

TOWN OF EGREMONT, MASSACHUSETTS
MEETING OF THE SELECT BOARD
PUBLIC HEARING - DANGEROUS DOG
MINUTES

Date: August 29, 2016
Time: 6:00PM
Place: Town Hall
Egremont

Present at the head table were Chairman Flynn, Vice-Chairman Turner, and Selectman Brazie.

The meeting is video and audio recorded for the purpose of transcribing minutes.

Hearing called to order at 6:04pm.

Present were Jill Fleming, Steven Bankert, Animal Control Officer John Springstube, Richard and Stew Burdall, Police Chief Tyler Race, Attorney Peter Puciloski, and Town Counsel Jeremia Pollard.

Request for Dangerous Dog Hearing, under MGL Chapter 140, Section 157, was received from Attorney Puciloski on behalf of his client Richard Burdsall.

Town Counsel Jeremia Pollard swore in all witnesses that planned to give testimony.

Complainant Richard Burdsall spoke of the dog, a black lab mix, running at him, snarling and barking. He noted the dog was in fact loose and wandering on Baldwin Hill when Mr. Burdsall came to the meeting. Mr. Bankert left the meeting to go confirm the dog and upon his return did report that the dog jumped out a second story building window to escape.

Mr. Burdsall also reported that the dog had bitten his real estate agent. Mr. Burdsall's son had contacted Ms. Fleming about the incident. Ms. Fleming, who is Mr. Burdsall's tenant, refused to remove the dog.

Animal Control Officer John Springstube reported on three incidents he was involved in with the dog in question:

- 1) Dog was reported harassing other dogs at the Dog Park at French Park
- 2) Dog was reported harassing someone walking a dog on the trails in French Park. The dog was confirmed to be Ms. Flemings.
- 3) Dog was loose on Baldwin Hill N/S, picked up and delivered back home.

Mr. Springstube was later informed about the dog biting Real Estate agent Karen Climo and also Don Torrico though no official report was filed. Mr. Springstube left citation for unlicensed dog which was paid and the dog has subsequently been licensed and the rabies vaccination is up to date. Mr. Springstube noted that the dog was fine with him. He described it as a Retriever/lab mix.

- 4) He ordered the dog muzzled after the last incident which Ms. Fleming failed to comply with.

Police Chief Tyler Race reported on incidents that are in the police log:

- 1) 3/17/15 - Nora Hayes bitten by dog believed to be Jill Flemings while walking in French Park.
- 2) 9/5/15 - Jogger on Baldwin Hill, Paul Ladd, bitten by dog. Checked to confirm that dog was up to date on vaccines.
- 3) 12/11/15 - Dog found loose - returned to Jill Fleming
- 4) 5/3/16 - Loose Dog in French Park. Owner Jill Fleming called to go get.
- 5) 8/9/16 - Complaint by Mr. Burdsall being attacked by dog.

Chief Race was also told by Donald Torrico in the grocery store Big Y that the dog was loose and bite him, but there was no formal report and no evidence of same.

Jill Fleming said she was aware of some of the issues. Her dog comes back when called. She had spoken to Nora Hayes who never said she was bitten so Ms. Fleming doubts the validity of that statement. She explained that the dog was a rescue dog that she adopted in March of 2014. He is a black lab mix that weighs 64lbs. He has anxiety problems and escapes his enclosures. She has taken him to an animal communicator and to a dog trainer. He is either confined, on leash or off property since the recent incident. The dog came from a neglectful home and was a young un-neutered pup when she rescued him from a kill shelter. He is a sensitive, highly needy dog who is very protective of her. He is also territorial and protective of his home. She has seen him rush people if he is startled. She agreed she could do a better job containing him. Ms. Fleming thought there may be some confusion with her other dog who is now deceased as he was a Rottweiler mix.

Steven Bankert, Ms. Fleming's husband, recalled the incident with the jogger. He says the jogger yelled, waived his arms and kicked at Brahma when Mr. Bankert was riding his horse along Baldwin Hill. Mr.

Ms. Fleming reported that they are moving from Egremont at the end of October. She will keep the dog restrained and confined until then. She also said that she has taken the dog to assisted living units with no problems.

Attorney Puciloski asked that the Board ordered the dog confined, leashed and muzzled as allowed under the law, as well as to order evidence of insurance in the amount of \$100,000 covering dog bites.

Mr. Burdsall said he wanted the dog off the premises.

Town Counsel Jeremia Pollard informed Ms. Fleming that if an order is issued any failure to conform would be a criminal offense and the dog will be taken. He also informed her of her right to seek a review in District Court.

The Board voted unanimously to declare the dog, Brahma, a nuisance with the potential to be dangerous, and ordered the following as allowed under MGL, Chapter 140, Section 157:

- (i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;
- (ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;
- (iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;
- (iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a

policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance; Written notice will be issued.

Hearing adjourned at 6:59 pm.

Mary Brazie,
Office Administrator

minutes. 17/aug29doghearing

The recording of the minutes is on record at the Town Hall for 90 days. Anyone who wishes to may obtain a copy or listen to the recording at Town Hall. Copies of all documents used during discussion at this meeting are available upon request. Attachments are on file at Town Hall.

3)

TOWN OF EGREMONT, MASSACHUSETTS
MEETING OF THE SELECT BOARD
MINUTES

Date: August 29,2016
Time: 7:00PM
Place: Town Hall
Egremont

Present at the head table were Chairman Flynn, Vice-Chairman Flynn, Selectmen Brazie.

The meeting is recorded for the purpose of transcribing minutes.

I.

Present in the audience were Tyler Race, Marj Wexler, and for parts of the meeting Bill Weigle, Bill Turner, Jeff Lazarus and Jeremia Pollard.

MINUTES:

The minutes of August 8 were accepted with minor changes.

The Board voted to amend the agenda and move the Broadband discussion to the top of the meeting.

Jeff Lazarus reported that though we were on the verge of signing the agreements with MBI it has been found out that a private installer, Fiber Connect, has begun the process of providing Broadband to the "densley populated" areas of Egremont. They have completed their pole survey's and filed their pole leases and begun bidding the construction. This could be a good thing for Egremont as that private installer would assume all the expense and risk. There are reservations though, especially in light of the fact they only want to do about 85% of the town. The Technology Committee voted to recommend the following to the Board:

- 1) the Town engage a legal advisor with knowledge in the area. Town Counsel Jeremia Pollard will help in this search.
- 2) Postpone executing the MBI agreements.
- 3) Open dialogue with Fiber Connect.

The Board voted to accept the Technology Committee's recommendation and delegated Charlie Flynn and Jeff Lazarus to work with Jeremia on this to report back on September 12.

NEW BUSINESS:

The Board has not received a report from the Planning Board on the hearing held for the district bylaw proposals.

The Board agreed to re-chartering the Compensation Committee for the coming year. Personnel Director Bill Tighe will orchestrate the Committee's having recommendation before the May town meeting.

The Board approved Personnel Director Bill Tighe's request to update the Personnel Policy so it conforms with the Union agreements, and to his implementing procedures to make our Highway and Buildings Departments compliant with all OSHA regulations.

The Board voted unanimously to hire Brian Shaw as a part-time Police Officer.

OLD BUSINESS:

The Board voted unanimously to appoint Eric Steurnagle as the Back-up Water Operator.

It was announced that the Town did not receive the grant applied for in the amount of \$119,000 for new breathing apparatus for the Fire Department. A huge thank you was given to all those who participated in the grant application for a job well done. There were 10400 applications received seeking over \$1 billion in funding. Fire Chief Bill Turner gave the board the final quote for 15 units in the amount of \$119,477.69. The Fire Department will cover the balance not appropriated by town meeting. The Fire Department has already paid for the charging station. Delivery should be no later than mid-October. The units have a 15 year warranty and are state of the art technology. They are being purchased under state contract. The Fire Department will be applying for a grant for other equipment in the next round.

The Highway Laborer position has been re-advertised due to lack of response. The requirement for licenses was changed to preferable.

A quote has been obtained to resurface the Tennis Courts in the amount of \$9,940. The Board will look at funds available and possibly do a portion of the work.

SELECTMEN'S ITEMS:

The town's computer network server was infected with Ransomware on August 11. On August 15 the whole town's system went down. Since that date technicians have only been able to restore data to February 25, 2015. There is a strong possibility that they may not be able to. A plan for redundant backups needs to be implemented, as well as a plan on how to move forward with the rebuild.

Kyle Kemp graduates from the Full-time Police Academy on September 21 at 8pm at the West Springfield High School. Bruce and Charlie will plan to attend.

The surplus dump truck is going to cost thousands to repair. The Road Superintendent would like to get rid of it. The Board asked that he hold off on that, not make any repairs to it, but to get a detailed estimate for the repairs needed.

The Road Superintendent will be asked to look at trading up two old tractors for one good used tractor. A phased replacement plan is needed.

The Historical Commission will be invited to attend the September 12 meeting to discuss the issues surrounding upgrades on the town's historic buildings.

The Board would like an update on the progress of the South Egremont School.

The Board tentatively scheduled a meeting for September 7 to discuss the moving forward of the Open Space and Recreation Bylaw.

A letter from the New Marlborough school thanking the school district for finding school budget cuts was commented on. The \$70,000 found had been earmarked for a particular purpose that is now not being done. Mary will send the school the information we received regarding tennis courts.

Meeting adjourned at 8:09 pm.

Mary Brazie,
Office Administrator