

**Norwell Board of Selectmen
Meeting Minutes
November 13, 2013**

Jason Brown opened the meeting and introduced David DeCoste, Tammie Garner, Town Administrator Jim Boudreau and Town Counsel Bob Galvin. Ellen Allen and Gregg McBride are participating remotely. Agenda Amended to eliminate Simon Hill 40B, Minutes and Executive Session. *MOTION: David DeCoste moved the Board approve the agenda as amended. Seconded and unanimously voted.*

CITIZEN COMMENTS – None

7:35 Nuisance Hearing – A Fox & Hounds Pet Care, Inc., 12 Grove St.

Vice Chairman Jason Brown opened the Nuisance Hearing and read a statement on how the Dog Nuisance Complaint against A Fox & Hounds Pet Care, Inc. (“F&H”) located at 12 Grove Street will be conducted according to MGL Chapter 140, Section 157, 2 Selectmen are not present but will participate in this hearing according to Norwell Remote Participate Policy.

MOTION was made to open the Dog Nuisance Hearing to be conducted in accordance with MGL Chapter 140, Section 157. Seconded and unanimously voted.

Jason Brown explained the process and rules on how this hearing will proceed on the recommendations of Town Counsel. (copy attached)

Town Counsel instructed that if anyone will be speaking exclusive of Attorney’s to stand to be sworn in. Bob Galvin had them take an oath to tell the truth.

The Board of Selectmen received the following Exhibits (copy attached):

- A Portion of Norwell Assessor’s Map
- B Letter dated October 28, 2013 to A Fox & Hounds Pet Care, Inc. from Norwell Board of Selectmen and certified mail receipts.
- C Letter to Ramona Caruso dated November 6, 2013 from Norwell Board of Selectmen
- D Letter to George Halatsis dated November 6, 2013 from Norwell Board of Selectmen
- E Meeting Minutes from Board of Selectmen Meeting dated October 23, 2013
- F Notice of Noise complaint by George Halatsis filed October 22, 2013
- G Nuisance Complaint by Ramona Caruso dated October 18, 2013
- H Email Chain involving Barking Complaints (First Page – Email to Lynda Allen from James Boudreau re: Investigation of Barking) (5 Pages)
- I Google Map Page and 3 Pages of Respondent’s Web Pages from Internet
- J 10 Photographs (Marked J1-J10) from Complainant’s Counsel showing yards, proximity and portions of outdoor areas where dogs kept when outside.
- K Listing of Dates and Times of Barking from George Halatsis
- L Respondent’s Summary Statement, Description of Services, Operations & Management and Letter dated November 11, 2013 from Acentech Incorporated, Carl J. Rosenberg, acoustical architect/consulting.

Mr. Brown called forth the complainant(s) to make a statement(s) for the record.

Complainant Statements:

Attorney W. Prescott Golding came forward and stated that he represented both George Halatsis of 24 Grove Street and Ramona Caruso of 30 Grove Street.

Mr. Golding provided to the Board of Selectmen ("BOS") Exhibits I-L mentioned above and then explained what each Exhibit was

Mr. Golding entered various documents into the record showing the distance and proximity of F&H from both the Halatsis and Caruso residences. In addition, Mr. Golding entered into the record correspondence of complaints made to the Board of Selectmen about the excessive barking from F&H. Mr. Golding represented that the Halatsis and Caruso residences are 36ft and 120ft from F&H respectively. Mr. Golding stated that since F&H had opened the excessive barking from dogs at the facility has posed a nuisance for the complainants. The sound of excessive barking has reflected back into the property of Mr. Halatsis. Mr. Golding stated that the barking has disturbed the complainant's everyday living and quiet enjoyment of their properties. Mr. Golding stated that both Halatsis and Caruso have felt they have been placed in a bad position to have to continually complain about the noise to the authorities, but have had no choice due to the repeated disruption to their everyday lives.

Mr. Brown called forth Mr. George Halatsis of 24 Grove Street.

Mr. Halatsis stated that he operates a computer consulting business from home. His business requires him to make frequent phone calls. Halatsis stated that since the beginning of October, the barking from F&H has been constant during the day, for seven days a week. The barking has disrupted his business, as well as, regular home activities such as doing homework with his children. Halatsis stated that his family has been inundated by the noise. They are not able to enjoy their large yard as they once could, and cannot leave their windows open during the nice weather as a result of the excessive barking.

Mr. Halatsis played a recording for the BOS of examples of the excessive barking noise. The recordings were entered into the record.

Ms. Garner asked if the noise on the recordings was representative of what Mr. Halatsis hears all the time. Mr. Halatsis said that it varies in intensity and volume during different times of the day. Mr. Halatsis then played a recording of barking that was captured some time during a weekday. The recording was entered into the record. Mr. Halatsis stated that the barking was coming from the fenced-in, outside play area for the dogs at F&H. Mr. Halatsis stated that it was common for him to do homework with his children in the backyard, but could not anymore due to the loud barking. He was concerned that it would get worse in the spring time. Mr. Brown asked if the barking was coming from inside or outside F&H. Mr. Halatsis stated that as far as he could tell, the barking was coming from dogs outside in the yard. Ms. Garner asked if there were other activities that could no longer be done due to the barking. Mr. Halatsis stated that besides homework and closing the windows, they couldn't enjoy normal activities like watching TV. Even with the windows closed, they could hear the barking.

Mr. Brown called forth Ramona Caruso of 30 Grove Street

Ms. Caruso stated that she has lived at 30 Grove Street for over thirty years. Since the beginning of October she has had to call the Norwell police several times due to the excessive barking coming from F&H. Ms. Caruso stated that the Police told her to log the complaints and not call the Police on a regular basis for the same issue. Ms. Caruso stated that she held an engagement party for her son in their backyard on October 5, 2013. Ms. Caruso stated that the barking was disruptive and excessive, and lasted until 6pm in the evening. Ms. Caruso said that

she complained about the problem to the BOS and met with them to discuss the problem. Ms. Caruso stated that she was told to file complaints as they happen with the Norwell PD and the Norwell Animal Control Officer.

Ms. Caruso stated that she often enjoys her yard with her grandchildren and often comes home for lunch to eat outside in her yard. Due to the excessive barking, she feels that she can no longer enjoy the use of her yard as she once was able to. Ms. Caruso stated that she hears barking in the early morning, at lunch time, and well into the evening.

Mr. Brown asked if she could hear the barking with her windows closed. Ms. Caruso said that she could still hear the barking with the windows closed. Mr. Brown asked until what time did she hear barking in the evening. Ms. Caruso stated that she comes home around 4:30pm and could often hear barking until 7pm in the evening. Ms. Caruso stated that she was fearful that the excessive barking would negatively affect her property value, and that she would not be able to sell her home.

Mr. Golding came forward and stated that he believed the evidence showed that a nuisance exists due to excessive barking and asked that the BOS order F&H to cease using the outside play area for the dogs at their facility.

Respondents Statements:

Mr. Bruce A. Issadore, attorney for F&H came forward to make a statement. Mr. Issadore represented that F&H was a reputable business that had obtained the proper certificate of occupancy from Norwell to conduct their business. Mr. Issadore stated that he was concerned about this proceeding as it was quasi-judicial in nature, and that the rules of evidence did not apply, but the ruling would have an effect on his client. Mr. Issadore stated that his client previously operated the business in Hingham. He stated that while F&H was in Hingham it operated in the neighborhood of a several residential complexes. Noise complaints were never an issue. The current litigation that F&H was involved in regarding the former Hingham facility was related to a lease issue and not related to noise or any other type of nuisance. Mr. Issadore stated that the noise that has been complained about came about during a short duration at the beginning of October when the F&H Facility was under construction and a number of dogs had to be placed in the yard while the construction was completed. Mr. Issadore stated that there was barking, but it was not an ongoing nuisance and the situation was quickly remedied once the construction was completed. Mr. Issadore stated that F&H had a noise expert come in to assess the building due to the complaints from early October. Mr. Carl Rosenberg of Acentech which specializes in architectural acoustics, toured the facility on November 11, 2013. He found that the walls were made from heavy masonry; the doors that separated the indoor and outdoor spaces were solid and offered no obvious area for sound to escape the building. Mr. Rosenberg pointed out that upon standing outside of the building, he could hardly hear any noise from inside the building.

Mr. Issadore then stated that the noise that was present at the beginning of October had been addressed. He pointed out that the reports filed by the Norwell PD from the various complaints showed that there was no noise at the time officers responded to the complaint calls. Mr. Issadore stated that there were no additional barking complaints to the Norwell PD since October.

Mr. Brown called forth Robin Fox, owner of A Fox and Hounds Pet Care, Inc.:

Ms. Fox stated that at the beginning of October she was in a rush to complete the new facility in Norwell and had placed all the dogs in the yard while contractors could complete the interior work. At that time she had 70 to 80 dogs in the back yard. Ms. Fox said that at the very

beginning there was an issue of barking, but she soon got it under control and it was no longer an issue. Besides bringing in an acoustic expert, she stated that she and her staff did tests to see if dogs could be heard from inside the building when excited. She said that they could not hear them from outside of the building. Ms. Fox stated that dogs in the yard were now taken out in small groups and closely monitored by her staff. Problem barkers were immediately brought inside.

Ms. Garner asked how many dogs were in the yard when the facility first opened in October. Ms. Fox stated that she had 70 to 80 dogs outside. Mr. Brown asked how many dogs did were boarded overnight in October. Ms. Fox answered that she boarded approximately 10 to 12 dogs overnight. Ms. Garner asked since rectifying the situation, how many dogs were outside at one time. Ms. Fox stated that up to a dozen dogs could be outside at once with direct staff supervision. Dogs are taken out in groups after 9am. If an individual dog needs to go out before, they are taken one by one with supervision, and then taken back inside. Ms. Allen asked how many dogs are currently boarding overnight. Ms. Fox said she was allowed to have up to 4 dogs overnight as per the bylaw, but admitted that there have been times where there have been more due to the police bringing strays and lost dogs in to be kept overnight from different towns.

Attorney Galvin asked if dogs were being brought in from Hingham, Weymouth and other towns. Ms. Fox said that they were being brought to her from other surrounding towns. Ms. Fox said that it was a normal practice for the Hingham Dog Officer to bring strays to her, and continued doing it when she moved her facility to Norwell.

Mr. Brown called forth Mr. Michael Dias, owner of On Rye Deli:

Mr. Dias stated that he was approached by both the complainant and respondent about the potential noise from F&H. He said that he has heard barking from F&H but it was not excessive or a nuisance to him or his business. Mr. Dias stated that he believed the situation could be somewhat different for a business than a residence. Mr. Dias stated that he and his staff have heard barking, but have also heard F&H staff taking action to control the dog barking.

Ms. Garner asked if he could hear barking from inside his business. Mr. Dias answered that he could not hear barking from inside his building.

Mr. Brown called forth Chief Ross of the Norwell Police Dept:

Chief Ross reported that the Norwell Police Dept had responded to a number of complaint calls the F&H between the dates of October 9th to October 23, 2013. Chief Ross said that police responded to half a dozen calls between the hours of 9pm and 6am during those dates. Reports from officers responding to these calls have resulted in no noise being heard by officers. Officers responded to a half dozen complaint calls during business hours resulting in no noise being heard by officers. When officers responded, they were present for a few minutes up to fifteen minutes, depending on other calls they received.

Mr. DeCoste asked Chief Ross if officers hear noise during any of the visits to the complaints. Chief Ross said that his officers did not hear any noise.

Mr. Brown called forth Paul Murphy, Norwell and Cohasset Dog Officer:

Mr. Murphy said that he had visited F&H on 2 separate occasions. The first time he took a tour with Ms. Fox to look at the facility and inspect it. At that time the facility was under construction and it was a little chaotic. Dogs were barking while the building was under construction in the interior space. Mr. Murphy said he was impressed with the new facility. The second visit was at

the request of Mr. Boudreau due to the barking complaints. At that time dogs were in the yard and construction was still taking place. Dogs were barking, but Ms. Fox assured Mr. Murphy that they would have it under control shortly.

Mr. DeCoste asked if Mr. Murphy used F&H. Murphy said that he did not, but would like to. He said that Norwell was in need of a facility to deal with stray and lost dogs.

Mr. Galvin asked if on the second visit the dogs were supervised. Mr. Murphy said that there was one staff member supervising the dogs.

Mr. Brown entertained a motion to close the public portion of the Dog Nuisance Hearing. Moved by Mr. Decoste, seconded by Ms. Garner.

Mr. Brown opened the deliberation portion of the meeting for the BOS. Mr. Brown said that we can deliberate now or continue at a later date. Mr. Brown deferred to the Chair Ms. Allen who was not physically present, but listening remotely. Ms. Allen asked if we could continue due to the poor sound quality and the inability of both Ms. Allen and Mr. McBride to review the written evidence.

Mr. Brown agreed and entertained a motion to continue the hearing until November 20, 2013 at 8pm.

Present for Town of Norwell: Ellen Allen, Jason Brown, David DeCoste, Tammie Garner, Gregg McBride, Town Counsel Bob Galvin, Police Chief Ted Ross and Animal Control Officer Paul Murphy.

Respondent: A Fox and Hound Pet Care, Inc.: Owner Robin A. Fox, Bruce A. Issadore, Esq. of Issadore & Arons LLP of Norwell MA

Complainants: George Halatsis, 24 Grove Street and Ramona Caruso, 30 Grove Street, W. Prescott Golding, Esq. of Drohan Tocchio & Morgan, P.C. Hingham MA

MOTION was made to continue the Hearing to November 20, 2013 at 8:00PM. Seconded and unanimously voted.

Gregg McBride and Ellen Allen adjourned from the meeting.

NEW BUSINESS

Callie Cronk Miracle Run Request – April 6, 2014 – MOTION: *David DeCoste moved that the Board approve a request from the Friends of Callie Cronk of Norwell to hold the 2nd Annual Road Race on Sunday, April 6, 2014 beginning at 8:00AM using the same route as the Evan Henry Run, provided an EMT and police detail were arranged as recommended by the Fire and Police Chiefs. Seconded and unanimously voted.*

St. Patrick's Road Race Request – March 16, 2014 – Anne Marie Winchester of South Shore Race Management, LLC, has sent a letter requesting to hold the 3rd Annual St. Patrick's Day 4 Miler on Sunday, March 16, 2014 starting at 10:30AM. Race will begin and end at McGreal's Tavern. **MOTION:** *David DeCoste moved the Board approve the request from Anne Marie Winchester of South Shore Race Management, LLC, to hold the 3rd Annual St. Patrick's Day 4 Miler on Sunday, March 16, 2014 at 10:30AM provided an EMT and police detail were arranged as recommended by the Fire and Police Chiefs. Seconded and unanimously voted.*

Execute License Agreement – Donovan Farms (Whittaker) – License Agreement between Town of Norwell and George Whittaker, 111 Circuit Street for a parcel containing approximately 2.47 acres of hayfields on corner of Circuit and Pleasant Street know as Donovan Farm.

MOTION: David DeCoste moved that the Board approve the License Agreement between the Town of Norwell and George Whittaker. Seconded and unanimously voted.

Execute License Agreement – Donovan Farms/Jacobs Farm (Lambert) – License Agreement between the Town of Norwell and Luke Lambert of Norwell for use of a certain portion of a parcel of vacant land at corner of Circuit and Pleasant Streets and on a portion of the Jacobs Farm property for an annual term commencing on January 1, 2014 through December 31, 2014. *MOTION: David DeCoste moved that the Board approve the License Agreement between the Town of Norwell Board of Selectmen, Conservation Commission and Luke Lambert for an annual term commencing on January 1, 2014 through December 31, 2014. Seconded and unanimously voted.*

ANNOUNCEMENTS:

- Attorney Bob Galvin is a Trustee of the Edwin Phillips Foundation and briefed the Board on the history of the foundation. Memo has been submitted by Chief Ross announcing that the Norwell Police Department has received \$5,000 in grant funding from the Edwin Phillips Foundation for the SafetyNet program for families of handicapped children in need.
- Paul Foulsham would like to advise the Residents of Norwell that National Grid has contracted Asplundh Tree Expert Company to begin tree trimming in Norwell beginning November 7, 2013 and anticipated completion should take up to 3 months.

ADJOURNMENT – *Motion was made to adjourn. Seconded and unanimously voted.*



Board of Selectmen