



**Board of Selectmen  
Minutes  
Tuesday, May 3, 2011, 7:00pm  
Town Hall Meeting Room**

The meeting was called to order at 7:00PM by Chair, Marie Sobalvarro in the Town Hall Meeting Room. Selectmen Marie Sobalvarro, Peter Warren, Ron Ricci, Bill Johnson and Tim Clark were all in attendance as well as the Town Administrator Tim Bragan and Executive Assistant Julie Doucet.

**TOWN ADMINISTRATOR REPORT**

Tim Bragan reported the advertisement for the Council on Aging Director has been submitted with a deadline for resumes by May 27<sup>th</sup>. The COA board is working on the revised job description for presentation to the Personnel Board.

Bragan asked the board members to provide agenda items for the Strategic Planning Session by Monday, May 9<sup>th</sup>. Marie Sobalvarro asked if they should include goals as well and Bragan said yes.

Sobalvarro asked the board members to provide feedback to Executive Assistant Julie Doucet on the annual appointment lists distributed earlier today.

**ENTERTAINMENT LICENSE - APPLE BLOSSOM FESTIVAL**

On a Clark/Warren motion, the board voted unanimously to approve the Entertainment License for May 7<sup>th</sup>. Marie Sobalvarro asked to have them provide a point of contact to the police department.

**AFFORDABLE HOUSING PLAN**

On a Clark/Warren motion, the board voted unanimously to endorse the revised Affordable Housing Plan. Tim Clark asked for clarification on page 16.

**MACLEAN DOG HEARING**

Marie Sobalvarro opened the hearing at 7:10pm. She asked the Dog Officer Paul Willard to come forward as he is the person who filed the formal complaint. Willard along with Assistant Dog Officer Ann Bamford came forward. Willard explained the reason for the hearing is due to repeated violations of the restraining order placed on black Labrador Acer and yellow Labrador Keith. He reported on the following dates and locations the dogs were lose and killed livestock.

1. November 13, 2009 on Pinnacle Road
2. November 12, 2010 on Old Littleton Road
3. March 25, 2011 on Murray Lane
4. April 20, 2011 on Slough Road.

Willard said he issued a restraining order in November of 2009 and another one in March of 2011. On the March 2011 letter he noted “if any further incidents involving livestock this will result in a request to the Board of Selectmen to banish the dogs.” The most recent incident occurred on April 20, 2011 at 23 Slough Road. At this time, Sobalvarro opened the Selectmen question period of the hearing.

### **Selectmen questions/comments**

Peter Warren wondered since this has been ongoing since 2009 why he is just coming forward now. Willard said he was hopeful the situation would improve. Warren was amazed at the locations where the dogs traveled. Ann Bamford said they have traveled to her home on Murray Lane in the dead of winter. She commented “They have no bounds”.

Ron Ricci asked if it was correct the dogs have not been licensed and is it possible their vaccinations have expired. Willard did not comment on this. Executive Assistant Julie Doucet confirmed the Town Clerk records show the doges are currently unregistered.

Tim Clark asked why some information states three dogs and some two. Willard said the police reports are a bit confusing but the dogs in question are Keith and Acer. He confirmed the dogs are not vicious but they just show up and hang out all over town unattended. Clark remembers in previous dog hearings certain efforts were suggested to owners on how they should restrain dogs. Willard agreed there are a number of ways to restrain dogs such as kennels or fencing but it is essential the owners take on this responsibility. Willard confirmed in the past the Selectmen have made requirements for fencing. He said they have not seen any electronic collars on the dogs. Bamford said normally there are no collars at all which means no identification either. Clark asked if any incidents have involved people. Willard said no. He said so far it has been chickens and pheasants. Marie Sobalvarro noted this hearing is to focus on the continued non-compliance of restraining orders.

Bill Johnson said if we are focusing on non-compliance has there been any personal interaction with dog owners, have the owners promised to do anything specific in response to the problem. Bamford said the owners have never offered any specific solution they just state they will try harder to keep them at home. Willard said he has never made suggestions to the owners he has always left it up to them. Johnson assumes there has been no proactive plan offered by owners. Willard said no. Sobalvarro opened the hearing to the complainants.

### **Public comment**

Bill Parkinson, 211 Old Littleton Road, said he has kept pheasants on his property for quite awhile and it was just a year ago when the MacLean dogs came on his property and killed two pheasants. He had never experienced anything like this before and could hear the dogs barking in his yard when the incident occurred. He phoned the Dog Officer and the owners. He said the owner came over immediately and took the dogs home. He did send a bill to the owner for his loss and was paid. He just recently went out to his pen and found a pair pheasants dead. He said he was unaware the dogs were in his yard. He contacted the Dog Officer and said it is likely the MacLean dogs. He believes this

because his neighbor called asking if any pheasants were missing. Apparently, his neighbor said a gentleman was traveling up and down Littleton Road looking for his dogs.

Jim Elkind, 23 Slough Road, said the dogs had to break in through a locked door to get to his chickens in April. He found a black Labrador retriever in his chicken coop. He is very concerned with the good weather coming the chickens will be free range and easily accessible. He feels the dogs will return if not restrained. He said they have placed two phone calls to the MacLean's and sent one letter with no response.

Ann Bamford cautioned if we do not act firmly there will be someone who will take the problem into their own hands and kill the animals.

**Owner testimony - Vijaya MacLean, 36 Littleton Road**

Vijaya MacLean said her husband could not attend this evening. She expressed her sympathy regarding the killing of the chickens and pheasants. She acknowledged this was a senseless way to loss a pet. She claims her dogs are well behaved and have not been raised as hunters. She is unaware of two incidents mentioned tonight and is unsure her dogs were involved. She said they have begun to take some precautions.

The examples she gave were:

- Not allowing the dogs to run with her husband while he rides his bike
- Not allowing them in the yard unattended together, as they seem to not roam when out individually.
- Underground electronic fence which she indicated is broken easily and difficult to repair in the winter
- Installed tighter metal cable drop lines for each dog with one dog harnessed
- Dogs are kept primarily inside the home or in the garage

She explained they have a very busy household with four children and sometimes the dogs escape without them realizing. She said they took the restraining order seriously and feel badly for the livestock loss. She indicated it is not practical for their yard to be fenced in. She said her husband takes care of the rabies and licensing. She assumes all the dogs are up to date especially considering Acer has puppies. She apologized to James Elkin for not getting back to him but is not convinced her dogs killed his chickens. MacLean was adamant they do not want this to happen again and they always look for their dogs as soon as they realize they are missing. She assured everyone they will try and be as responsible as they can but are not perfect and can not guarantee the dogs will not get lose again. They are family pets.

### **Selectmen questions/comments continued**

Peter Warren asked how long they had the electric fence. MacLean said they have always had it. He also asked how the metal cable lines were set up. She said they are on a tree branch with each dog on a separate line.

Bill Johnson asked if they had considered an enclosure if a fence is not practical. MacLean said they were hopeful the harness and not allowing the dogs to be outside at the same time would help the situation.

Tim Clark asked where the drop lines are located. MacLean said they are located on either sides of the driveway. Clark asked Willard if the dogs had collars when they found them. He answered sometimes with collars and sometimes without. Ann Bamford said she has never seen electronic collars on the dogs but has seen one dog with a harness.

Marie Sobalvarro said based on the testimony and the five occurrences is the board open to the recommendation of banishment from the Dog Officer. Sobalvarro asked Willard for clarity on when the dogs attacked Mr. Parkinson's pheasants for the second time. He said it was likely the same afternoon as the Elkind's chickens were killed. Sobalvarro asked Willard to describe banishment. He explained this would require the dogs be licensed in another community to prove they have been relocated. Ann Bamford said in the past there have been two incidents when dogs have been killed for eating livestock but now people do not typically tend to take matters into their own hands. Willard feels banishment is the only failsafe way to make certain no other incidents occur or an irate farmer does not kill one of the dogs to defend his livestock. Bamford said when there is a killing it is a very devastating site to see. Sobalvarro provided a letter and pictures submitted by Sean Bilodeau of Murray Lane from the attack on his chickens. Willard stated once the dogs develop a taste for the chickens/pheasants it becomes more difficult to restrain them. He reminded everyone that any method of restraint relies heavily on the human factor.

Ron Ricci asked Willard if there is a reasonable way to restrain the dogs. Willard said a properly constructed kennel would be the best option. He noted dogs can run through electric fences if they want too. Warren wondered if the BOS could require the owners to construct a kennel and if the dogs escaped again and killed they must be banished. Tim Clark referred to a past dog hearing stating a decision with conditions was rendered. Ricci said it is necessary to protect all parties involved. Willard believes short of banishing the dogs a properly constructed and maintained kennel could work. Willard is reluctant to start a whole new series of chances with the owners. The board members were in agreement no more chances should be given if dogs escape again and the owners must prove they can take care of their dogs properly. Marie Sobalvarro suggested they close the hearing and if a decision can not be made tonight they will do so at the meeting on May 17<sup>th</sup>.

On a Clark/Warren motion, the board voted unanimously to close the public hearing.

### **Selectmen deliberation**

Marie Sobalvarro began the discussion by asking if the board members believe banishment is the correct remedy as recommended by the Dog Officer. Sobalvarro believes the main issue is a pattern of non-compliance of the restraining orders. Peter Warren would like to give a chance to the owners to rectify the situation with chain link fencing or a kennel. He said if the dogs were to escape again and kill it will be obvious they are not being taken care of properly. Ron Ricci was agreeable but does not think we should wait until they kill again. He suggests placing the responsibility back on the dog owners by letting them figure out how to make this right. Bill Johnson does not think it is a dog problem it is an owner problem. He said there is little evidence that another chance will work and he feels the only way to remedy the situation is to require construction of a kennel. He stated this will be a significant investment and will provide a chance for the owners to demonstrate to rest of town their commitment to restraining their dogs. Tim Clark is really not in favor of a kennel but agrees an enclosure must be constructed that is attached to the house and can provide enough space for the family to exercise and play with their dog. He feels it is important for the dog to be active. He said until a formal decision is made a zero tolerance policy for escaping should be in place. Sobalvarro said because we are running short on time can we have a motion to postpone decision to our next meeting.

On a Johnson/Warren, motion the board voted unanimously to temporarily the dogs to remain in Harvard with an enclosure that must be allowed off the property unless they are on a leash. Any violation of the current restraint orders will result in immediate banishment with no recourse. Tim Clark will draft a decision including the motion to be voted on at the May 17<sup>th</sup> meeting.

On Johnson/Warren motion, the board voted unanimously if off leash between now and final determination dogs will be banished.

### **LONG-BOARDING EVENT**

Don and Michelle Girard were in attendance to answer questions regarding the event. Mike Girard, their son, who is the organizer of the event is studying abroad and was unable to attend the meeting. They explained Mike's immediate wish to secure the date of Sunday, August 7<sup>th</sup>. They said he may also be interested in obtaining an Entertainment License and permission to use the town common. Marie Sobalvarro said an Entertainment License would need to be granted by the Board of Selectmen and approval for use of the common would go through the Park and Recreation Commission. On a Ricci/Warren motion, the board voted unanimously to approve the long-boarding event on Sunday, August 7th as requested.

### **FIRE CHIEF INTERVIEWS**

Town Administrator Tim Bragan referred to the process approved by the Board of Selectmen on March 15<sup>th</sup> which included four distinct phases.

1. Review of initial applicant resumes by the BOS Fire liaison, Town Administrator, Interim Fire Chief, Firefighters Bill Barton and Charles Nizgus to select 5 to 7 applicants for the next step.

2. Review of candidates by Interim Fire Chief, Sterling Fire Chief David Hurlburt Jr., Westford Fire Chief Richard Rochon and Police Chief Ed Denmark with recommendation of final three to BOS.
3. Meet with Fire Department on Monday, May 2<sup>nd</sup>
4. Interview by BOS Tuesday, May 3<sup>rd</sup>.

Bragan reported 23 applications were received with 5 applicants chosen. The Chiefs conducted their interviews and recommended the top three. Bragan said no decisions will be made tonight as we are still awaiting background checks as well as the Fire Department recommendations. The board agreed to hold a meeting on Thursday, May 12<sup>th</sup> at 9:30am to finalize their decision. Each candidate provided a brief description and were asked a series of questions by the BOS.

First candidate: Joseph LeBlanc of Lunenburg

Mr. LeBlanc is a Deputy Fire Chief for the Devens Fire Department. He has been employed with the Devens Fire Department since 1990 and in fire service since the 1980's. He is certified in Chief Fire Officer, National d& State 3 &4 and certified Fire Officer, National and State 1 & 2. He is also a certified EMT.

Second candidate: Stephen Slarsky of Ayer

Mr. Slarsky has been a resident of Ayer for fifty seven years. He began his fire service career at eighteen years old. He became a Lieutenant for the Ayer Fire Department in 1980 and a Captain in 1998. He has been interested in the leadership roles.

Third candidate: Richard Sicard of Ashburnham

Mr. Sicard has been involved in fire service for twenty two years. He is currently a Captain with the Ashburnham Fire Department. He is also a self-employed carpenter with management experience. Sicard serves as President of the Ashburnham Firefighters Association and is very active in community. He feels community awareness and involvement is an integral part of fire service.

**VICKSBURG SQUARE UPDATE**

Ron Ricci said Trinity Financial President James Keefe realized at a recent JBOS meeting holding a Super Town Meeting in June would not be a good idea. They will plan for the fall. Ricci said Keefe along with Abby Goldenfarb and Dan Drazen presented the high points for the vision session to be held on Saturday, May 7<sup>th</sup>. Tim Clark asked if any material would be available in advance. He suggested an announcement be placed on the town website. Bill Johnson asked about their "PR" plans. Ricci said a sandwich board will be placed on the town common. Peter Warren said an advertisement ran in the Harvard Hillside. He said there will likely be another vision session in thirty days and he views this meeting as an introduction. Ricci stressed the importance for the public to attend. He said it is important for Trinity to receive feedback from the public. Warren will ask the Cable Committee if they will be able to televise the session.

Tim Bragan provided a brief update regarding the beaver dam near the Ryan playing fields. He said the Board of Health has issued a special permit and the Conservation Commission will discuss at their meeting on Thursday. He said we have ten days to act.

### **SCHOLARSHIPS**

Marie Sobalvarro asked which Selectmen will volunteer to review the Ginny Thurston Scholarship applications. Bill Johnson and Tim Clark volunteered. She also reminded current college students about the Sarah Watson Scholarship fund.

### **STRATEGIC PLANNING SESSION**

Sobalvarro reminded the board members of the May 9<sup>th</sup> deadline to submit items for the Strategic Planning Session agenda and asked them to provide input to her regarding liaison assignments.

### **JBOS/DEC CABLE COVERAGE**

Peter Warren presented a letter from JBOS to DEC reaffirming their request to provided cable coverage. On a Clark/Johnson motion, the board voted unanimously to endorse the letter as drafted.

The meeting was adjourned at 9:45PM.

Documents referenced:

### **ENTERTAINMENT LICENSE - APPLE BLOSSOM FESTIVAL**

Application dated 4.27.2011

### **MACLEAN DOG HEARING**

Notices of restraint dated 3.26.2011 & 11.3.2009

Correspondence from Dog Officer 4.25 & 28.2011

Police reports dated 11.27.2009 & 4.25.2011

Letter from Bill Parkinson dated 4.25.2011

Letter and pictures from Sean Bilodeau dated 5.3.2011

### **FIRE CHIEF INTERVIEWS**

Joseph LeBlanc cover letter & resume dated 3.17.2011

Stephen Slarsky cover letter & resume dated 4.4.2011

Richard Sicard cover letter & resume dated 4.5.2011

### **JBOS/DEC CABLE COVERAGE**

Letter dated 5.3.2011