

**MINUTES OF THE SELECTMEN'S MEETING
JUNE 13, 2011**

PRESENT: Daniel W. Trabucco (Chairman), Lewis W. Stone (Vice-Chairman), Gregory M. Hanley (Clerk), Arthur P. Boyle, Jr. (Selectman), Willard J. Boulter, Jr. (Selectman), Edwin J. Thorne (Town Administrator), Diane M. Tobin (Executive Assistant), John Mattinson (PMB television), Mikaela Slaney, Charles Matthewson, Bill Hart, July McAdams, Gerard Lane, Michelle Snell, Heather Dean, Nicole, Mr & Mrs Kevin McRae, George Verry, Tom Driscoll, and others.

ANNOUNCEMENT:

Oldham and Furnace Ponds: The ponds will be treated and tested and after two acceptable level tests, the ponds can re-open. The Selectmen extended credit to the Pembroke Watershed Association for their participation in getting signage posted to alert the public about the pond closings and for their part in securing funds needed for the eradication of the weeds in Hobomock Pond.

MINTUES: Mr. Stone moved, seconded by Mr. Boyle, to accept the minutes of the Selectmen's meeting of June 6th as written. So voted.

BONNIE STREET TRAILER: Mr. Boulter spoke to Building Inspector George Verry about the situation at One Bonney Street. Upon inspection, Mr. Verry noted that the property had been cleaned up and the owner was receiving help but she has not yet applied for an extension of the trailer permit. The Selectmen will postpone this matter until the resident can come in to talk to the Board and a permit extension is filed. The Selectmen have been tolerant and lenient with this resident due to the circumstances but the resident needs to report to the Selectmen on the status of the lawsuit.

Mr. Boulter moved, seconded by Mr. Boyle, to continue this subject to the next scheduled meeting and to advise the resident to be present or a representative or attorney. Voted 5/0 in favor.

STREET LIGHT AGREEMENT: This item was postponed to the meeting of June 27th when representatives of Smart Energy can be present.

DEMOCRATIC AND REPUBLICAN TOWN COMMITTEE APPOINTMENTS:

Mr. Boyle moved, seconded by Mr. Boulter, to reappoint the election workers of the Democratic Town Committee as per the list submitted by the Town Clerk. Voted 4/0 with Chairman Trabucco not voting.

Mr. Boyle moved, seconded by Mr. Hanley, to reappoint the election workers of the Republican Town Committee as per the list submitted by the Town Clerk. Voted 4/0 with the Chairman not voting.

Mr. Stone moved, seconded Mr. Hanley, moved to table the appointments of the paid, appointed persons until next week. So voted.

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SELECTMEN'S SUMMER SCHEDULE: Mr. Stone moved, seconded by Mr. Boyle, and it was so voted to vote the following schedule of meetings for the Board of Selectmen:

Meetings at 7:00 pm on July 11, July 25th, August 8th, and August 22nd; No meeting on July 4th Independence Day or September 5th Labor Day. Regular meetings will resume on September 12th; Changes in the schedule are subject to the call of the Chairman.

TOWN ADMINISTRATOR'S REPORT: Mr. Thorne summarized a report by Senate President Murray regarding finance reform. The major change at the state level will be "0" base budgeting. They will build a budget based on needs starting from "0".

BOARD OF HEALTH: Chairman Tom Driscoll advised the Selectmen that the Dept. of Public Health wants both ponds to be kept closed at least until next Wednesday.

RECYCLING PROGRAM: Town Administrator Thorne reports that mailings will go out to each household on Thursday and Friday regarding the new recycling program and a list of recyclables to be disposed on in the new toters. The vendor will be delivering the toters to each driveway starting July 7th.

ASK THE SELECTMEN: Mr. Stone noted that he received a call from a resident who was concerned about junk vehicles on residential property. The DPW declared that vehicles were not on town owned property so this is an issue for the Zoning Officer. Mr. Verry will be invited to the next Selectmen's meeting to address this issue and the trailer permit issue.

PUBLIC HEARING ON THE DOG COMPLAINT AT 121 BARKER STREET: Pursuant to the provisions of G.L. c.140, sec. 157, the Town held a hearing on June 13, 2011.

At 7:30 pm, the Chairman of the Pembroke Board of Selectman, Daniel Trabucco, opened the formal public hearing in the matter of the three Bordeaux Mastiff dogs at 121 Barker Street which the complainant claims attacked and killed his dog and which the Animal Control Officer feels may have the potential to endanger the public. The Chairman read the notice of public hearing and the complainant, dog owner and witnesses were sworn in under oath by Diane Tobin, Notary Public.

Present for the hearing were Animal Control Officer Bill Hart, Dr. Judith McAdams (dog owner), Attorney Gerard Lane, Cheyenne Spellman (barn manager), Tom Donnolly (Complainant),

Animal Control Officer Hart noted that he was not present at the time of the incident and was notified of it by the police the next day.

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Dr. McAdams rebuttal: Attorney Gerard Lane represented Dr. McAdams. He said he read the Animal Control Officer's report and the email from Lisa Cullity, Health Agent. He noted that Dr. McAdams says that there are rules for the farm. He noted that Dr. Adams admitted that there was a dog fight and that this was a tragedy. Atty. Lane suggested that the victim's owner, Mr. Donnelly, obviously does not like Dr. McAdam's dogs and he may have transmitted these feelings to his own dog. Yet, said Mr. Lane, Mr. Donnelly continues to go to this farm even though he finds the dogs menacing. He noted that Mr. Donnelly said he had an appointment with the veterinarian even though it was in a horse stable, not on public property, and against the rules of the farm. It was purely for his convenience to bring his dog to the farm with no right to do that. He noted that Dr. McAdams dogs are there to protect the horses. He also noted that there was no authority for Cheyene, the barn manager, or for the other veterinarian, Dana, to allow Mr. Donnelly to come to the farm for this reason.

Mr. Donnelly interrupted and spoke recommending and requesting that Dr. McAdams either fence off these dogs with a footing under the fence that they could not dig under, and keep it separate from the house and from the public side of the business or else shut down the business.

Chairman Trabucco explained that all parties will be given the chance to be heard and the Selectmen must go through the proper hearing process. He reminded that the Selectmen are concerned with the public safety.

Atty. Lane proceeded and pointed out an admission of note from Mr. Donnelly when he stated that Jack Russell s are a little "whacko". He then introduced Dr. McAdams to address the Selectmen.

Dr. McAdams presented a layout of the farm for the Board and explained how she proposes to put up an electric, wood frame fence around the sides of the house and across the front. It would go across the gated driveway and a sign with the new rules would be posted along with a sign saying "No Dogs without the consent of Dr. McAdams." A \$2500 fine would be levied for trespassing. This would be noted in any new contracts for boarding horses and would required being signed by the contractor. The two paths from the Wildlands Trust side of the property would have energizers with batter and solar power electricity to the fences. There will be a keypad entrance only. No one would be able to just wander onto the property. Atty. Lane noted that she will only have the dogs out when they are with her. She also agreed to pen in a dog area.

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Selectman Boulter expressed concern about the safety and security of the area for small children. Mr. Hart said that prey drive is what happened and that's why they never bit Mr. Donnelly. Atty. Lane said that there was no carry over from animal aggression to human aggression in research done by Dr. McAdams. He noted that Dr. McAdams feels the large dogs need to be visible to mark the territory and to protect the horses from coyotes and fisher cats.

Animal Control Officer Bill Hart was asked to explain his stance on this issue. He said he had a conversation with Dr. McAdams and her attorney regarding the electric fence. He feels it is a good design but must go below the ground so the dogs cannot dig under the fence. He would like to see an enclosure in back of the property to keep them away from the barn area. Someone could step over the stone walls and access the property. He noted that mastiffs can be good dogs but they can be confrontational if they feel threatened. He fears that afterhours wanderers may come through the woods and over the stone wall and could be in danger. He doesn't feel the dogs should be able to run over the whole property. Dr. McAdams said the dogs are never out during the day when she is not there. She is willing to put an enclosure off her back deck. Mr. Lane noted that there is a natural barrier of thick brush and swamp before getting to the stone walls.

Chairman Trabucco asked Mr. Hart if the proposed plan of Dr. McAdams affords public safety. Mr. Hart's response was "maybe 80%". He feels it best to have an enclosure and he would suggest that the pack of three dogs not be walked together. Each dog should be walked individually, one on one.

Selectman Boyle noted that he usually does not accept keeping a dog after such an incident and he wants to be clear that an electric fence is not acceptable to him. He would have to see the enclosed pen with access directly from the house and the dogs could not roam freely. He agrees that they should be on a leash with one person walking one dog. He will go along with a fenced-in pen that meets the specifications of the Animal Control Officer but will not agree to an electric fence around the property.

Selectman Boulter said it should not matter that Ms. McAdams is a veterinarian as she still has the same responsibility as any other resident. She did not have control of her dogs on this day while she was at home. The public has the right to be protected and he has a problem with these dogs doing the same thing again in the future. The fenced in area, especially during business hours, should not be accessible by the public or by invitees. He recommends that the dogs not be let loose during business hours and should be confined to the pen. After business hours the dogs could be let out under Dr. McAdams control.

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Selectman Hanley noted the remedies that have been proposed: a permanent pen enclosure of specific dimensions; an electric fence; barn regulations and signs noting those regulations with a copy to the Animal Control Officer; no dogs loose without supervision; and any future events will be cause to revoke the license to operate in town and the dogs will be immediately removed.

Selectman Stone said that public safety is the main issue. He is interested in the documents that the employees and the visitors would be required to sign. He would ask the visiting vet to sign also. He feels the most important thing is that the dogs are secured while the public is allowed on the property. He also noted that another measure would be to take the dogs away.

Chairman Trabucco noted that these hearings can be very emotional and are difficult for him, but he wants to be sure everyone is heard. He asked that people keep their comments in the vein of moving forward.

Mark Petrie of Wintergreen Farm Road asked if this would be the first time the Selectmen would allow offending dogs to stay with conditions. Mr. Boulter responded that the decisions are based on the response of the dog owners. He was not aware of any previous incidents that ended in tragedy. He feels that full measures should be taken to insure that it will not happen again. This will not be setting a precedent because each case must be considered individually.

Joe Pierce who boards his horse at this farm expressed sympathy to Mr. Donnelly for his loss and agreed that the mastiffs should be contained. He asked that the board clarify the allowance of walking the dogs after hours. Mr. Trabucco said the board is deliberating at this point trying to come up with a solution.

Michelle Snell said that Mr. Donnelly putting his dog into the face of the mastiff was like teasing and playing and the mastiff got carried away. Mr. Donnelly has explained that he lowered his little dog, held in his arms, to allow the mastiff to sniff to get acquainted. She said the little dog may have appeared to be a toy to the Mr. Hart cautioned that this incident could happen again if a similar situation came up.

The final statements from Dr. McAdams and Atty. Lane were:

1. She recognizes that the Animal Control Officer wants to be sure the dogs are not roaming freely during the day and will only be allowed to go into the pen during the day. They will not be out during barn hours.
2. She needs the dogs for protection and for her personal enjoyment of her 18 acres of property.
3. The proposed fence is not an invisible fence and is better than a chain link fence. She noted that there has never been an incident in the six years she's lived there until someone broke her rules.

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4. Public interaction of the dogs will be prohibited and they will only be out with Dr. McAdams.
5. She noted that there are other threats on a farm so the public should not be wandering the property.
6. When the gates are open, the dogs will be locked away.
7. She has a problem with walking one dog with one person and Atty. Lane suggests that may be over-stepping a statute. Dogs need to be able to run and be able to move about the entire farm especially in the evening to protect the property. Restricting to walking each on a leash, one on one, imposes an adverse impact on Dr. McAdams. She noted that she bought the farm for a million dollars to have space for her dogs.
8. Sign posting is part of the plan.
9. Atty. Lane also emphasized that the demonstration of Mr. Donnelly regarding his kicking and punching the dogs to leave his dog alone, still prompted no human attack.

Mr. Donnelly stated that he did not come to vilify Dr. McAdams or her barn manager, Cheyene. He wants the dogs penned with a concrete foundation. He expressed an emotional rebuttal to Michelle Snell's inference that his dog was like a toy to the big dogs. He says the mastiff started the conflict and all three dogs got involved. He also stated that he thought there might be "some sort of rescue league going on down there".

At 9:05 pm – Mr. Boulter moved to table this hearing for one week to discuss with the property owner, the victim and the Selectmen to come up with a comprehensive solution. Motion lost for lack of a second. Mr. Boyle moved, seconded by Mr. Hanley, to close the public portion of this hearing. So voted.

Mr. Hanley moved, seconded by Mr. Boulter for discussion, that Dr. McAdams at 121 Barker Street be subject to the following conditions for the operation of her business and housing of dogs:

1. Permanent pen enclosure measuring no less than 40' x 100' with an 18" barrier imbedded in the ground and made of wire or crushed, tamped blue stone
2. Electrified fence as described and as submitted to be installed to the limit of the yellow line indicated on Exhibit A plan presented encompassing 6-8 acres with solar operated charged pathways
3. No dogs allowed roaming freely during business operating hours. Dogs must be in pen during barn and business operating hours
4. Posting of signage to "Beware of Dogs"
5. Signed copies of Barn Rules and Regulations by all tenants acknowledging the rules to be submitted to the Animal Control Officer

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6. Visiting veterinarians must also sign copies of Barn Rules and Regulations acknowledging the rules and copies must be submitted to Animal Control Officer
7. Copies of Liability Insurance naming the Town of Pembroke as “additional insured” and indemnified.
8. The dogs are to be licensed in the town of Pembroke with satisfactory proof of updated Rabies Certificates.
9. All provisions are enforceable by the Town of Pembroke Animal Control Officer and subject to random inspections that these Orders of Conditions are to be in compliance and if breached will be subject to the recall of the operating license.
10. Subject to further action of the Board if these Orders of Conditions are not in compliance by July 30, 2011.

Mr. Stone had questions about walking the dogs after business hours. He asked since they are working dogs, how should they be able to patrol the property under this condition. Mr. Boyle asked Mr. Hart if the town has the right to require that the dogs be on a leash on their own property after business hours. Mr. Hart responded that one of the dogs named Gracie should never be included in a group walk. The Selectmen went through each proposed condition and discussed them. The Chairman called for a roll call vote of the Board of Selectmen.

VOTE 5/0: In favor: Boyle, Boulter, Stone, Hanley, Trabucco Opposed: none

The dog owner has the right to appeal this decision and it can be filed in accordance with the Mass. General Laws. Abutters may also appeal.

The meeting was adjourned at 9:30 pm.