mr. Dennison said he has been the Dog Officer for 30 years. He said he was unaware of any other German Shepherds in that neighborhood.

In reply to Mr. Stevenson, Mr. Dennison said he has received only two or three complaints regarding dogs in the past year.

Lt. Leo Crowe, Carlisle Police Dept. – Lt. Crowe said he arranged the meeting between the dog owner and Mrs. Parker for identifying the dogs. He said when Mrs. Parker saw the first dog she said it was not it because she thought it was darker. When looking at the second one, she was still not sure. He said Mrs. Parker was upset and then she said these were the dogs.

Gigi deManio, 44 Canterbury Court – Mrs. deManio said she considered the dogs dangerous. She has seen them about three times on her property walking very low to the ground. Mrs. deManio said she is concerned for the safety of her children because she feels the dogs are dangerous.

Daniel Everett, 104 Canterbury Court – Mr. Everett said one afternoon in October 2012 he went outside towards his barn and was met by two German Shepherds. He said they started to move toward him so he yelled at them and picked up a rake. Mr. Everett said they retreated out of his yard. He said he is concerned for the safety of his wife and his own dogs. He said this was dangerous behavior.

Barbara Harkins, 70 Canterbury Court – Mrs. Hawkins said she has seen these two dogs running through her yard over the last year. She said she is afraid for her own two elderly dogs. Mrs. Harkins said she has heard loud barking but was not sure it was from the Lawson home. She said these are dangerous dogs.

Anna Voyatzakis, 107 Canterbury Court – Mrs. Voyatzakis said she has not come into contact with the dogs. She heard from the Drs. Tiffany and John Rule and Nora O'Donnell who have encountered these dogs. She is worried for the safety of her own dogs.

Mr. Scavongelli asked Dr. Tiffany Rule how the neighborhood got organized to write the complaints regarding the dogs. Dr. Rule said they all acted jointly after they put the pieces together. She said when Mrs. Parker asked who owned the dogs, she told her that Mr. Dennison had informed her that they resided somewhere near the *Mosquito*. She said the O'Donnell's had also called the police regarding the dogs, however they don't live there anymore (Everett is renting their house). They did meet at Mrs. deManio's house as a neighborhood and found out that each had several encounters with these dogs.

Nora O'Donnell, 506 Brook Meadow Street, Marlborough MA- Ms. O'Donnell said on Dec. 1, 2011 when she was living at 104 Canterbury Court she had two dogs of her own. She saw two German Shepherds in her yard and she brought in her little dog. Ms. O'Donnell went out to chase the dogs away and one of them came at her. She called the police and they told her to call Bob Dennison. Ms. O'Donnell thinks they are Eric Lawson's dogs and she believes they are dangerous dogs.

Harry Crowther, 643 Bedford Road – Mr. Crowther said he walks down Canterbury Court regularly. He had not seen any German Shepherds until a month ago when one approached him. He said the dog looked and acted like he was going to attack him. Mr. Crowther said it was a very distinctive color; dark reddish black. At that point he was unaware of these incidents that had occurred. He later had a conversation with Barbara Harkins. Mr. Crowther said this was a dangerous dog.

Eric Lawson, 650R Bedford Road – Mr. Lawson is the owner of the dogs. He said he had let his dogs outside without a leash until this incident, but they were always under his supervision. Mr. Lawson said since then he never takes the dogs outside without a leash. He said there was one problem with the Dog officer, but has not heard anything since then. The dogs are always within 50 ft. of him.

Mr. Lawson said his concerns are Mrs. Parker's complaint and all of the other complaints that are coming to light right now. He said he thought Mrs. Parker's complaint was exaggerated. Mr. Lawson felt like this was a witch hunt.

In reply to Mr. Scavongelli, Mr. Lawson said he was unaware of any other German Shepherds in the area.

Mr. Lawson said his property is not fenced.

In reply to Mr. Gorecki, Mr. Lawson said he got the first dog in July 2010 and the second one in June 2011. He said he recently got rid of the second dog.

In reply to Mr. Hult, Mr. Lawson said he did not believe it was possible that his dog bit Mrs. Parker because he hasn't seen any proof or medical records.

In reply to Mr. Hult, Mr. Lawson said the second dog is the one that is no longer in Carlisle. He gave the dog to someone in New Hampshire. Mr. Lawson said he was the younger dog. This was the dog Mrs. Parker was more certain was the dog that bit her.

In reply to Mr. Stevenson, Mr. Lawson said he has lived on Bedford Road since February 2011. He previously lived on Acton Street. Mr. Lawson said the dogs have always been within his view since February 2011. There was one incident regarding Nora O'Donnell in Dec. 2011. He said the dog officer was called.

Emily McCauley 650R Bedford Rd. – Ms. McCauley said these are wonderful dogs. She said at the time of the alleged incident, the dogs were at home. Mr. Lawson let them out briefly and called them back inside.

Mr. Stevenson said the events that have been reported to us have very specific dates. Have you looked back to see you if you were home that day and were the dogs in. She said they don't keep records of their calendars.

Gail MacLeod, 239 Lowell Street – Mrs. MacLeod is Eric's mother. She said the dogs have been at her house many times, where there have been many people present and there has never been an incident with the dogs.

Mark French, 662 Bedford Road – Mr. French said he has heard testimony about barking dogs, and they are most likely his dogs. He owns five (5) dogs.

In reply to Mr. Stevenson, Mr. French said he knew Mr. Lawson and his fiancé and they always keep an eye on the dogs.

Mr. Scavongelli asked Mr. Dennison about the German Shepherds. He said given that there are not that many German Shepherds in the area, how likely is it, did he think that Eric Lawson's dog bit Mrs. Parker. Bob Dennison said he could not answer that question.

In response Mr. Scavongelli, Mr. Dennison said he did not know which dog bit Mrs. Parker.

Mr. Hult addressed Mr. Dennison. He said you went with Lt. Crowe and Mrs. Parker to Mr. Lawson's house to identify the dogs, so you had knowledge of the dogs in the area.

In reply to Mr. Stevenson, Mr. Dennison said there are 30 German Shepherds in Town and many homes have as many as two German Shepherds.

Mr. Scavongelli asked Town Clerk Charlene Hinton about the German Shepherds in Town. Charlene replied that she only knows about the dogs that are registered. She said presently there are about 50 unregistered dogs.

In reply to Mr. Stevenson, Charlene said Mr. Lawson's dogs have been registered.

In reply to Mr. Scavongelli, Dr. T. Rule said the most popular breed of dogs now is the Golden Retriever.

On a motion made by Mr. Williams and seconded Mr. Stevenson it was unanimously **VOTED** to close the Public Hearing in regards to the investigation to several complaints we have received regarding the dogs owned by Eric Lawson the evidentiary portion, with the understanding that we may ask additional questions of witnesses.

Mr. Scavongelli said the standard that the Board will follow is a preponderance of the evidence, in other words, is it more likely than not that the dogs in question are owned by Eric Lawson.

Mr. Scavongelli said the next question is, is it more likely than not that the dogs fall into a dangerous category or a nuisance category.

Mr. Williams said he believed that the dogs were owned by Mr. Eric Lawson.

Mr. Gorecki said he believed that the dogs were owned by Eric Lawson because all of the incidents began after he moved into the neighbor with the second dog.

Mr. Stevenson said he agreed.

Mr. Hult said he concurred with the other Selectmen.

Mr. Scavongelli said he is having trouble concluding that the dogs in question belong to anyone other than Eric Lawson. It is more likely than not that they belong to Eric Lawson.

In regard to the second question; is this is a dangerous dog or a nuisance dog, the Board reviewed the definition of both types of dogs.

Mr. Stevenson spoke about the timeline of incidents that had been reported. He said there were two incidents reported in December 2011 where it seems that Mr. Everett and Mrs. O'Donnell were intimidated by the dogs in some manner. In regard to the Rule family, there were two incidents; one in 2011 and 2012 when the dogs were intimidating their children. Mr. Stevenson also spoke about the incident with Gigi deManio and Mr. Downing and then Mrs. Parker's dog bite and Mr. Crowther's incident.

Mr. Scavongelli said he has not heard any evidence that Mrs. Parker was not bitten or that Dr. Rule's kids were not nipped at.

Mr. Gorecki said he agrees. This dog is not protecting itself or its off-spring. The term dangerous dog applies.

Mr. Hult said he agrees.

Mr. Stevenson said the dog is biting unprovoked.

Mr. Scavongelli said the first question was does the Board believe by a preponderance of the evidence that the dog in question was Eric Lawson's dog. The Board of Selectmen unanimously agreed it was Eric Lawson's dog.

The second question was does the Board believe by a preponderance of the evidence that this is a dangerous dog. The Board of Selectmen unanimously agreed it was a dangerous dog.

The remedy the hearing authority, the Board of Selectmen will order

Mr. Stevenson pointed out that there were two dogs, but only one dog did the biting. Attorney Harrington suggested putting the remedy in place to the dogs in Mr. Lawson's house. He said Mr. Lawson should tell us where the other dog is so that Town will impose the remedy there.

The Board reviewed and discussed the remedies presented.

Mr. Scavongelli suggested imposing a remedy where if the dog is off premises he will be on a 3ft. leash and humanly muzzled.

Mr. Gorecki said it is important that the dog be confined to the premises; or in a secure environment.

Mr. Stevenson said our goal is safety for the neighborhood.

Attorney Harrington said the Board is regulating the dog in Carlisle. He suggested applying the 6ft. fence and have the dog humanely restrained. Mr. Scavongelli suggested a reasonable muzzle.

On a motion made by Mr. Gorecki and seconded by Mr. Williams, it was unanimously **VOTED** the Board order the dog in question be humanely restrained, and for the purposes of this motion the term humanely restrained shall mean kept in a house or if outdoors in an enclosed area with a 6 foot high chain link fence or other fence of similar nature.

On a motion made by Mr. Gorecki and seconded by Mr. Williams, it was unanimously **VOTED** that the Board orders that when the dog in question is removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of three hundred (300) pounds and not exceeding three (3) feet in length.

Attorney Harrington said it was now appropriate to issue an Order.

On a motion made by Mr. Williams and seconded by Mr. Gorecki, it was unanimously **VOTED** to authorize the Chairman to sign the Order on the Boards behalf.

Cemetery Deeds

The Board of Selectmen, as Cemetery Commissioners, made the following deed transfer.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to transfer to Bobby L. and Joan L. Buchanan of Carlisle, Massachusetts the following: Deed No. 666 for Cemetery Lot D 161 Graves 1, 2, 3 and 4 in the Town of Carlisle, Green Cemetery.

Town Administrator Report

Consent Agenda

1. A request from the National Multiple Sclerosis Society requesting permission to bicycle ride through specific streets in Carlisle for their Annual Minuteman Ride on July 20th.
2. A request from the Savoyard Players to place a banner above School Street from October 19 to November 25th to advertise the performance of Mikado.
3. The Board's approval of the recommendations from the Caroline Hill Scholarship Committee. The Committee has recommended \$11,000.00 in scholarship awards.

On a motion made by Mr. Stevenson and seconded by Mr. Williams, it was unanimously **VOTED** to approve items 1 and 2 listed on the May 28, 2013 Consent Agenda as presented.

On a motion made by Mr. Williams and seconded by Mr. Stevenson, it was unanimously **VOTED** to approve and allocate the Scholarships that have been recommended to us and that are before us this evening but that we pay those scholarships proportionately from both the Caroline Hill and the Lapham Funds.

Action Items:

Mr. Goddard said the Board has previously voted on this matter, however tonight the Board is required to sign the Engagement letter with [Town Auditors] Sullivan, Rogers & Company.

The second item was the Settlement Agreement for the Elliott Conservation Restriction. Mr. Goddard said there are three originals of this document for the Board to sign for the closing on this property which will take place on Thursday, May 30th.

Liaison Reports

Mr. Gorecki reported on the Financial Management Team meeting that occurred earlier today. He said the Tax Collector Larry Barton said he sent out 53 demand letter to delinquent tax payers who have until June 11th to make a payment. The Financial Department has been working on the preparations for the Elliot closing on Thursday.

The Town Accountant reported that the Auditors will begin their preliminary work on June 10th. Mr. Gorecki also reported that the Town will be eligible for a reimbursement from FEMA due to the storm on February 8 & 9, 2013.

Mr. Stevenson said the Memorial Day service was well done. He said the Celebrations Committee is taking nominations for Carlisle's most honored citizen for this year.

Mr. Scavongelli said the objective for the Highland Building discussion at the Board's next meeting is not to be confrontational but educational.

Reorganization of the Board

Mr. Williams nominated Mr. Hult as Chairman of the Board of Selectmen for the upcoming year.

Mr. Stevenson seconded the nomination. The Board voted unanimously to support this nomination.

Mr. Stevenson nominated Mr. Gorecki as Vice-Chairman of the Board of Selectmen for the upcoming year.

Mr. Williams seconded the nomination. The Board voted unanimously to support this nomination.

Mr. Gorecki nominated Mr. Scavongelli as Clerk of the Board of Selectmen for the upcoming year.

Mr. Williams seconded the nomination. The Board voted unanimously to support this nomination.

Minutes

On a motion made by Mr. Gorecki and seconded by Mr. Williams, it was unanimously **VOTED** to approve the Minutes to the Board of Selectmen's meeting of April 29, 2013.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was **VOTED 4 yes, 1 abstaining**, to approve the Minutes to the Board of Selectmen's meeting of May 9, 2013.

On a motion made by Mr. Stevenson and seconded by Mr. Gorecki, it was **VOTED 4 yes 1 abstaining** to approve the Minutes to the Board of Selectmen's meeting of May 14, 2013 with one amendment.

The meeting adjourned at 11:00 p.m.

Respectfully submitted by Margaret Arena