

# Town of Raynham, Massachusetts

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## Board of Selectmen Minutes 07/12/2016

### Board of Selectmen

July 12, 2016

Chairman Joseph Pacheco called the meeting to order at 7:00 p.m.  
Present were Joseph Pacheco and Karen Roberts and Marie Smith.

### Acceptance of the Minutes

Mrs. Roberts motioned and Mrs. Smith seconded to accept the minutes of the June 28, 2016 meeting as printed, Mr. Pacheco made it unanimous.

### Department Heads & Committees

Chief Jim Januse was present to update the Board on the Activity Report for the month of June. Fires, fire incidents, mva investigations, and public assist were 107; Ambulance, medical emergencies mva's and public assist were 205; Miscellaneous inspections, fire alarm work and items of note were 136; Mutual aid fire and ambulance, 32 ambulance given, 3 ambulance received; 4 fire given, 2 fire received for a total of 41. There were a total of 1,469 calls for June 2016 which is 21 less than last year. Chief Januse updated the Board on several employees who are out on extended sick leave. Lt. Mansfield has returned to full time duty as of July 1<sup>st</sup>.

Chief Januse also noted that he has put \$74,000 back into the general fund that was not used during the year, primarily because of lack of brush fires.

### Old Business

Mrs. Smith wanted to discuss a motion that was brought before the Board two weeks ago, to deny the permit for the kiosks.

After careful consideration, and conferring with Town Counsel, she would like to change the motion to allow the kiosks, as they do not require any money to be used to play and is not considered gambling. What she wants to add to the motion is the age to use the machines be at least 18 years old and limit the machines to two per establishment. Mr. Pacheco entertained a motion to reconsider the vote from two weeks ago that denied the request from Atty. Fagan on behalf of the applicant. Mrs. Smith so moved and Ms. Roberts seconded. Mr. Pacheco made it unanimous. The Board has now voted unanimously to approve the request for the kiosks. Ms. Roberts made a motion to approve the applicant's request with the conditions that were outlined, which stipulates the age is 18 years old and older and only two permits per establishment, Mrs. Smith seconded and Mr. Pacheco made it unanimous.

### Public Hearing -7:06 P.M. - A.E.A. Spirits, Inc. d/b/a Debuca's Wine & Liquors, Ayushi Patel, Manager – Transfer of All Alcoholic Package Store, 600 South Street West

Atty. Gregory Demakis, was present, representing Ayushi Patel, who is the applicant. They are looking to purchase the store and currently own a liquor store in Weymouth. Atty. Demakis stated that most of the employees will remain. Mr. Pacheco asked if there were any violations at the Weymouth location. He replied that they had 1 last March. Mr. Patel was present and

addressed the Board. He said they had a new hire and she did not ask for an ID. Mr. Pacheco asked what action was taken to see that the incident was not repeated. Mr. Patel said they now have a front line manager to insure that this does not happen again and the new hires are trained properly. Mr. Pacheco wanted to make it known that the Board takes this very seriously and they regularly conduct sting operations. The Board's policy has always been a mandatory suspension for a violation and that Raynham has a zero tolerance for selling to minors. Ms. Roberts made a motion to approve the request by the applicant, Mrs. Smith seconded and Mr. Pacheco made it unanimous.

#### **Public Hearing-7:10 P.M. – Kennel License – Joe & Diane Cotell, 485 Prospect Hill Street**

Mr. Joseph Cotell was present to address the Board. They have filed the application because they currently have 4 show dogs, and his wife is a dog groomer by trade.

Although they are requesting a kennel license, the dogs will primarily be kept in the house. Brenda Easter, 501 Prospect Hill Street, was present and spoke in favor of the applicant. Richard Peters, 499 Prospect Hill Street, was also present and spoke in favor of the applicant. Mrs. Smith made a motion to accept, Ms. Roberts seconded and Mr. Pacheco made it unanimous.

#### **Public Hearing-7:20 P.M. – Dog Hearing – Brian Szakaly, 211 Prospect Hill Street**

Pursuant to M.G.L Ch. 140, sec. 157, the Board of Selectmen will hold a public hearing regarding the disposition of your dog on Tuesday, July 12, 2016 at 7:20 p.m. at Raynham Town Hall, 558 South Main Street, Raynham, MA. The hearing will address the incident that occurred on June 22, 2016 as detailed in the attached police report and further detailed in the attached email from our Animal Control Officer Adam Perry. If your dog is deemed dangerous, the consequences could be serious for the dog. Therefore, you must attend and you may also have a representative present if you wish. The Board is represented by Town Counsel Ted Pietnik.

Adam Perry, Animal Control Officer was present and addressed the Board. Mr. Perry was sworn in by Mr. Pacheco. The incident occurred on Wednesday June 22<sup>nd</sup> at 181 Prospect Hill Street in Raynham. The dog is a mostly black and white pit bull, a little over a year old and owned by Brian Szakaly of 211 Prospect Hill Street Raynham. The dog escaped out of the owner's house and entered the yard at 181 Prospect Hill Street where the pit bull initially went after a chicken before biting Jason McGrath of 181 Prospect Hill Street in the hand and also his 7 year old son in both hands. The stepfather came over to apprehend the dog and was bit in the face while trying to control the dog. Raynham Police and Animal Control were called to the scene the pit bull was then transferred to Lakeville Animal Shelter where it was quarantined. The dog was biting and fighting the rabies pole all the way into the shelter. While at the shelter the dog continues to be aggressive by growling at anyone going by so staff has had to put a board up to avoid any contact with anybody. It's in the best interest for the town to have a hearing with the dog owner to see what action is to be taken in regards to the dog. No one was seriously injured in the attack, but it could have been far worse. The dog is not licensed in Raynham and Brian has provided documentation for a rabies vaccine.

Mr. Brian Szakaly of 211 Prospect Hill Street was sworn in by Mr. Pacheco. He returned home from work at approximately 5:30 p.m. His father, who was home at the time, is an alcoholic and now in detox. The dog escaped from the house and went after the chickens, the kid made a fast move and the dog – I'm not really sure what happened. He also got hit with a bat – that was not in the report. Mrs. Smith asked who hit the dog with the bat. Brian replied they were trying to stop the dog and they (stopped). Mrs. Smith again asked who? Mr. Pacheco reiterated the question, who hit your dog and where did this occur?

Brian replied, it was at the incident. Mr. Pacheco asked again, who hit your dog and how do you know that the dog was hit? Mrs. Smith asked has the dog ever done anything like this before. Brian replied, never. The week before his dad let the dog loose and it went and grabbed one of the chickens; that's when the dog realized there were chickens next door. Mrs. Smith asked how long you have had the dog. Brian replied about a year and a half. Kim Pelaez, of 211 Prospect Hill Street was sworn in. She said he's still a puppy he's a little over a year old and there has never been another incident like that before. I have two young girls a 4 and 7 year old and there never has been an incident. My husband was drunk and let him out. There's never been an incident and he was hit after the fact. I understand that he was hit by a baseball bat and to do whatever but he was scared, probably if I was a 1 ½ year old puppy I would be scared if Animal Control person came after me with a rabies

pole and I got hit by a baseball bat I'd be scared too. There has never been an incident, there are tons of pictures that I have brought that shows a good puppy not a monster. Mr. Pacheco interjected, this is your hearing and you are entitled to do so. So that would be my advice to you. Kim Paleaz spoke again; my neighbor Kim McGrath doesn't want the dog back and I can understand why. But she knows someone who is willing to take the dog. So I don't know if that gets brought up now? Kim McGrath, 181 Prospect Hill Street was present and sworn in. I wasn't there but got a call from my neighbor, saying not to worry but Jason and are ok and when I got there Animal Control was there and they got help from the ambulance. And just my understanding of the story was the dog came into the yard, my husband was able to step on the leash and then Mr. Szakaly's father came over, he had the dog on the leash and was speaking to my husband and what happened next, I'm unsure of. My husband sent my son to go into the house and get a towel or something and as soon as he turned to run, the dog hopped on top of him, bit his wrist and then my husband said it looked like he was going right for him again really rapidly. My husband got the dog away from him and in the meantime, he was bit in the hand. A pretty good puncture wound, but did not involve any hospital trips or anything like that. My neighbor that lives in between us heard the commotion, came around to the side of the house and in that time frame my husband was able to get my son safely into the house and asked my neighbor to go inside and check on my son- she's a registered nurse- and call the police right away. And in the meantime, this was when the dog was attacking Mr. Szakaly's father. He was asking her husband to come and help him. That's was when my husband grabbed a baseball bat – just to protect himself and keep the dog at a distance and I don't know how much force was used; I was not there. But I do know it was just in defense. But again, I think because of the fact that our son was hurt, my husband is really nervous about the dog being there. Especially if he is there outside by himself, if he (her husband) wasn't there that day, what could have happened? I would like it if that dog didn't come back to our neighborhood. If they do have an owner that would be able to care for the dog, providing the environment it needs, I would be behind that. Mrs. Smith asked how her son was. She replied: he had some scrapes and a bit mark on his wrist, and he did see his pediatrician on Monday. Kim McGrath had pictures of her son's arm that she showed to the Board. Mr. Pacheco asked Town Counsel, Ted Pietnik, is there anything that you feel we are missing right now? Attorney Pietnik suggested to the Board, because of a potential law suit, we should go into Executive Session to discuss this briefly.

**Ms. Roberts made a motion, on the advice of Counsel, to have a brief recess to go into Executive Session and return in approximately 5 minutes the public will be welcomed back in, Mrs. Smith seconded and Mr. Pacheco made it unanimous.**

**Mr. Pacheco: We are returning from a brief recess for an Executive Session, reconvening at 7:42 p.m. I will go back to the continuation of testimony and offer anybody here the opportunity for closing comments before we render our decision.**

Linda Brackett: of 46 Hidden Valley Drive in Raynham, and I am the Assistant Animal Control Officer. Mr. Pacheco swore her in. On the 25<sup>th</sup> I went to the Lakeville Animal Shelter to drop off medication for another dog and I saw this dog when I was there – it was very aggressive, there is a board in front of his cage because they are afraid of anybody walking by and put their fingers in and he was up against the board and just growling and showing his teeth and I took a video of it. He was pretty aggressive and this was 3 days later.

Mr. Pacheco: Do you want to allow us to view it, so it can be entered into the record?

Linda Brackett: Absolutely. That was the Assistant Animal Control Officer speaking.

Mr. Pacheco: Any other questions or comments before we go to a determination.

Kim Paleaz: If you want videos, I have a ton of videos.

Mr. Pacheco: If you want to offer anything else, now is your opportunity.

Kim Paleaz: Well, listen, the dog is still a puppy he's never hurt anybody before, this is the first event – I'm blown away by this, I'm literally blown away by this. The only reason he is acting this way is because he's scared, he's probably petrified, you know being hit by a bat. This is just the first time, I hope you consider this and he's not coming back to my house as Kim suggests, he's going with someone else. He hasn't been neutered yet, they think after they've been neutered, they calm down a little bit. That's all; I can show you videos of this dog as just a puppy, with a 4 year old and a 7 year old.

Brian Szakaly: When I arrived at the incident, I asked if I could see my dog, just to see if he did go completely crazy but I went in and he started wagging his tail but he looked very scared.

Ms. Roberts: So the dog has never done anything like this before?

Kim Palaez: Absolutely not. My kids have pulled his tail, and I had a 3 year old now she is 4 and the other was 6 and now is 7. I know people have that stereotype and I don't understand the whole thing. I am a little shocked by it; I think he was scared, I've never seen anything like that.

Mrs. Smith: I have a great deal of concern regarding it; I heard the dog was hit by a baseball bat. Who hit this dog and did anybody see who hit this dog?

Kim McGrath: No, nobody here saw it, I didn't see it, I know my husband got a bat, and then he went out to help his dad to try and get the dog off of him. I didn't see what exactly happened and the two people that did are not here.

Mrs. Smith: That's unfortunate that their not.

Kim Palaez: My husband was one, but he's in detox, he'd be useless anyway.

Mrs. Smith: I think what we have to do is make a determination on whether this is a dangerous dog or just a nuisance dog.

Mr. Pacheco: I think to set a baseline for the Board and the audience at home is to clarify some of the comments. Some of the testimony presented here is only here say, as there is nobody here who witnessed the dog being hit by a bat. And while everybody is entitled to offer their opinion, we have to take only what is in fact right now. While the dog may have been hit by a bat, my determination is that cannot take that as part of our consideration. We are not making a determination based upon the breed of the dog, but the events that took place that evening and subsequent to that evening. Not in any way shape or form for the breed of the dog. And, at this point, we have an obligation to make a determination as to how we want to proceed with the animal consistent with the M.G.L. Ch. 140, sec. 157. I also want to stipulate for reference for the Board that we cannot order the dog be moved to a separate town as so while we do have an offer on the table to relocate the animal. we cannot issue an order as such, technically speaking, that allows the dog to come back, not only to Raynham but into the neighborhood.

We've heard the testimony this evening from two of the victim's family members for the dog not returning to the neighborhood. In my estimation, we have narrowed it down to either Section B; a nuisance dog, or Section C; which is a dangerous dog and based upon how the Board wants to proceed with those two options.

Mrs. Smith: Due to the fact that the dog was, according to the Police Report, not defending himself; he aggressively went out and did what he had to do. He bit three people, we can't have that. I feel that there is no way to safely contain the dog; how can it be monitored? Given that as a factor, I would deem the dog to be a dangerous dog.

Mr. Pacheco: I want to do that in two parts, deeming it dangerous.

Mrs. Smith made a motion to deem the dog a dangerous dog, Ms. Roberts seconded and Mr. Pacheco made it unanimous. The dog has been deemed a dangerous dog.

Kim Palaez: You also have to know that the dog showed restraint in biting these people; he could have done some serious damage if he really wanted to hurt somebody. Don't you think?

Mrs. Smith: He aggressively bit.

Kim Palaez: I have a Chihuahua that bites on a regular basis to hurt people.

Mrs. Smith: Why do you keep such a dog?

Kim Palaez: It's not my dog; I've never had a Chihuahua.

Mr. Pacheco: Sir, do you have any other comment?

Brian Szakaly; You would know that the dog would not be living with me, I already bought a 10" x 7" cage, I'm willing to spend any money on it. I'm willing to get the dog neutered.

Mr. Pacheco: I can sympathize. I think all of us are or have been animal owners and it's a challenging situation for all of us personally. I've been on this Board for 10 years and I have never had to deal with something like this. It's something all of us wish we did not have to deal with. But the facts are that we have an issue in front of us that I would have to respectfully disagree, the characterization of the dog, by all accounts this was an aggressive attack, and an aggressive bite. And not in the matter of the dog attempting to defend himself, his owners or his property, to me those are the most glaring issues we have in front of us. It was not one attack, but three attacks on three different individuals in the same evening. After multiple people trying to restrain the dog, one of which was the dog's owners and it's challenging and in any situation we try to way all of the facts, and make a decision in the public's best interest. As a result of that we have deemed the dog to be a dangerous dog, and now we have options to deal with the determination; which includes additional insurance, safeguards to the property, muzzling the dog, and humanely euthanizing the dog.

Mrs. Smith: This is extremely difficult. Anybody who has been to my house, knows that I have big dogs. They don't bite, they're not aggressive, but if they were, I would have no other choice but to put them down. Because I could not comfortably

sleep at night knowing that this dog was an aggressive animal and could do some serious harm to an adult or a child; especially a child. We have seen many pictures in the news of dogs that have attacked and it's not pretty. I don't know as you could confine the dog, that's not humane to confine a dog or keep it muzzled. In a case like this, it's a safe bet that the dog is going to bite again. Mrs. Smith made a motion that the dog be humanely euthanized, Ms. Roberts seconded and Mr. Pacheco made it unanimous.

Mr. Pacheco said just to sum it up, with all of the testimony this evening, both oral and written, and as a result of the numerous attacks by the dog, the motion here this evening is to humanely euthanize the dog. And after 10 days the order has been issued, under Sub Sections A – C the owner or keeper of the dog can bring petitions to the District Court within the judicial district to which was relative to where the order was issued, the dog's owner can address the Justice of the Court praying that the order be reviewed, by the Court or Magistrate of the Court, and to notice to all parties the Magistrate, shall under 62 C of Chapter 221, review the Order and inform the Order, unless it shall appear there may be without proper cause, in which case the Order shall be reversed. You shall have the right to request the hearing or complaint, before a Justice of the Court. Mr. Pacheco made a motion that Mr. Buckner shall be authorized to execute the letter, requested by Town Counsel, on the Board's behalf, Mrs. Smith seconded and Mrs. Roberts made it unanimous. So Ordered. The Hearing is adjourned.

### **Town Administrator's Report**

Mr. Buckner reviewed the Town Administrator's Report. There will be no Selectmen's Meeting next week, being on the summer schedule.

The contractor for the jail cells has submitted a preliminary construction schedule. Construction will not begin until mid-August because of a delay in getting the specialized equipment. The completion date is mid-October.

The next Selectmen's Meeting will be July 26<sup>th</sup> and Department Heads: Jim Donovan and Tim Inacio will be present.

### **Correspondence**

A letter of resignation was received from Louis Bousquet effective July 11<sup>th</sup>. On the advice of his physician, he will not return to work. Ms. Roberts made a motion to accept with regret, Mrs. Smith seconded and Mr. Pacheco made it unanimous.

Correspondence was received from both Chief Januse and Mr. David Flaherty regarding violations at the property located at 186 King Street.

Correspondence was received from Laurie Bishop, requesting to join the Raynham Cultural Council. Also, a request was received from Stacy Chisholm, to join the Council as well. Both women have the recommendation of the Board. Mr. Pacheco made a motion to appoint both women, Mrs. Smith seconded and Mrs. Roberts made it unanimous.

Correspondence was received from Joshua Freeman of 15 Michael Road, requesting to be appointed to the Cable Advisory Board. Ms. Roberts made a motion to forward the request to the Cable Advisory Board, Mrs. Smith seconded and Mr. Pacheco made it unanimous.

Correspondence was received from Robert Newton, who is resigning from the Raynham Board of Appeals after serving for 52 years. Ms. Roberts made a motion to accept his resignation with deep regret, Mrs. Smith seconded and Mr. Pacheco made it unanimous.

### **Adjournment**

7:56 p.m. Mrs. Smith motioned and Mrs. Roberts seconded to adjourn for the performance of administrative duties, signing of Bills and Warrants, with no business to be conducted afterwards. Mr. Pacheco made it unanimous.

Respectively submitted,

Janet Murphy

Recording Secretary