

Present: J.B. Riggs Parker, Warren Doty, Frank Fenner, Tim Carroll, Brian Cioffi, Dan Greenbaum, Seth Karlinsky, Matthew Mayhew, Jim & Diane Morgan, Chris Murphy.

Mr. Parker called the meeting to order at 7:30 p.m. in the Selectmen's Meeting Room.

Dog Hearing

Mr. Parker read a report filed by Linda Zelter which detailed the attack of her Yorkshire Terrier, Chipper, on October 9 by Jim Morgan's Wirehaired Pointing Griffon, Maisey. Ms. Zelter was walking along Prospect Hill with her two Yorkshire Terriers that were leashed when Maisey ran down a driveway unrestrained and proceeded to viciously attack her dog Chipper without hesitation. Eddie Ben David, who is employed by Mr. Morgan, assisted Ms. Zelter with the injured dog and accompanied her to the veterinarian's office. Chipper had to be euthanized due to his injuries and Ms. Zelter went to the hospital to be treated for dog bites to her hands. In her report Ms. Zelter said that Mr. Morgan came to hospital to see her and apologize and she accepted his apology.

Mr. Parker read the incident report written by Dog Officer, Chris Murphy, which described the attack sighting that Chipper was leashed, Maisey was not; both dogs are licensed in the Town of Chilmark and included a report from the veterinarian that treated Chipper, Doctor Bridget Dunnigan. Mr. Murphy expressed in his report that Mr. Morgan had offered to pay Ms. Zelter's veterinarian bill, hospital bill and any cost associated with replacing the Zelter's dog. Mr. Murphy indicated that there was no history of problems involving Maisey. Because of the viciousness of the attack, which resulted in injuries requiring the dog to be euthanized, Mr. Murphy recommended to the Selectmen that under Chapter 140 Section 157 Maisey be euthanized and in accordance with Chapter 140 Section 155 order Mr. Morgan to pay Ms. Zelter's veterinarian bill. Mr. Murphy explained that the decision ultimately lies with the Selectmen, but that they could also choose to ban Maisey from Chilmark, confine her to the Morgan's property, or require her to wear a muzzle.

Mr. Parker read a letter from Mr. Morgan detailing arrangements the family made to send Maisey to Jeanine Lazarus, a Principal Dog Trainer for the Monks of New Skete, for two weeks of rigorous training using a remote shock collar. On November 19 Maisey would return with Ms. Lazarus for a training clinic on-island as well as training with the Morgan family on how to use the shock collar. Mr. Morgan also indicated that whenever Maisey was not on his property she would remain in his truck or properly restrained. Mr. Parker also read the complete itinerary for Maisey's training with Ms. Lazarus. Mr. Morgan's letter expressed that there had been no history in seven years of his dog being aggressive towards humans, other dogs or animals.

Mr. Parker read letters submitted by Maisey's groomer, Ellen Blodgett, and Kim Sear, a dog sitter who had boarded Maisey with other dogs and both affirmed that Maisey was a gentle dog that never displayed aggression towards other animals in their presence. A third letter was read from Rebecca Miller, the Morgan's neighbor and owner of North Tabor Farm, saying that Maisey was a frequent playmate of her dog and a regular visitor to her farm that has free range animals that Maisey has never harmed.

Mr. Parker stated that the Selectmen had confirmed the credentials of Jeanine Lazarus and the Monks of New Skeet and that he had two dogs trained there. Mr. Parker said there were no guarantees with the training and that one of his dogs trained by the Monks of New Skeet had to eventually be euthanized. Mr. Parker opened the hearing to public comment. Mr. Morgan personally apologized to

the Town and the Zeltzer's. Mr. Morgan said that he was responsible as the dog's owner and acknowledged that the incident could have been avoided if he had the dog properly restrained. Mr. Morgan said that Maisey is a hunting dog and perhaps caught a scent from Chipper that set her off, but he believes she can be rehabilitated and deserves a chance. Diane Morgan reiterated her husband's comments, saying that Maisey deserved the chance to be trained and then her family would take the recommendation from Ms. Lazarus as to whether she was reformed by the training. With no further comments, Mr. Parker closed the public hearing. Mr. Parker thanked the Morgan's for taking the steps necessary to rectify the situation and for taking responsibility as the dog's owners.

Mr. Doty spoke of the difficult task the Selectmen have when dealing with a dog hearing of this nature because past hearings have dealt with less serious incidents, such as complaints from excessive barking or dogs that frequently get loose. Mr. Doty said the Zeltzer's lost a dog they had no right to lose because their dog was restrained and attacked and killed by a dog that was unrestrained and without its owner present to control it. Mr. Fenner explained that he can see both sides as a dog owner but also as a farmer who has lost sheep and chickens to dog attacks and stated that it was commendable that the Morgan's were taking responsibility for the actions of the dog.

Mr. Doty moved and Mr. Fenner seconded that Maisey would not be euthanized based on the following conditions: Mr. Morgan is to pay the Zeltzer's veterinarian bill immediately; Mr. Morgan compensate/make whole the Zeltzer's as they wish; Maisey is to complete training with Jeanine Lazarus from the Monks of New Skete and extend the training as Ms. Lazarus deems necessary; Maisey will be restrained and under the control by a member of the Morgan family at all times. SO VOTED: Three Ayes.

Mr. Parker stated there would be no more additional chances for Maisey.

Menemsha Comfort Station Report

Seth Karlinsky reported on the maintenance of the Menemsha Comfort Station over the 2009 summer season. Mr. Karlinsky stated that issues this past season included garbage being piled up next to the trash barrels in Menemsha at sunset and household garbage being left outside of the gate at the Chilmark transfer station. Mr. Karlinsky was able to identify one individual who dumped household trash repeatedly in front of the transfer station and the Selectmen agreed to write a letter to the violator. Mr. Karlinsky said that new trash barrels would be purchased for next year that do not corrode or rust. The Selectmen discussed and agreed to put signs on the new trash barrels that say "Do the Right Thing – Keep Menemsha Clean" and in small print "No Household Trash".

Another issue this season was the excessive amount of wastewater use at the Comfort Station, which resulted in a notice from the Board of Health. Mr. Karlinsky attempted to limit the wastewater use by turning off the hot water on the sinks. Mr. Doty asked if the excessive water use was from showers or the toilets. Mr. Karlinsky said the showers are programmed to run for ten minutes if \$0.50 is deposited and people do not shut them off if they exit the shower prior to the ten minutes time limit. Mr. Karlinsky suggested low flow shower heads be installed in addition to waterless urinals. The Selectmen agreed they would support low flow shower heads and waterless urinals because Menemsha does not have the capacity to handle all the wastewater from the Comfort Station and a solution needs to be determined. Funding for the waterless urinals and low flow shower heads will be on the warrant for the Annual Town Meeting. The Selectmen agreed that in early November the water would be drained and shut off at the Comfort Station and the garbage cans will be removed on November 15.

Town Center Path Enhancement Plan

Prior to the Selectmen's meeting, Dan Greenbaum met with Mr. Doty and Mr. Carroll to offer consultation on how to establish pedestrian walking in the Town center in order to make the Town more safely accessible by foot. Mr. Greenbaum submitted a proposed walking trail plan to the Selectmen which identified the main routes people travel through the Town center as the Chilmark Store, Post Office, Library, Community Center and Martha's Vineyard Savings Bank. Mr. Greenbaum advised that the crosswalk at the Community Center needs to be relocated so that it is adjacent to the bank entrance. Mr. Greenbaum also suggested delineating a path from the Community Center to the Library and creating a three foot opening in the fence that now divides the Library parking lot from the Center. Due to the steep incline that separates the natural path from the Library to the Post Office, Mr. Greenbaum recommended grading the soil down or putting in steps. Lastly, Mr. Greenbaum proposed that a path be created from the southeast corner of the Post Office parking lot to the road and have a diagonal crosswalk leading to the Chilmark Store.

Mr. Parker felt there was an imminent need for a walking path to be established from Town Hall to Post Office and Mr. Doty agreed but identified this as good initial plan for the Town center. Additional access points to and from the Town Hall would require the cooperation of private property owners, which the Selectmen will contact. Mr. Carroll, Mr. Doty, Mr. Greenbaum and Rodney Bunker will begin exploring the proposed basic improvements outlined above. The Selectmen thanked Mr. Greenbaum for his proposal.

Special State Primary

Mr. Doty moved and Mr. Fenner seconded to hold primary elections to elect a Senator to represent Massachusetts in Congress on Tuesday, December 8, 2009. SO VOTED: Three Ayes.

Special State Election

Mr. Doty moved and Mr. Fenner seconded to hold a special state election to elect a Senator to represent Massachusetts in Congress on Tuesday, January 19, 2010. SO VOTED: Three Ayes.

Shellfish Advisory Committee

On behalf of the Shellfish Advisory Committee, Mr. Doty recommended the Selectmen appoint Matthew Mayhew to the Shellfish Advisory Committee. Mr. Parker told Mr. Mayhew that the Selectmen appreciate his interest and look forward to his service on the committee.

Mr. Doty moved and Mr. Fenner seconded to appoint Matthew Mayhew to the Shellfish Advisory Committee. SO VOTED: Three Ayes.

Mr. Doty said that Mr. Mayhew is an active striped bass fisherman and shell fishermen in the community and he looks forward to having his perspective on the committee.

At the recommendation of the Shellfish Propagation Agent, Mr. Doty stated that the Shellfish Advisory Committee would like to open the commercial scallop season on Monday, November 2, 2009 with a limit of two bushels a day and open all areas to dredging. Mr. Doty moved and Mr. Fenner seconded to open the commercial scallop season on Monday, November 2, 2009 with a limit of two bushels a day and open all areas to dredging. SO VOTED: Three Ayes.

Mr. Doty said that the Shellfish Advisory Committee may have future recommendations into the scallop season because there is a plentiful amount of scallop seed at the moment. Mr. Doty also reported that there is an extensive crop of eel grass in the pond currently, which indicates very high water quality which could be why the seedling is strong.

All-Island School Committee Negotiations Sub Committee

Mr. Fenner moved and Mr. Doty seconded to designate Finance Committee member, Richard Williams, to the All-Island School Committee Negotiations Sub Committee. SO VOTED: Three Ayes.

Letter of Support to Congressman Delahunt

Mr. Fenner moved and Mr. Doty seconded to write a letter of support from the Selectmen to Congressman Delahunt supporting a bill that would improve the Menemsha harbor boundaries in order to increase the size of the slips. SO VOTED: Three Ayes.

Transfer of Town Banking

The Town's primary bank is being changed from Sovereign Bank to Martha's Vineyard Savings Bank and Mr. Parker signed a form from the State which authorized Treasurer, Melanie Becker, to authorize all the State direct deposits with the new bank. Mr. Fenner moved and Mr. Doty seconded to authorize Ms. Becker to make direct deposits with the State using the Martha's Vineyard Savings Bank. SO VOTED: Three Ayes.

Personnel Policy for Influenza Pandemic Plan for Staff

The Personnel Board recommended to the Selectmen to endorse measures designed to mitigate the potential effects of a pandemic flu on Chilmark employees, while maintaining the maximum level and quality of service to the Town. The recommendation is for employees to not come to work if they are experiencing a fever accompanied by a sore throat and cough. The Personnel Board also emphasized that employees shall not be penalized for taking reasonable measures to protect their health and their family's health during the 2009 H1N1 Influenza pandemic. The Personnel Board also suggested a policy to allow employees who have not accrued sick days to be advanced sick days if needed. Mr. Doty said the Personnel Board's recommendation is an effective way to not spread the flu. Mr. Fenner asked if this policy should this be extended for other illness as authorized by the Personnel Board. The policy also protects employees with high risk medical conditions to have revised work schedules to eliminate exposure if there is an outbreak in the community or town hall, at Mr. Carroll's discretion. Mr. Doty moved and Mr. Fenner seconded to adopt the Personnel Board's recommendation for employee absences during the 2009 H1N1 Influenza pandemic. SO VOTED: Three Ayes.

Kohlberg Conservation Restriction

The Selectmen were presented with a Memorandum of Understanding to be signed in order to create a Conservation Restriction (CR), pursuant to M.G.L., Chapter 184, Section 32, for Pamela Kohlberg, Trustee of Chilmark Real Property Trust Assessors Map 24 Lot 193 and Assessors Map 24 Lot 192. The Conservation Commission had voted that the CR is in the public interest because it will maintain in a primarily undeveloped and protected condition as an open landscape, contribute to the protection of Chilmark Great pond, add to the town's open space and facilitate ongoing ecological research and education. The Board of Assessors supports the CR as preservation of open space and determined that placing a CR on 4.70 would reduce the property value by approximately \$1,480,800.

It is the established policy of the Town of Chilmark to not grant a CR without the Town having the right of enforcement. However, the Kohlberg's lawyer thought it was necessary to include a Memorandum of Understanding with the CR naming Sheriffs Meadow Foundation as the grantee of the CR. Mr. Parker said that the public would not benefit from the loss in taxes resulting from the CR on the property and that the Memorandum of Understanding is superfluous. Mr. Fenner and Mr. Doty said there was no benefit to the public other than controlling future density on a five acre lot next to Chilmark Great Pond. Mr. Doty moved and Mr. Fenner seconded to approve and sign the Memorandum of Understanding, and to approve to establish a Conservation Restriction (CR), pursuant to M.G.L., Chapter 184, Section 32, for Pamela Kohlberg, Trustee of Chilmark Real Property Trust Assessors Map 24 Lot 193 and Assessors Map 24 Lot 192. SO VOTED: Three Ayes.

Extension of FY09 Employee Vacation Hours

Mr. Fenner moved and Mr. Doty seconded to extend remaining employee vacation hours from FY09 to December 31, 2009. SO VOTED: Three Ayes.

Telephone Contracts

Mr. Carroll recommended the Selectmen approve renewing the Town Hall telephone contract with Verizon at \$12.75 a month for five years. Mr. Doty moved and Mr. Fenner seconded to approve the telephone contract with Verizon for five years. SO VOTED: Three Ayes.

Mr. Carroll said that he is working on changing the Town's policy for employee cell phones to have employees personally purchase phones when needed for Town business and pay for their monthly bills and the Town will reimburse the employee \$40.00 a month.

Fuel Oil Bid

Russell Smith, Dukes County Manager, asked the Town of Chilmark to participate in the bid accepted by the County of Dukes County Commissioners to supply #2 heating fuel to the Islands municipal and public buildings. The bid was awarded to R.M. Packer Co and the cost of the fuel delivered to Town would be \$0.68 per gallon above the Boston Rack price as quoted by OPIS and will be adjusted weekly. The fuel would be supplied to the Town Hall, Police Station, Library, School, Fire Station and the Community Center. The term of the contract is until the end of the fiscal year, June 30, 2010. Mr. Fenner moved and Mr. Doty seconded to authorize the Executive Secretary to research the Boston Rack price in order to determine that it is less than the market cost of fuel. SO VOTED: Three Ayes.

Engley Conservation Restriction

Mr. Doty moved and Mr. Fenner seconded to sign the Engley Conservation Restriction to purchase Nab's Corner for development of resident homesite lots. SO VOTED: Three Ayes.

Mr. Doty moved and Mr. Fenner seconded a motion to proceed into Executive Session to discuss real estate acquisition and litigation and not return to regular session. SO VOTED: Three Ayes.

Meeting adjourned.

Approved November 3, 2009.