

MINUTES OF THE SELECTMEN'S MEETING

MONDAY, MAY 10, 2010

PRESENT: Willard J. Boulter, Jr. (Chairman), Daniel W. Trabucco (Vice-Chairman), Lewis W. Stone (Clerk), Arthur P. Boyle, Jr. (Selectman), Gregory M. Hanley (Selectman), Edwin J. Thorne (Town Administrator), Diane M. Tobin (Executive Assistant), John Mattinson (PEMBTV), Becca Manning (Pembroke Express), Ben Bastianelli, Stephen Dodge, Linda Peterson, Tom Irving, Mary O'Rourke, Peter and Cindy O'Neil, Linda Bean, and others.

The meeting was called to order by the Chairman at 6:30 p.m. in the Town Hall Veteran's Hall.

The Pledge of Allegiance was recited.

MINUTES: The Selectmen voted to accept the minutes of April 20 and May 3, 2010 as written.

AFFORDABLE PROPERTIES: The owners of 5 Jessica Circle in the Pine Grove Condominiums notified the Selectmen that they intend to offer their unit for sale. Mr. Boyle moved, seconded by Mr. Stone, that the Town proceed to find an eligible buyer for the property at 5 Jessica Circle. Voted unanimously in favor 5/0.

TOWN MEETING ACCOMMODATIONS: A resident who attended the Annual Town Meeting has brought to the Selectmen's attention that more effort needs to be made to accommodate town meeting attendees who have hearing impairments. It is difficult for them to participate at town meeting. Moderator Steve Dodge expressed his concern about the inadequate public address system at the school. The School Building Facilities Manager, Alan Peterson, will look into the availability of equipment at the high school and Linda Mulkern at the School Dept. will contact the Selectmen's Office with information about a person who could perform sign language at the town meeting. Residents are reminded of the digital box setting on their televisions that can be adjusted for home viewing. For assistance, residents can call the cable studio at 781-294-1820 with the digital television settings. Chairman Boulter has spoken to the Commission on Disabilities representatives for the Town and they will obtain further helpful information from the Mass. Commission on Disabilities. Mr. Boulter also requested any help from volunteer residents with this issue. Selectman Trabucco suggested trying to find out what would work for the most people. He thought teleprompter services might be helpful.

OLD BUSINESS:

Surplus Real Estate-School Street: Town Administrator Thorne advised that bids for this property are due before May 21 and will be opened at the meeting of May 24. This is the property beside N.E. Villages and is offered for sale with a minimum bid of \$25,000.

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Pelham Street Property Update: Mr. Thorne informed the Selectmen that Town Counsel advised that there is no need for another town meeting vote on the Pelham Street property to be put into Conservation so Town Counsel will be recording the deeds on the 24 acres off Pelham.

300th Anniversary Celebration: Mr. Boulter said that the new patch with the logo for the 300th Anniversary is now available. They will also be selling bottles of red and white wines through local retail package stores and restaurants. The next meeting will be Tuesday at the Pembroke Country Club.

Smart Energy: Selectman Stone questioned the status of the proposal on March 22nd by Smart Energy to help the town to purchase the street lights throughout the town.

Municipal Health Insurance: Town Administrator Thorne has been meeting with the unions, in accordance with the union contracts, relative to changes in the new Mayflower Health Group plan, formerly known as Plymouth County Health. Changes must be negotiated.

TOWN ADMINISTRATOR'S REPORT:

Car Wash Fundraiser: Approval was granted for a Car Wash Fundraiser event on Saturday, May 29 from 9:00 a.m. to 1:00 p.m. in front of the Community Center. Proceeds are to benefit the Pembroke Association for the Performing Arts at the Pembroke High School.

Center Pre-School Graduation: Permission was granted for the use of the Bandstand and the Town Green by the Center Pre-School for their graduation ceremony on Friday, June 18 from 8:30 a.m. to 12:30 p.m.

Boston Magazine: Mr. Thorne noted that Pembroke was listed as one of the best places to live on the South Shore in an article in the Boston Magazine.

FEMA: Mr. Thorne and Gene Fulmine will meet in Plymouth with FEMA tomorrow and Mr. Thorne will report back to the Board next week.

ASK THE SELECTMEN:

Ferndale Ave: Mr. Stone received a letter from a resident of Ferndale Ave regarding the road conditions. He spoke to the DPW Director and the work crew was able to grind down the road and fill in where necessary to get it into more acceptable shape. The DPW did the best they could do at this time and Mr. Stone wanted to express thanks to Mr. Fulmine and the department for their speedy response and cooperation

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. Furnace Colony Roads: Mr. Boulter said he received calls about the roads in Furnace Colony and the drainage problems there. He talked to the DPW Director who responded promptly. He expressed many thanks to Gene and the department for their help.

Truck Traffic: Mr. Stone and Mr. Thorne will be talking with officials in Duxbury and Marshfield relative to their cooperation in helping to eliminate the use of cut through roads.

DOG COMPLAINT HEARING/ 69 CENTER STREET: The Chairman opened the public hearing at 7:00 p.m. In attendance were Mary O'Rourke, 69 Center Street, owner of the offending dogs, and the complaining party Peter and Cindy O'Neil, 75 Center Street.

Ms. O'Rourke stated that she was aware that the dogs occasionally get loose and get out of her yard but she says they do not roam the neighborhood. She said she expects someone to come this week to fix her electric fence that was torn up by snow plows. She feels the neighbors just have an issue with her personally. She has two runners in the front and back yards. Ms. O'Rourke said she built a pen and installed the leashes in accordance with the orders from the last hearing.

In favor of the defendant, Justin Anderson of 1 Survival Way in Bourne says that his baby daughter lives with Ms. O'Rourke and he sometimes takes care of the dogs. When they call for the dogs, the neighbor gets upset. Chairman Boulter reminded him of the Town's leash law. The owner admitted that sometimes the dogs will chase after rabbits or birds and she doesn't pursue them. Andrew Doherty of Halifax, a family friend, said that the dogs are always in the pen or in the house and has never seen them out of the owner's control. Cole O'Rourke said the dogs have never attacked or bitten anyone. He admits that they get out but they are never out of control. There is always someone at the house.

Mr. Hanley asked if the owner has ever been cited by the Dog Officer and Ms. O'Rourke responded that she had received a \$50. fine when one of the dogs was 3 months old. Mr. Stone noted there was a question about the number of dogs on the premises and whether or not they were licensed. Ms. O'Rourke produced copies of the two dog's current license information.

Kelly Slobakin lives at the O'Rourke residence and feels this hearing is outrageous. She complained that she could not believe they were being called in because of one mishap with the dogs. She claimed that the dogs are lovable and harmless around her baby.

Another family friend confirmed that they are big dogs but said they are "wicked nice and docile". He said they may be lose for a minute or more but are never out of control. They are usually leashed, penned or inside the house.

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The Complainants, Peter and Cindy O'Neil, explained that this is not just one incident. He said it started in 2005 with the pit bull that the Dog Officer had been directed to remove from the premise. They feel there is a total lack of responsibility on the part of the dog owner to control the dogs and keep them leashed. They also have an issue with the response of the Dog Officer when they complain. They followed the required procedures and filed formal complaints. Two years ago, when they came home from the hospital with their young daughter, the bull mastiff was loose and nearly in their kitchen. They claim that Ms. O'Rourke lets the dogs out and they charge up onto the O'Neil's deck and try to enter the house. They said that Ms. O'Rourke just went back inside her house without calling or coming to get the dogs. The Police and Dog Officer had to be called. Mrs. O'Neil said the second dog only got licensed after the Town Administrator called Mr. Hart to get the dog licensed. She said the dogs growl and charge and she is afraid for her child's safety. They have tried to talk to Ms. O'Rourke but she rejected any discussion. Mr. O'Neil presented a history of the irresponsible actions or inactions of the dog owner. The O'Neils want the dogs removed because the owner is irresponsible and the bylaw is being violated. A neighbor of the O'Neils, Linda Bean, 7 Littles Ave, testified that the dogs go in her yard also and she is afraid to be attending her garden while they are loose. They are frightening dogs and people should not have to be afraid for their safety in their own yards.

Selectman Boyle asked the Dog Officer how many times he went to the O'Rourke's home. Mr. Hart said he'd been there only once since the new dogs have been acquired. He explained that the new dogs are a breed called Presa Canario. He said he is not familiar with these dogs but assured that they will react to people who are afraid of dogs. He said the Town can ban dogs for aggressiveness but not because of the owner's irresponsibility. At this point, there have been no reports of dog bites or assaults. He said they are an aggressive breed and he warned Ms. O'Rourke that she would be in for problems keeping those dogs. He said he stopped by over two or three times to talk to her about keeping the dogs leashed or penned.

Chairman Boulter stated that part of the Dog Officer's job is to respond to complaints and take care of the situation and assure that the dogs stay tied. He was upset that someone is in fear on their own property and stated that he intends to do what has to be done to insure the safety of the residents.

Selectman Stone feels this is a black and white issue and there is a leash law in place that all have to live with. He feels that the breed of dogs is an important issue and the neighbor has a right to not have the dogs in their yard. He noted that the 2006 through 2010 enumeration of instances show that the dogs are not being contained. Mr. Hart says he has responded by may

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not have always been able to talk to the complaining party. It was questioned why it took 13 months to get the second dog licensed.

Selectman Hanley noted that being the Dog Officer is not an easy job and has had visits personally from Mr. Hart because of his own dogs. He understood that Mr. Hart was just doing his job and fulfilling his obligation to the Town and the neighbors to protect the Town's liability.

Selectman Boyle moved, that the dogs be banished effective June 1, 2010 as they constitute a nuisance by virtue of being unleashed in violation of the Town's bylaw. Mr. Hanley seconded for the purpose of discussion. There was no discussion. Mr. Hanley moved to second the motion. Chairman Boulter stated that he wants to see both parties treated fairly but he noted the history of the complaints against this dog owner and the numerous problems with the dogs. Mr. Boulter offered an amendment to give Ms. O'Rourke the opportunity to not let it happen again and that any further complaints in the next three months would warrant that the dogs be immediately removed. Mr. Boyle would not accept this friendly amendment to his original motion. He stated that this matter has already been in front of the Board of Selectmen and they now have an obligation to act. Ms. O'Rourke would be able to appeal the decision in court.

Selectman Trabucco asked about the appeals process and Mr. Boyle said it would have to go through the district court to have the Selectmen's decision overturned. Mr. Boyle said that Ms. O'Rourke could get a temporary restraining order. Mr. Trabucco expressed concern about a way to change the manner in which the owner will control any future dogs.

Selectman Boyle requested a roll call vote on his motion. It was voted as follows:

Stone, yes – Trabucco, no – Hanley, yes – Boyle, yes – Boulter, yes

The dogs are to be banished as of June 1, 2010.

CLASS II DEALER LICENSE: Mr. John Mancuso of 9 Herring Brook Lane was granted a Class II Used Car Dealer License with the restrictions that the applicant must be a resident of the Town of Pembroke and there will be no storage and no display or delivery of vehicles on the premises. He will sell through wholesale and ebay sales only. Voted unanimously in favor.

WAGE AND PERSONNEL: Selectman Hanley questioned the authority of the Selectmen to abolish the Wage & Personnel Board when it takes a vote of a joint appointing authority to make appointments to that board. He feels that the employees need an appellate authority and would like to have this board re-instated. He feels there should be an independent advisory group to hear the facts and bring a report to the Selectmen for referral to the Town Administrator.

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Mr. Boulter recalled that the Wage & Personnel Board just fell apart and no one came forward with an interest in serving. Mr. Trabucco did not recall that the Board was ever officially abolished. Mr. Hanley requested that the Wage & Personnel Board be re-established and that candidates should be solicited to serve. Mr. Trabucco asked what powers they would have since all contracts are now negotiated through the Town Administrator. He noted that the Selectmen have the final authority.

Mr. Hanley proceeded to read the duties of the Wage & Personnel Board according to their bylaws. He said he was willing to act as a subcommittee to do research and bring recommendations to the Selectmen. Mr. Stone agreed that job descriptions need to be assembled and agrees that soliciting interested persons is encouraged. He also questioned what a Town Manager would do.

Further discussion of this item will be placed on a future agenda.

HEALTH INSURANCE BENEFITS: Mr. Hanley moved, that the Selectmen vote to restore the option of health insurance benefits to part-time, paid elected officials as of May 30, 2010. Mr. Boyle seconded.

Discussion ensued on this topic. Former Selectman DeMarzo was in attendance and he stated that each town meeting voted to keep benefits and it was only when recent boards took action that the policy was changed. When questioned about the cost, Mr. Thorne said that it runs about \$10,000 per year to cover an employee under a family HMO plan. There would be only nine persons eligible for this benefit as a paid, elected official.

Mr. Boyle motioned to move the question and it was voted 3-2 in favor:

In favor: Boyle, Hanley, Boulter Opposed: Stone, Trabucco

POND BY-LAW REVIEW COMMITTEE: Doris Mann was present and offered to serve on the committee to review the town bylaws relative to regulations affecting the lakes and ponds. Mr. Boulter explained that the need is to draft new bylaws to bring them up to date, not just to draft a bylaw for rafts and docks.

As there was no reason for an executive session, the meeting was adjourned at 9:00 p.m.