

A Regular meeting of the Board of Selectmen was held on Tuesday, January 19, 2010 in Room 112 beginning at 6:30 p.m. The following members were present.

Christopher G. Timson, Chairman
Al DeNapoli, Vice Chairman
David Sullivan, Clerk
Clifton Snuffer
Nancy Mackenzie (arrived 6:40)

Mr. DeNapoli called the meeting to order at 6:30 p.m.

Firefighter Interviews

Jason Wilson is the first candidate for opening as a Firefighter/Paramedic on Walpole Fire Department. His father is a chief in Oxford. He lives in Oxford and has two children. He started in fire service 11 years ago as a call firefighter. He took the EMT course while in High School and obtained Paramedic in 2002. He is currently employed on the Sturbridge Fire Department. He attended the Mass Fire Academy in 2007 and is looking forward to coming to Walpole.

Mr. Snuffer questioned if he is aware that Walpole has a small fire facility. He further asked him which he likes best being a paramedic or firefighter. Mr. Wilson enjoys the paramedic side because that is what the fire department deals with on a daily basis. You deal with the public. Fires are down and I think there is more satisfaction in a job well done as a paramedic.

MOTION moved by Mr. Snuffer to appoint Jason F. Wilson, to the Walpole Fire Department beginning Jan 25, 2010 as a full time Firefighter/paramedic, seconded by Mr. Sullivan 3-0-0 (NM and CT not present)

Ms. Mackenzie arrived.

Albert King is the second candidate from Hanson Ma. He served with Halifax fire department. His dad is a Quincy firefighter. He has worked for Halifax since 2007 and as EMS for three to four years for AMR of Brockton, Taunton and Middleboro. He worked full time for 8 months until he was laid off from the Halifax Fire Department. He enjoys the Firefighter aspect but has learned to like the paramedic side of the job as well. He believes that is the future of the fire department.

MOTION moved by Mr. Snuffer to appoint Albert King to the Fire Department as a firefighter/paramedic beginning February 1, 2010, seconded by Ms. Mackenzie, VOTED 4-0-0

1-4 Ambulance Rates

Mr. Timson arrived at 6:50 p.m.

Chief Bailey presented the proposed ambulance billing rates in a memorandum dated January 14, 2010. He is looking for an increase in the rates of 12.5% to coincide with Medicare's 7.4% decrease. He explained, if it is a motor vehicle accident there is usually converge, but when we go to an accident we do not get people's motor vehicle insurance information. They are working on pursuing that money. We only get about 82%. That is what has lowered collection. They collected approximately \$775,000 last year.

MOTION moved by Mr. DeNapoli that we approve the proposed billing ambulance rates as requested in the memo dated January 14, 2010, seconded by Mr. Sullivan, VOTED 5-0-0

1-5 Cathy's Run

The Board received a request to hold the annual 5k Cathy's run in North Walpole.

MOTION moved by Mr. DeNapoli to approve Cathy's Run, seconded by Mr. Sullivan,
VOTED 5-0-0

1-6 Acceptance of Gift

MOTION moved by Ms. Mackenzie to accept the anonymous Gift for the recreation department, seconded by Mr. Sullivan, VOTED 5-0-0

1-1 Employee of the Month

Mr. Boynton expressed his appreciation for the great job Landis Hershey has done.

1-3 Coney Street Bond

Bell Traffic who installed the lights has notified the Town they have not been paid by the developer and have suggested they will take out the lights. The board is holding the bond on this work. Have done legal research and the town is in good shape. The Board is not being asked to release anything at this time, but at the end of the month they should see a request for work on curbing.

Ms. Mackenzie suggested the Board should keep in mind that we had to seek legal advise and we should let the contractor know that if we could pass the bill of the lawyer to them. Mr. DeNapoli agreed. Board agreed that a letter should be sent to the contractor advising them of this.

Texting By-law

Mr. Timson would like the Board to address people texting while driving with a texting bylaw. Other towns are doing it, the legislators are dragging their feet. There is no downside to it. I do not see it being a bad thing and he would like the Board to take a leadership role. Mr. DeNapoli questioned how it would be enforced?

Mr. Snuffer understands the spirit and intent, cause, effect, fines, enforcement all of those things become difficult to put in place.

Mr. Timson wants it on the STM warrant. The police chief is in favor of it. Mr. Boynton explained there is language from Danvers and they are the second town that has done something.

Chief Stillman feels it is a great idea. It will send a message, not a lot we can do as far as enforcement. It sends a message it is dangerous. There would be a fine. He could not pull someone over because of texting unless there was another reason.

1-7 Contract 2010-20

MOTION moved by Mr. DeNapoli to award contract 2010-20 earth materials to be picked up at the plant to SM Lorusso & Sons as outlined in bid for 3 years, seconded by Ms. Mackenzie, VOTED 5-0-0

Tee-t's Restaurant

Today the Board received a letter from Ms. Sullivan's attorney regarding the transfer of the liquor license. You can reverse your decision or wait until it plays out in the courts. There seems to be no need to take action on this at this time. Board decided to not get involved in this. Let it play out. No action should be taken at this time.

99 Restaurant

Board received a request to change the officers/directors for the 99 Restaurant.

MOTION moved by Mr. DeNapoli to approve the change in officers and directors for 99 Restaurant, seconded by Ms. Mackenzie, VOTED 5-0-0

Town Administrator's Update

June Street Groundwater Citizens Petition- there is a high ground water level in this area and the residents are getting water in their basements. Back in the 1990's the town allowed a special pipe to be installed in June Street. To be on the safe side, he has people camering that pipe this week, not everyone on June Street tied into the pipe. The town did not pay for the drainage nor are we going to pay for the drainage. In terms of fixing up stream water that is not something that has been historical. If in fact this comes back that the pipe is not blocked, the only thing available, is to allow the remaining residents to tie into June St at their cost. I would like the Board to send the petitioner a letter that the town has never been in a situation where we take care of high ground water. There are other areas in town experiencing the same thing.

MOTION moved by Mr. DeNapoli to authorize the Town Administrator to send a letter to the petitioner that we are exploring the situation, seconded by Ms. Mackenzie

Mr. Timson wants to make sure in the letter it is not the town's place or responsibility to take on every water problem. Make it clear that we have not done anything to alter anything. Mr. Boynton noted this is coming from a new homeowner, VOTED 5-0-0

Snow and Ice- this was another costly weekend. There was a \$80,000 balance left, and that is gone. Even though we put in an extra \$250,000 we are looking at deficit spending.

Mr. Timson noted that a lot of these storms have fallen on the weekend.

Power outage- This afternoon, NSTAR came in and told us they are turning the power out downtown to repair a pole that was hit by a women driver. He has reached out to Barry Salvucci to find out the status on this.

7:30 p.m. Public Dog Hearing

Greg Corbo Town Counsel is here. The Board had received a complaint from the Animal Control Officer to conduct a dangerous dog hearing on a dog named "Dozer". On Tuesday December 29, 2009, Officer Manganello responded to a call of an open door at Mr. Carson's House at 560 Old Post Road. While checking the house, the bull dog ran into the house from outdoors and attacked officer Manganello. Upon receiving a complaint the Board may conduct an investigation. The Board should consider what if any action should be taken to restrain or dispose of the dog. You will hear from witnesses and the animal control officer. After you hear the evidence, you may decide if the dog is a nuisance by vicious disposition, if so, what if any action should you take.

Dave Sullivan left the hearing. He recused himself and left the room.

Mr. Timson called the hearing to order and asked the witnesses to raise their hands and take an oath that their testimony is true.

John Spillane gave each member a copy of the complaint. He explained he received a call to go to 560 Old Post Road, an officer was grabbed by the dog. There has been a lot of problems with this dog. This dog bit a man on Windchime way. It is American bull dog. He has been loose, and he has had to write 3 citations for that. He has had the dog since the incident, and he does not like me at all. Mr. Spillane considers him dangerous.

Mr. Spillane gave copies of the three citations to the Chairman and they were entered in the record. Mr. Spillane explained they were complaints from the neighbors. The calls came to John. Mr. Carson had 3 dogs at that time. Mr. Timson questioned if these citations are for the dog in question. Mr. Spillane responded this involved this dog and another dog.

Mr. DeNapoli noted the violations given to the Board are from September 07, since then have they complied with the leash law and have they licensed the dog. Mr. Spillane has not had a problem for about a year.

Mr. DeNapoli questioned if the dog has a license. Mr. Spillane replied no. The dog in question named "Dozer" had a serious bite issue a few years ago. The dog was quarantined for ten days at that time. He had heard the person had over 100 stitches on his face.

Ms. Mackenzie asked Mr. Spillane when you got to the scene how was the dog? Mr. Spillane stated by the time I got there, a young man put the dog in a bedroom. Ms. Mackenzie asked how he was when you brought him. Mr. Spillane stated not too bad but since the 29th of December, he is very standoffish, growls when I get near him.

Mr. Snuffer noted the breed is an American bull dog, what are the characteristics? Mr. Spillane does not run in to them often, they can be tough. Mr. Snuffer thought there was only one dog. But there are two dogs. Was the boxer and the American bull dog the dogs under the violation of leash law? Mr. Spillane stated yes, same dogs. Mr. Snuffer asked if they are compatible dogs. Mr. Spillane thinks so.

Mr. Snuffer would like the question answered, do we have a license for both dogs? So the presumption could be made that it is unlicensed dog as it is not tagged.

Mr. Boynton is going to check to see if they are licensed.

Mr. Snuffer would like to get an idea of the property. Were the dogs on their own property and were they outside. Mr. Spillane does not know as he was not there.

Mr. Timson asked if Mr. Spillane knew how old "Dozer" was.

Mr. Carson the owner said 6 years old.

Town Counsel asked Mr. Spillane with respect to the violation when the dog was quarantined did you have him? Mr. Spillane explained no, it was quarantined at the house.

Town Counsel asked on these incidents in 2007, did you see them loose? Mr. Spillane stated yes. Town Counsel asked what did you do other than issue these citations? They were running around the neighborhood and he gave the owner citations. Town Counsel asked Mr. Spillane if he was familiar with the property where Dozer lives. What is the set up like? Mr. Spillane stated it has a front yard, and at one time there was a wire fence.

Mr. Carson is satisfied and has no questions for officer Spillane.

The Board took testimony from Officer Manganello. On 29th of December he responded to open door. He arrived on scene, and they could see the front door open. It was about 10 degrees outside. He had his service weapon and flashlight, and entered the first floor when he came out of the bedroom, he heard Tim Sullivan yell there are two dogs running into the house. He did not want to shoot the dog, it jumped up and bit my left hand did not break the skin. He hit the dog with the flashlight and kicked it away. The other officers found someone in the basement, and the kid grabbed the dog and placed him in the bedroom.

Ms. Mackenzie asked how were the dog as the boy was trying to get them in the room? Officer Manganello stated the dogs were still upset. Ms. Mackenzie questioned, have you or any other officer had dealing with these dogs before or after this incident. No.

Mr. DeNapoli, you were in the house, they came up from outside. Did you see them when you arrived? No sir. Do not know where they came from? All he heard was Officer Sullivan yell.

Mr. Snuffer asked is it your opinion the dogs considered you a intruder? Officer Manganello stated that it is hard for him to say, he can not read the dogs mind.

Mr. Timson asked did the dog go after only you? Yes, he was on the first floor. Mr. Timson asked if the dogs were on the property would you have seen them or are we to consider the dogs were off the property. The Officer came up High Plain Street and believes he would have seen them.

Mr. Snuffer asked the officer when he entered the home did the dogs came around you? The Officer stated he was already in the house. The other dog did nothing.

Mr. Carson, owner of the dog questioned the officer. The dog would have considered you an intruder, a dog can not tell the difference, he could have considered you an intruder. He does not know the difference between someone with a badge and not. You had your weapon drawn. Officer, we did not know what we are going to encounter. Mr. Carson so your adrenaline may have been up.

Mr. Carson, who is a firefighter stated that he enters homes all the times where dogs have to be restrained or put in another room. Haven't you? Officer replied, Yes.

Mr. Carson- to begin with, the incident of June 29th on Windchime Way, he did not own the dog at the time, he was at the party where the incident took place. He has a report that he bit a boy in the face. It was not a boy, it was a man in his 30's. The gentlemen had not been there all day, he had sunglasses on and leaned into the dogs face. He got two cuts on both sides of his lips. He has been on the fire department for along time, and treated it if he was on the call. He told the man's wife, that when he gets to Norwood, to go to Boston to see a plastic surgeon. There were a lot of stitches, it was not a maul, it was a single grab.

Norfolk animal control came during that incident and he took the dog and he has been at his home ever since. One thing he would like to point out in taking possession of the dog, he has known him his whole life, because of problems with him. He had him neutered 2/26/08 all his shots are up to date.

Officer Spillane stated there were multiple incidents. Mr. Carson stated there was one issue, at one time he did have a yellow lab. He has a large backyard, with a chain link fence. The property drops off and his yellow lab got out and the bulldog followed. The licensing citation are for other dogs. He went thru the magistrate in Wrentham Court there was one leash law violation for the Lab. Officer Spillane had a letter from a neighbor.

Mr. Carson submitted for the record a copy of the benefits of neutering, the description of an American Bull Dog, copies of the Wrentham District Court decision, veterinarian records for Dozer. He believes the door to the house was left open by the last person to leave. His son was home and was awoken by officers. Dogs read the energy of people and they can sense it as aggression. He thinks the dog was defending his son. They were bread for cattle dogs, he could have done some damage, but he grabs. I do not feel it was an attack. If this dog had mauled a little kid he would be the first to say it should be put down. It was not the case. Mr. James was 36 years old. He has taken steps since the violation in 2007. He immediately knew what happened. Officer Spillane says he has not had a problem in the last year. He believes it has been since 2007. It was a mishap that the door was left open. This occurred in my house on my property, Dozer was there to protect my house. Dozer does not know the difference between a badge and a stranger. There was a lot of adrenaline in that room. In the 6 years I have known this dog I have never seen him jump up. My boxer jumps. Mr. Caron questioned whether this was a bite, the skin was not broken. Read the definition of a bite from the dictionary. The officer did not seek any medical attention. He does not see an incident here. The layout of his property he has a large front and back yard. Behind him is Herb Chambers Lexus dealers. He believes the energy of the room was at a heightened level and dogs sense that. This dog is a family dog.

Mr. Carson introduced his children, Mackenzie 9, Marissa 12 and Madison 13. They would all say they are familiar with the dog and the dog is friendly.

Ms. Mackenzie asked Chief Stillman if he was aware of any other incidents with the dog? The Chief is not aware of anything.

Mr. Caron introduced the previous owner of the dog. He has people in and out of his house, and under the statute that Town Counsel states, he does not believe his dog has a viscous disposition. He stated that both his dogs get along well and play in the backyard.

Mr. Boynton had gone to Town Clerk's office and could not find the license for Dozer. Mr. Snuffer asked Mr. Carson if he would submit to this board with a degree of certainty that both your bulldog and boxer are license. Mr. Carson stated yes. Mr. Snuffer asked him where you house them. Mr. Carson stated inside and out. Since that initial issue they have never gotten out again.

Mr. Snuffer asked Mr. Carson if he would categorize what happened to the officer a grab or a bite. Mr. Carson stated it sounds like he grabbed his hand.

Ms. Mackenzie noted that Mr. Carson took the dog from previous owner. Mr. Carson stated the previous owners thought they might be sued. The last time the dog bit someone it was a man in his thirties. You say the dog can not tell the difference between an intruder and an officer. The dog did get out, this time when he went in the house he bit a 30 something year old man. Mr. Carson stated he has friends who are in and out of the house all the time. He explained the dog is usually gated in the house, but because his son was home no one thought it was necessary to put the gate up.

Mr. Timson asked if Mr. Carson has brought the dog for any training since the last incident. Mr. Carson stated he has done a lot of things with him. Mr. Timson questioned if he trained the dog to defend the house. Mr. Carson sated no. This is a very much loved dog. He explained as a firefighter he goes on calls all the time, we go in for a patient, and dogs see us as an intruder. He deems this his area. He sees the incident as the dog was acting as a dog does. There has been a lot of talk about previous incidents.

Madison Carson stated, when you talk about the men and their age, My dad has had my brother's friends and his friends in the home and the dog has not been aggressive at all. If a stranger walks into your house, how would you act? You have family members in that house, you would be protective, My dog has been gone for 3 weeks and it is sad that people think he is a monster, I want him to come home.

Antonella, the previous owner stated, Dozer was my dog since a puppy, we never had an incident with him before. I feel he did a bad thing, but I think it was Scott's fault. He was in the dogs face rubbing the dogs face. He is a loving dog, there were comments made by Mr. Spillane, we had conversations after the incident happened. I would not want to see him destroyed. She did not keep the dog because you are not allowed to let them live in your house if you are begin sued.

Town counsel would like a better idea of the fence situation, at some point you had most of the yard in chain link fence. Mr. Carson explained there is a heavy gauge wire fence in the other area.

Town counsel so there is no place that the dog can get out. Mr. Caron replied no. Town Counsel asked how far back is your front yard? Mr. Carson stated about 40 feet. This was an isolated incident because the door blew open.

Mr. Spillane stated the dog may be a loving dog in the family, but he is not with me. Dog bite does not require the skin to be broken. One of these complaints by one of the neighbors and the other was a visual.

Minutes of January 19, 2010

Mr. Carson stated the dog was taken out of my house with a noose, and has been locked in a pen for 3 weeks outside.

Mr. Spillane does not think the dog should be put to sleep, he thinks he should be permanently restrained. He should be put on a run. So the dog is secure. Mr. Carson agreed to it.

MOTION moved by Mr. DeNapoli to close the hearing, seconded by Ms. Mackenzie, VOTED 4-0-0

MOTION moved by Mr. Timson that “Dozer”, your American Bulldog is to be placed on a run “permanently tethered” when outdoors in Walpole except when under the control of the owner via leash and that the inside of the house be restricted so that the dog does not have access to the front door. The Board further voted that “Dozer” is to complete an obedience class and a certificate be provided to the Animal Control Officer within the next 6 months showing proof of such classes. , seconded by Mr. DeNapoli, VOTED 4-0-0

Flowers N More, Public Hearing

MOTION moved by Ms. Mackenzie to open the public hearing, seconded by Mr. Snuffer, VOTED 3-0-0 (Mr. DeNapoli and Mr. Sullivan not present.)

Flowers N More has moved their location closer to the downtown. They wish to move that license from one location to another. They have been in Walpole for ten years and have grown. The one thing that has set them apart from other florists in town is the beer and wine license.

MOTION moved by Ms. Mackenzie to close the hearing, seconded by Mr. Snuffer, VOTED 3-0-0

MOTION moved by Ms. Mackenzie to grant the transfer of the license for Flowers N More to 1075 Main Street, seconded by Mr. Snuffer, VOTED 3-0-0

12-27 Ginjo Sushi & Hibachi, Public Hearing

MOTION moved by Mr. Snuffer to open the hearing, seconded by Ms. Mackenzie, VOTED 4-0-0

The applicant is requesting to change the name of the Blue Orchid, to Ginjo Sushi & Hibachi. He explained three months ago we got hit by a car, we are taking the opportunity to take over the next door building and opening an Hibachi.

MOTION moved by Mr. Snuffer to close the public hearing, seconded by Ms. Mackenzie, VOTED 4-0-0

MOTION moved by Ms. Mackenzie to grant the expansion of the licensed premises for 887-889 Main Street for Ginjo Sushi & Hibachi, subject to the occupancy permit from the Building Inspector and Board of Health, seconded by Mr. Snuffer, VOTED 4-0-0

Town Administrator's Update contd.

Gillette Stadium- Commuter rail they need to take Walpole as active participants in this . No final decision has been made.

State house delegation- He is preparing budget with level funding. Does not anticipate that will be the final number. He will be attending meetings in Boston. Talked about snow removal and how the state pays a private contractor to plow 1A, discuss with Governors Chief of Staff.

FYI dealing with architect and project manager of library, Green certification, to get LEED certified the cost to the town is about \$100,000. Allegedly the return is about

184,000 thousand. He wants to make sure there is return on the investment. Lower light costs, but Mr. Johnson is doing more research on that topic.

Jack Mee will be looking at regionalizing in his department. It makes sense that if we can do these things, we should look into it. Westwood is looking to build a new library maybe we should have conversations with them about a regional library. We need to look outside of the box.

OLD BUSINESS

Mr. Snuffer should have for the Board's perusal a power point presentation by the end of the week regarding the police station.

Mr. Sullivan spoke of the Senior Center. He has been doing a lot of research and will have a packet within three weeks. He is meeting with Tri County soon.

MINUTES

MOTION moved by Mr. Snuffer to approve the minutes of December 15, 2009, seconded by Mr. Sullivan, VOTED 4-0-0

MOTION moved by Mr. Snuffer to adjourn at 9:20 p.m. seconded by Ms. Mackenzie, VOTED 4-0-0

Respectfully submitted,

David Sullivan , Clerk