

FINAL

BOARD OF SELECTMEN AND SEWER COMMISSIONER'S MEETING

August 11, 2014

Francis Faulkner Room 204

Regular Meeting 7:00 p.m.

Present: Mike Gowing, Katie Green, Janet Adachi, Peter Berry, Franny Osman; Town Manager Steven Ledoux. Lisa Tomyl, Recording Secretary

Chairman Gowing opened the meeting at 7:03 p.m.

Citizens' Concerns

None

Chairman's Update and Operational Update: Mr. Gowing mentioned upcoming cultural concerts at NARA Park, Essence of India at NARA,

Mr. Ledoux: ALG held first meeting this fiscal year last Thursday. New faces on ALG, new group and work to do in the upcoming year. 3 boards meeting is coming up in October. Directors had retreat todiscuss upcoming budget for FY 15. Preparing for temporary move to Land Use Department to 33 Nagog. Will need special Selectmen meeting in August for all the easements for the Bruce Freeman Rail Trail. August 19 for the meeting. Will need quorum for the signing. Looking at 7:30 or 8:00 AM.

Public Hearings and Appointments

7:10 p.m. **Dangerous Dog Hearing Tracy Slade:** present: Nina Pickering-Cook, counsel, Tack Palmer, Animal Control Officer. Mr. Gowing read the public hearing notice. Lisa Tomyl swore in Mr. Palmer. Mr. Palmer read a statement regarding the incident that took place on the property at 183 School Street, Acton MA on 6/6/2014. On behalf of the owner, Mr. Derek Bellerive was sworn in for his testimony by Lisa Tomyl. Mr. Bellerive stated that the dog was provoked and the victim (William Packard) appeared to be "intoxicated" at the time of the attack. Mr. Bellerive was not present at the time of the attack, but stated he could hear the conversation / incident through the telephone after the incident took place. Mr. Berry questioned Mr. Palmer regarding complaints of other neighbors regarding reports of a dog running around in the neighborhood matching the description of the dog in question. Ms. Adachi questioned about the relationship of the dog with Mr. Bellerive. Ms. Adachi was concerned and confused about who was the main owner of the dog, and how the dog has been bounced around. Ms. Osman – questioned how long he has owned the dog – 3 years. Mr. Bellerive gave the dog to his mother as he was going to school. Has been living in Acton house for 9 months. His mother had

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moved out recently. Mr. Bellerive has "other people" that live there at School Street to watch the dog. Mr. Bellerive states he is outside with the dog while dog is tied up outside and back and keeps it muzzled while out walking. Mr. Palmer needs clarification on who owns the dog. The dog is not currently in the house.

Mr. Berry – there is indication that the dog has bit someone else in the past, Mr. Bellerive denies any prior incidents. Mr. Bellerive does walk the dog, just not in the town of Acton. Mr. Berry questioned regarding what entails the quarantine – the dog was quarantined at the resident for 10 days. Tracy Slade is listed as the tenant at the apartment. Ms. Green questioned in order to license a dog, you must show proof of residency.

Mr. Palmer feels that there is no proof that the dog has had rabies; Mr. Bellerive states the dog has had a litter. Unknown if the dog has ever been licensed. Ms. Adachi questioned the outcome of the bite. The victim, according to Mr. Palmer had to have further medical care as a result. The finder tip could not be re-attached.

A neighbor, 8 Hillcrest Drive, and lives behind the residence. Admits the dog is vocal and is "loose all the time". She is concerned that the dog will get loose and attack a child.

2 Hillcrest Drive. Concerned about the dog being loose in the neighbor – Mr. Berry asked if she has seen the dog running loose – she cannot confirm that she has seen it running loose.

6 Hillcrest Drive. Concerned as well as the dog barking and has come up the hill before and is an abutter to the property.

Nina Pickering Cook, counsel for town. Licensing issue – check MGL

Nina listed GL 140. First step based on credible evidence whether the dog would be deemed a dangerous dog. Either dismisses complaint; find dog to be nuisance, or a dangerous dog.

Mr. Palmer's recommendation was at a minimum the dog be restrained at the location and be muzzled 24/7 except to eat by only one owner. Euthanizing dog not recommended. Mr. Palmer agrees and recommends that the owner be required to have proof of insurance. Ms. Adachi inquired to counsel if the owner is non-compliant. The order by the Board stands in any part of the state. Mr. Palmer believes the dog meets criteria for a dangerous dog.

Mr. Gowing closed the public hearing. MG suggests that the question who has control of the dog. The dog attacked within the dwelling. The dog has exhibited demeanor it could be dangerous. Should have some control on it. Ms. Green feels the dog is not a bad dog. The dog is limited to an indoor crate. There is a lack of responsibility to the dog. Ms. Green felt that this is not a way for a dog to live. Her recommendation is humanely euthanizing the dog.

Mr. Berry – require the dog to be restrained outside, a crate outside, require insurance.

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Ms. Adachi agrees with Mr. Berry. Ms. Osman – feels the dog should be euthanized, with its aggressive and vicious attack. Agrees with Mr. Berry and Ms. Adachi, but feels a better fenced in yard, but to be assured that this will be followed through.

The Board voted unanimously to find that the dog is a dangerous dog.

Ms. Green moved to impose conditions on the dog owners in compliance with MGL, seconded by Mr. Berry.

ALL AYES – UNANIMOUS VOTE

7:20 p.m. **WRAC Storm Water Bylaw Presentation** - continued and rescheduled to September 8, 2014 at 8:10 PM

7:45 p.m. **Site Plan Special Permit #07/03/14 – 451, 267 Great Road**; Mr. Gowing read the public hearing notice at 7:52. Ms. Osman is the Selectmen Liaison.

Representing Acton Management Group agreed to all requests with the DRB, however cannot save the large maple tree, but will replace close to its current location with a younger maple tree. Would be worthwhile to have engineering to evaluate having impervious material for the sidewalk to be ADA accessible.

Ms. Green – motion to approve SPSP #07/03/14 - 451, Ms. Osman second the motion

Ms. Osman withdraws second

Ms. Green - New motion to approve applicant meets requests from DRB excepting suggestions to flip the building and preserve the maple tree and work with engineering dept to see if there are pervious material and handicap materials to construct the walkway.

Ms. Osman second the motion. All AYES – UNANIMOUS VOTE

8:00 p.m. **Use Special Permit #10/11/13 – 445, auditory engineer report, cont. from 6/23/14**

Ms. Green is the Selectmen Liaison.

Jacob Abraham representing Axe Brothers states he did not have time to get the report done. Stating there is no criteria for what level is acceptable for the difference between ambient and processing. BOS requests an objective reading (according to DEP standards).

Mr. Gowing noted that there is no noise bylaw for the Town of Acton. Counsel for the abutters, Dan Hill presented and requested that the hearing be closed due to the extent of how long this hearing will be continued.

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Ms. Adachi – motion to continue the hearing to 9/22 at 7:10 PM on the condition that the applicant must pay for the study and be completed or the hearing will be considered closed on that date.

Mr. Berry – second the motion

All Ayes – UNANIMOUS VOTE

8:05 p.m. **Use Special Permit #6/16/14 – 449, 898 Main Street, Angel Arts Performing** Mr. Gowing read the legal notice at 8:15

Ms. Adachi is the Selectmen Liaison. The applicant is planning on opening an Asian Dance Studio with minor renovations to the warehouse where the school is planned.

9 Preston Way – clarification regarding offering a summer camp when hours of operation are 4pm – 9 pm. Summer camp would not be the whole summer, just based on the needs (9-4PM). Question about the sound from the building. Question about safety of the children walking from the side of the building in an industrial parking lot with vehicles exiting the rear.

Ms. Adachi o moveed to approve use special permit application provided that bicycle parking is aprovided in accord with the bylaw.

Ms. Green – second the motion

All Ayes - UNANIMOUS

Selectmen's Business

Nursing Report from Healthcare Management Services Joint Meeting with Finance Committee

A review from the Healthcare Management Solutions regarding the suggestion and future of the Acton Nursing Services. Presenting is Doug Halley, Department of Health Director, and Cheryl Leslie from Healthcare Management Services. After review of the study, the recommendation from Healthcare Management Services was option 5 on page 28 of the report. The Finance Committee had an opportunity to ask questions to the panel. The Board of Selectmen all asked questions regarding the Acton Nursing Services and the report's findings as well. There were a couple of comments from the audience in favor of keeping the service one way or another.

525 Massachusetts Ave Pedestrian Signal Crossing Mathias Rosenfeld presented plans for installing crosswalks for the 525 Massachusetts Avenue development of the WAVE Project. KG – approve pedestrian signal crossing, FO second. ALL AYES – UNAIMOUS VOTE

Selectmen's Reports:

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Ms. Adachi: Design Review Board – Most recent meeting Wednesday, 8/6. Submitted comments to Selectmen about 467 Great Rd site plan special permit project, just discussed. Ms. Adachi has requested and is awaiting comments about proposed revised charge from Planning Director, Municipal Properties Director, Acton Community Housing Corporation, Planning Board, Zoning Board of Appeals; discussion will be on Selectmen's agenda once all comments in.

Citizens Library book sale – Ms. Adachi noted that donations always are welcome. She recently culled a lot of books from her collection and dropped them off at Windsor Building.

Ms. Green: The Acton Boxborough Regional School Committee met and discussed the close out for FY'14. The numbers look good, in part because they received \$432,000 more than what was included in the cherry sheet at the time the regional budget was voted. This is largely due to a higher regional school transportation reimbursement. They also heard from JD Head, who spoke about how they needed to find a new location to park the school busses. Previously, they had an agreement with a local business, which let them park the busses for free. The business is leaving, however, so they are in talks to lease space with one of the car lots on Route 2.

ALG met for the first time this year and mostly covered administrative issues and rules of the road.

Mr. Berry: Housing authority board meeting – Elected new officers, Bob Whillitsy reelected chair; Financial audit found no significant issues; discussed changes in housing authority authorizing legislation.

Acton 2020 Implementation Committee –Discussed ongoing efforts to track implementation of 2020 goals; Paul Kampas interested in joining committee has put together a spreadsheet of all 2020 goals and objectives; Committee requests the Selectmen remind various boards to inform 2020 of progress in reaching goals.

Green Advisory Board – discussed Green Acton's initiative to support Extended Producer Responsibility legislation; discussed approaching regional School District about appointing GAB as their energy consultants.

Ms. Osman: Commission on Disability meets next week.

I attended recent Minuteman Regional Coordinating Council (RCC) and CrossTown Connect meetings: very successful, with representatives from Lowell Regional Transit Authority; several towns; economic development committee reps from Westford; nonprofits and municipal employees including planners and Council on Aging staff.

Spoke to Small Business Association rep from Westford. 3 Main things their EDC has recently done:

1. Small business permitting info

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2. Setting up a Small Business Association (Patty, the rep, was there at the CrossTown Connect meeting about Transportation Impact Zones)
3. Putting together a list of businesses. They started by working through who has a business license.
4. A HS'er did their logo

My RCC role is collecting data on transit needs, was contacting many towns, with the help of Cindy Patton from COD, but I learned that the state coordinator of RCC's has a template survey for towns that will help collect info.

Economic Development Committee, EDC: EDC seems to have some concerns they want heard. I will become clearer as time goes on. These were not formally consensed on but I heard them at the last EDC meeting: They would like the Town staff to reach out and not give up until they get answers from the companies of Kelley's Corner that have land that is important to the whole plan, eg Stop and Shop, Verizon, as to their plans regarding aesthetics . They would like to see Town staff focus on West Acton more than Kelley's Corner. They would like the temporary move of the permitting offices to Nagog Park to be advertised as part of our improvement to be a more business-friendly town. EDC is working on its Mission Statement – almost done!—and on its goals.

Mr. Gowing: **MPO** – the Mass Planning Organization opened their public participation comment section on the long-range transportation plan or LRTP – you can go to their website to leave comments if you wish. The long-range transportation plan looks out about 35 years. The MPO works in conjunction with the MAPC to divine projects that will appear on the TIP each 4 year period.

ALG – Acton Leadership Group began the year in earnest. New members were introduced to the rules and to each other. Superintendent Glenn Brand informed us that Marie Altieri will be the school staff member for financial issues. The schedule for future meetings was discussed.

RCC – the Regional Coordinating Council, a group of towns that comes together to discuss transportation issues and report back to Massdot. They met to discuss reporting issues and gaps in service throughout our region. The meeting was attended by the surrounding communities, LRTA, MBTA, HHS and Massdot.

Consent Agenda

Ms. Osman requested to hold item 8 – on grounds she must recuse herself from the vote – she was involved in the purchase

Ms. Adachi requested to hold item 9 – needed clarification of the lots and parking

Ms. Adachi– requested to hold item 12 – needed affirmation on the PD Chief approval

Mr. Gowing – moved to accept Wright Hill Easement with recusal of Ms. Osman – Ms. Adachi second – 4 Ayes, 1 abstain

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Ms. Adachi moves to approve the 1 day liquor license from item 14 with condition applicant hires a TIPS certified bartender in accordance with the police departments recommendation. Ms. Green second, All Ayes – UNANIMOUS VOTE

Ms. Adachi moves to approve consent items 9-13, 15-20, Ms. Green second, all ayes.

Meeting adjourned at 12:03 am on motion by Ms. Green, second, Ms. Adachi, unanimous vote.

Respectfully submitted,



Lisa Tomyl, Recording Secretary



Peter Berry, Clerk