

**TOWN OF ASHBURNHAM  
BOARD OF SELECTMEN MINUTES  
NOVEMBER 7, 2005  
SELECTMEN'S OFFICE, TOWN HALL**

PRESENT: Jonathan Dennehy, Chair, Mark Carlisle, Clerk and Sylvia Turcotte, Administrative Assistant. (Ron Reed and Kevin Paicos were not present.)

This meeting was aired live on local cable television Channel 8.

- I. APPROVAL OF AGENDA: Dennehy called the meeting to order at 7:00 p.m. and read the agenda. Carlisle moved to accept the agenda, Dennehy seconded and the motion was carried.

Dennehy mentioned that Kevin Paicos was in Florida for National Guard training but that he would be back on November 14th.

- II. PRESENTATIONS, REPORTS & CORRESPONDENCE

A. **Dog Hearing – Newell:**

At 7:03 p.m., Carlisle motioned to open the dog hearing and was seconded by Dennehy. Motion carried.

Dennehy asked the Town Clerk to swear in all those present who would be testifying at this dog hearing. Wes Landry swore in Maggie Bennett, Nancy Newell, and Evelyn and Joseph Von Deck.

Dennehy stated that they would hear from the Animal Control Officer for her input.

Bennett stated that she has received numerous calls on the Newell's dog running loose all the time and that it has been reported that it has chased other dogs. She added that this dog is an American bull dog and is licensed. Dennehy asked how long this has been going on and Bennett stated for the past few years but that she has sent out fines which have all been paid.

Dennehy inquired if Bennett had seen the dog out unrestrained and she stated that she had. She also added that in her opinion this dog unrestrained is a safety risk because it goes after other dogs. She stated that the Von Deck's walk their dogs in their yard and the Newell dog chases them there.

Mrs. Von Deck was asked to speak and she began by stating that the Newell dog is very friendly but that it goes after other dogs. She stated that they have two shiatsus which are small dogs. She went on to say that all they want is for the Newell dog to stay in its yard. She stated that the Newell's live right next door to them.

Mrs. Von Deck stated that the Newell dog did attack her dogs but that they were bitten but had no puncture wounds. She went on to state that Nancy Newell has done a good job of keeping her dog restrained since the Animal Control Officer and Officer Ahearn talked to her.

Mr. Von Deck added that "Tuesday", the Newell's dog is loveable as long as no other dogs are around.

Dennehy asked Nancy Newell to speak. Newell stated that she feels bad that she has to keep

Tuesday locked up. She stated that this breed has a high tolerance for pain so an electric collar or invisible fence wouldn't work. She added that right now she has a kennel which is about 10' by 10'. Dennehy stated that this wouldn't be big enough to exercise the dog. Newell added that through the years Tuesday has been attacked by other dogs, which has made her more aggressive.

Dennehy asked Newell if she would be willing to keep her dog under control as she has for the past two weeks and she responded that she could.

Carlisle stated that there has to be a plan B because this is an issue. He added that Newell should contact the people who sell invisible fences to see if they have one that would work for this type of dog and if they come with a warranty. He went on to say that it's important to not put the Von Deck's and her in jeopardy and that it's important so that we don't have to revisit this. Carlisle stated that his suggestion is to contact the invisible fence people because a back-up plan is needed.

Dennehy stated that the recommended course would be that the Newell dog shall remain on the property, unless walked on a leash. He added that the dog will be confined within the Newell's property and that Maggie Bennett will monitor and will report back.

Mrs. Von Deck stated that as long as we can maintain things the way they are, then that would be fine.

Dennehy motioned that the Newell dog shall remain within the property bounds and on a leash pursuant to the Town's leash by-law otherwise. Carlisle seconded and the motion carried.

At 7:23 p.m., Carlisle motioned to close the Newell dog hearing and Dennehy seconded. Motion carried.

#### **B. Dog Hearing – Doucette:**

At 7:24 p.m., Carlisle motioned to open the Doucette dog hearing and was seconded by Dennehy. Motion carried.

Dennehy asked the Town Clerk to swear in all the parties that would be part of this hearing. Wes Landry swore in Maggie Bennett, Lois and Roy Gilbert, Jeff Lafosse, and Wendy and Ken Gendron. It was noted that the Doucette's were not present.

Maggie Bennett began the testimony by stating that a call was made to dispatch on September 24th that a cat had been attacked by two dogs. These dogs belong to the Doucette's who reside at 10 Lake View Drive, one is a pit bull and the other is a lab mix. She stated that Wendy Gendron had followed the dogs one day and found out that they belonged to the Doucette's. Maggie stated that she approached them and called but that they wouldn't talk to her. She added that she has sent them fines but they haven't been paid.

Dennehy asked about any past history and Maggie stated that they had just moved in a few months ago.

Mr. Gilbert was asked for his testimony. He began by stating that they had 2 cats and on this particular day they let them out because it was a beautiful day and then they went out for a boat ride. While they were out one of their cats was attacked by the two dogs owned by the Doucette's and it was witnessed by Jeff Lafosse who was kayaking at the time on the lake. Gilbert stated that when he went to tend to the cat, she couldn't move and he could hardly

recognize her. He stated that he called 911 but no one came. He went on to say that they took the cat to Acton, around 7:00 p.m. but the cat died on the way and they never really found out the extent of her injuries.

Mrs. Gilbert added that they had this cat for seven and a half years and that it didn't look like their cat at all when they found her. She went on to say that when they called 911 the dispatcher said that they paged Maggie Bennett, but that she didn't come and at that point the dispatcher didn't know what else to do.

Carlisle asked where the Doucette's home was in relation to the Gilbert's and Mr. Gilbert stated that it was the next street over. Carlisle inquired about whether there was a vet bill and Gilbert stated that the bill was for \$92.00.

Jeff Lafosse was then asked to testify and stated that he saw the dogs and the cat's head in the rocks at the edge of the lake. He said that he tried to get the cat out but that she was too aggressive at that point. He added that he had seen the dogs loose in the neighbor's yard about three days before.

Carlisle inquired if this was the first experience with these dogs and Gilbert stated that they saw them on the Labor Day weekend for the first time.

Wendy Gendron then stated that October 2nd was the next time the dogs were seen and she followed them home and spoke with Mrs. Doucette, asking if the dogs were licensed. Doucette stated that they were licensed. Wendy added that she also called Maggie and dispatch on this occasion and that she was very upset that the dispatcher had no idea what to do.

Dennehy stated that this needs to be discussed with the police department and was a work in progress.

Dennehy inquired when the last time was that they saw the dogs loose and Wendy responded on October 2nd. Dennehy added that if the Doucette's came to the hearing they could have refuted these allegations but they didn't. Carlisle stated that we never received the return receipt from the certified letter sent to them.

Carlisle motioned to proceed as follows: 1) order restitution for the vet bill of \$92.00; 2) summons to appear in Winchendon Court; 3) dogs must be licensed; 4) fines must be paid; and 5) dogs must be restrained at all times. Dennehy seconded and the motion carried.

At 7:44 p.m., Carlisle motioned to close the Doucette dog hearing and was seconded by Dennehy. Motion carried.

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- C. FY06 Cold Relief Information from Department of Housing and Community Development's Community Services Unit:** Dennehy stated that this flyer included information on fuel assistance and weatherization assistance programs. He added that brochures are available and there is a heat line toll free number to call, 1-800-632-8175.
- D. Town Administrator's Update:** A copy of the update is attached to these minutes.

Dennehy went over the update from Kevin Paicos. He stated that a bid opening will be held on Wednesday November 9th, for the General Contractor for the Public Safety Building and that the

Public Safety Building Committee would be meeting on November 10th to award the bid.

Dennehy stated that the tax classification hearing will be held at the next Board of Selectmen's meeting on November 21st.

### III. OLD BUSINESS

No old business.

### IV. NEW BUSINESS

- A. Discussion on status of Factory Pond Dam:** Dennehy stated that he asked for this discussion to try and alleviate any resident concerns. Also present for this discussion was Jim Zarozinski, Highway Supt., Paul Zbikowski, Fire Chief and Leo Collette of the Water Sewer Commissioners.

Dennehy stated that there is a weakness in the dam. Leo Collette gave some background on the status of this dam. He said that Jim Zarozinski noticed there was a sink hole on May 30th and the DEM was notified. DEM classified the dam as unsafe but not an emergency. He added that another large sink hole was found after that and now the dam is classified as unsafe and an emergency, high hazard but with no loss of life if it fails.

Collette said that the state did an overhaul in 1952 of this dam. He went on to say that the owner, Paul Vanasse lives in Holderness, New Hampshire but has not been in contact with anyone. He stated that the dam was bought to use as a power generator and the owner has abandoned it. Dennehy stated that the owner hasn't paid taxes to the Town and has been delinquent for some time.

Leo added that the state will pick up the \$20k cost to Tighe & Bond for the preliminary study and once Tighe & Bond has the go ahead, a meeting would be held with everyone to discuss the next step.

Carlisle inquired as to how big the sink hole is and Leo stated that it was 4-5" in diameter and down about 6 or 7 feet. He added that the stream runs underground and it is seepage right now. Collette went on to say that Jim Zarozinski has sandbagged the area right now. He added that it may take a few years to collapse, but that it would eventually. He stated that he recommends that they have Tighe & Bond do a detailed study and then meet with all the parties.

Dennehy stated that his recommendation would be to get DEM to have Tighe & Bond do a detailed study to be sure that we're on the right track to get this resolved. Dennehy inquired if the state would take responsibility for the cost to have this done and Leo stated that it would cost approximately \$300k and the state wouldn't pay.

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Dennehy asked if we should entertain the notion to file a lawsuit against the owner and Collette stated that it should be done.

Dennehy took a moment to state that credit should be given to both Chief Zbikowski and Jim Zarozinski of the Highway Department for all that they have done and continue to do at the dam site.

Chief Zbikowski stated that the dam may erode but it wouldn't be catastrophic in nature. He stated that they have monitored the dam every day, by the hour during heavy rains. He added that they will continue to monitor in this way but that there is no imminent danger to persons living there. Carlisle inquired as to how much the dam had degraded and he was told that it was checked frequently and the sandbags placed there by the highway department were checked as well.

Dennehy thanked Leo Collette, Paul Zbikowski and Jim Zarozinski for coming to the meeting to help the Board to understand what's going on and what they would need to do. He stated that they would get Tighe & Bond to do the study thru DEM and that something would need to be done to ensure the Town's infrastructure is safe. He added that once the study is done, he is hopeful they will find a way to resolve this without cost to the Town.

Leo Collette stated that he wanted to give the Board an update on the Watatic Lake Dam as well. He stated that in 1997 an inspection was done by DEM for \$28k which was funded by a Town Meeting vote. At that time it was determined that it would cost about \$250k to repair the dam. He added that the dam is owned by the Town.

Collette stated that there is a real possibility for an overflow and the deficiencies need to be repaired. He added that now the cost would be closer to \$500k to repair. Dennehy stated that they would ask Eric Smith the Town Planner to help find grants to get this done.

Collette did add that this is not a threat to life, but it does need to be put in the capital plan. Carlisle inquired as to how many dams were in the Town and Collette stated that it was close to a dozen.

Dennehy stated that they would add this to Kevin Paicos' list of things to do and that Eric Smith would look into state and federal monies. Dennehy thanked Leo for all he's done and for his recommendations.

## V. APPROVAL OF MINUTES

### A. **October 17, 2005 – Regular Meeting**

Carlisle motioned to approve the minutes of October 17, 2005 and was seconded by Dennehy. Motion carried.

## VI. OTHER MATTERS

Dennehy announced that the Veterans Day ceremonies would be held in front of Town Hall on Friday, November 11th at 11:00 a.m. with a light lunch and fellowship to follow at the American Legion Hall on Williams Road.

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Dennehy also announced that the Town Hall would be closing at 1:00 p.m. on Thursday, November 10th and would be closed all day on Friday, November 11th in observance of Veterans Day.

Lincoln Stiles stated that he was once again looking for the Boards approval to have a Santa Parade on December 3rd which would go down Main Street and which would include the scouts and the Oakmont band.

He also added that if the weather permits, Santa would be outside in front of Town Hall for picture taking but if the weather is bad, they are asking to use the upstairs meeting room inside Town Hall to hold this event. In addition the Student Council is looking for approval to have a Remembrance Tree, a Celebration of Life in front of Town Hall.

Stiles stated that in conjunction with the parade he wanted to update the flag holders for seasonal flags as well.

Dennehy motioned to accept and approve the Santa coming to town parade on December 3rd at 10:00 a.m. and the Celebration of Life Remembrance Tree ceremony at 9:30 a.m. Carlisle seconded and the motion carried.

VII. EXECUTIVE SESSION  
Not needed.

VIII. ADJOURNMENT

At 8:35 p.m., Carlisle motioned to adjourn the meeting and was seconded by Dennehy. Motion carried.

Respectfully submitted,

Sylvia Turcotte  
Administrative Assistant