

**BOARD OF SELECTMEN
MINUTES OF MEETING
JUNE 8, 2021**

In attendance were Chairman Carl F. Kowalski; Vice Chairman Daniel L. Salvucci; Clerk Brian J. Bezanson; Member Randolph G. LaMattina; Member Justin R. Evans; and Town Administrator Lincoln D. Heineman. Chairman Kowalski opened the meeting at 7:00 p.m.

Chairman Kowalski asked everyone in attendance to stand and recite the Pledge of Allegiance. This was followed by a moment of silence.

Mr. Heineman called for reorganization of the Board of Selectmen. He then opened the floor to nominations for the position of Chairman. Mr. Salvucci **MOVED** to nominate Dr. Kowalski to the position of Chairman. **Second** Mr. Bezanson. Hearing no other nominations, Mr. Heineman called for a vote in connection with the motion on the floor. **So voted 5-0.**

Mr. Heineman then turned the meeting over to Chairman Kowalski.

Chairman Kowalski called for nominations for the position of Vice Chairman of the Board of Selectmen. Mr. Bezanson **MOVED** to nominate Mr. Salvucci for the position of Vice Chairman. **Second** Mr. Evans. Hearing no other nominations, Chairman Kowalski asked for a vote in connection with the motion on the floor. **So voted 5-0.**

Chairman Kowalski called for nominations for the position of Clerk of the Board of Selectmen. Mr. LaMattina **MOVED** to nominate Mr. Bezanson for the position of Clerk. **Second** Mr. Evans. Hearing no other nominations, Chairman Kowalski asked for a vote in connection with the motion on the floor. **So voted 5-0.**

Mr. Salvucci **MOVED** to approve bill and payroll warrants. **Second** Mr. Bezanson, **so voted 5-0.**

Mr. Salvucci **MOVED** to accept correspondence in the Read File. **Second** Mr. Bezanson, **so voted 5-0.**

PUBLIC FORUM

Chairman Kowalski opened public forum and Shawn Kain, 31 Forest Street, questioned the progress of the Strategic Plan. Mr. Heineman stated the consultant is moving towards completion and the plan is expected to be finalized by mid-July.

Chairman Kowalski questioned if public forum is in the spirit of what an open meeting really is, as he thought the idea of an agenda is to advise the public of what the board will be discussing. He then asked for Town Counsel's advice. Attorney Sumners stated that the Open Meeting Law does not require public forum. It is the option of the chairman unless a policy to hold public forum has been accepted. He went on to say the Board should not be discussing any issue that is not shown on the agenda. If the Board chooses to hold public forum, any items brought forth can be taken under advisement. Chairman Kowalski stated that he would like to encourage people who have something to discuss to call the office of the Board of Selectmen to request it be placed on the agenda. He then asked the other members to take some time to think on this issue in order to discuss it at a later time.

Mr. LaMattina announced that Dorothy “Doey” Saunders is retiring after 34 years of service as a crossing guard. On behalf of the Board, he commended her for her many years of service and wished her well in her retirement.

TOWN ADMINISTRATOR’S REPORT

Complete Streets Grant

Mr. Heineman announced the Complete Street grant has been finalized and the reconfiguration of the island at Park Avenue and Essex Street should be completed by August 31st.

Civil War Ceremony – Dyer Memorial Library

Mr. Heineman advised the Board of the Dyer Memorial Library’s request for a civil war book from the Whitman Public Library for a Civil War Ceremony they are hosting. The Historical Commission is aware of the request and the book will be sent over for the event.

July 4th Event

Mr. Heineman announced Recreation Commission member Michelle LaMattina and Recreation Director Kathleen Woodward are planning a July 4th event and are working on ways to fund it.

Deck the Doors

Mr. Heineman announced Veterans Agent Sara Lansing and the Council on Aging are encouraging residents to decorate their front doors from July 1–5 in recognition of Independence Day. Volunteers are also needed to help out those who are unable to decorate on their own.

NEW BUSINESS

FY22 Annual Appointments

Mr. Salvucci **MOVED** to approve the FY2022 annual appointments as listed in a document on file in the Board of Selectmen’s office. **Second Mr. Bezanson, so voted 5-0.**

Board/Committee Vacancies

Chairman Kowalski announced board/committee vacancies and asked those interested in volunteering to contact the office of the Board of Selectmen.

Constable Appointment: Joel Thomas

Mr. Salvucci **MOVED** to approve the request of Joel Thomas to be reappointed to the position of Constable for a three-year term, through June 27, 2024, subject to the receipt of an updated Public Officials’ Bond. **Second Mr. Bezanson, so voted 5-0.**

Special Amusement/Live Entertainment License: Carousel Family Fun Center

Mr. Salvucci **MOVED** to approve the request of Charlene Conway for a special Amusement/Live Entertainment License on the premises located at 1055 Auburn Street (Carousel Family Fun Center) on Saturday, June 26, 2021, from 10:00 p.m. to 1:00 a.m. for a private, adult-only roller skating event. **Second Mr. Bezanson, so voted 5-0.**

Purple Heart Community Proclamation

Mr. Heineman outlined the process involved in becoming a Purple Heart Community if adopted by the Board, including the role of the Veterans' Agent.

At 7:20 p.m. Chairman Kowalski stated that because the public hearing is not scheduled to begin until 7:30 p.m., the Board will take a 10 minute recess. He then asked everyone who had not signed in to do so.

SCHEDULED HEARINGS/MEETINGS

Dangerous Dog Complaint: Aylward v. Mahoney

At 7:30 p.m. Chairman Kowalski opened a public hearing pursuant to M.G.L., Chapter 140, Section 157 and Whitman's Dog Control Regulation XXVII Section XI in connection with a complaint by Walter and Marie Aylward of 650 South Avenue against a dog allegedly owned or harbored by Casey Mahoney of 50 Perry Avenue. He then outlined the rules of the hearing and advised that the decision of the Board will be sent to both parties within one week and announced at the next meeting. Chairman Kowalski then swore in those who would be testifying or speaking on this matter.

Town Counsel Peter Summers was present for the hearing.

Chairman Kowalski acknowledged the complaint received from Mr. and Mrs. Aylward, noting an attempt was made to settle the complaint with both parties agreeing to the recommendation of Animal Control Officer Joseph Kenney for Ms. Mahoney's dog to be muzzled when taken off her property. Chairman Kowalski then read Mr. Kenney's report of March 9, 2021, into the record and asked Mr. Kenney to speak on the incident.

Mr. Kenney stated there was significant damage to Buttercup, the dog owned by Mr. and Mrs. Aylward. This was the first incident involving Loretta, Ms. Mahoney's dog, and there have been no further incidents. Mr. Kenney advised the Board of his belief that this was a dog on dog incident. All steps for quarantine were followed and part of his recommendation was for Ms. Mahoney to change the route Loretta is walked and to hire a more experienced dog walker. Mr. Salvucci asked about the size of each dog. Mr. Kenney stated Buttercup weighs about 15 pounds. Loretta, a pitbull mix, weighs 45 to 50 pounds. Mr. Salvucci asked about the Aylwards' fence and Mr. Kenney stated it is a 4 foot chainlink fence.

Chairman Kowalski asked Mr. Aylward to speak on the incident.

Mr. Aylward stated that on February 10, 2021, his wife was at the front door and his 2 dogs, both 5 years old, were in the front yard at the corner of the fence. Ms. Mahoney's dog was being walked by a dog walker past his house. His dogs were not barking and the dog walker was struggling with Loretta. Loretta pulled her towards his fence and put her face up to the fence and attacked Buttercup. He rushed Buttercup to his veterinarian in Plymouth and was told the damage was so significant he would have to take her to Boston. She has had three surgeries and had to be fed through a tube in her neck. She continues to have issues with her jaw and is afraid to be in the front yard. He feels Ms. Mahoney's dog is dangerous and he wants it to be muzzled at all times.

Chairman Kowalski asked Ms. Mahoney to step forward.

Ms. Mahoney presented the Board with letters of support. She advised that she has been a resident of Whitman for 10 years. She has volunteered with Dollars for Scholars for 8 years and also volunteers with the Animal Protection Center in Brockton. Her dog is always leashed in public and in 6 years she has walked past the Aylward residence numerous times without incident. She went on to say that while Loretta was being walked past the home, the Aylward dogs barked and she turned back because she was startled. Her dog walker did not see any damage to the other dog. Ms. Mahoney stated that she planned to reach out to Mr. Aylward but before she could she was contacted by Animal Control. She went on to say she knows Mr. & Mrs. Aylward from her walks to the train station. She is also familiar with their dogs and they have always barked when she walked by. She did visit them, apologized and was planning to discuss helping with the vet bills but they chose to hire an attorney and now her insurance company is involved. Ms. Mahoney advised the Board that Loretta is not a dangerous or nuisance dog – she has played with other dogs with no signs of aggression.

Crystal Power advised the Board that she began walking Loretta to make extra money. She walks her twice weekly and there have been no aggressive incidents. She generally walks her on the street, not the sidewalk. On the day of the incident, she had to walk on the sidewalk due to snowplows and trash trucks on the street. As she was walking by, the Aylward dogs began barking. Loretta turned to sniff at them and then began walking forward again. Loretta suddenly looked back because one of the Aylward dogs was biting at her through the fence. Mrs. Aylward took the dogs inside and Mr. Aylward came out yelling. She left and contacted Ms. Mahoney. Ms. Power noted there was no blood on Ms. Mahoney's dog. Chairman Kowalski advised Ms. Power that the jaw of the Aylward dog was seriously torn and bleeding. Ms. Power stated that she walked away because Mr. Aylward was yelling at her. She also stated that she feels the chain link fencing could have played a part in the injury to the dog.

Chairman Kowalski asked Mr. Kenney if he spoke with both parties after the incident. Mr. Kenney stated that he did, but he did not see the injury to Buttercup before she was taken to the vet. Mr. Bezanson asked Mr. Kenney if he feels the fence could have played a part in the injury. Mr. Kenney stated that he thinks it may have been a case of both dogs barking at each other and the smaller dog put its face through the fence where it was then grabbed by the larger dog.

Julie Ryan stated that she has been a neighbor of Casey Mahoney for almost 10 years and has never seen Loretta exhibit any aggressive behavior. She herself has walked past the Aylward residence many times and been startled by their dogs because of their aggressiveness.

Ms. Mahoney's brother, Brian Mahoney stated that he has 4 children ages 5 to 15 years old who have all slept at Casey's house without incident. While he is sure this incident was horrific, Loretta is a caring and loving dog.

Marty Mahoney, mother of Casey Mahoney, stated that she has babysat Loretta several times. She has never exhibited any aggression with adults or children in the neighborhood. She is very sorry that this happened but she does not feel Loretta should be muzzled or euthanized. She also believes this was a one-time incident.

Following testimony, Chairman Kowalski stated that the Board must now determine if Loretta is a dangerous or nuisance dog and what action will be taken.

Chairman Kowalski stated that while he feels for the Aylward's, he's inclined not to deem Loretta a dangerous dog and, based upon Mr. Kenney's report, he's not sure she is a nuisance dog, either. He does not feel it would be out of line to require Loretta to be muzzled when not on her own property.

Mr. Salvucci stated he realizes dogs protect their own property. It was stated earlier by Mr. Aylward that his dogs were not barking; however, he finds it difficult to believe the dogs would not protect their property when another dog was in the area. The dog walker testified the Aylward dogs were barking and others who testified here stated whenever they walk past the Aylward residence and the dogs are out, they are barking. He is not convinced Loretta needs to be muzzled unless there is another incident.

Mr. LaMattina asked Attorney Sumners if he believes Loretta meets the definition of a dangerous dog. Attorney Sumners advised Mr. LaMattina it would be inappropriate for him to make that judgement. He then outlined the definition of both a dangerous dog and a nuisance dog. Mr. LaMattina asked if the Board must deem the dog dangerous to require a muzzle. Attorney Sumners said not necessarily – the Board can deem a muzzle appropriate action.

Mr. Bezanson asked Attorney Sumners if the Town can be held liable if there is another incident. Attorney Sumners stated that he doesn't believe so. Mr. Bezanson also stated that he believes dogs protect their territory. While he hopes Buttercup recovers, he agrees with Mr. Kenney's recommendation that Loretta be muzzled when not on her property.

Mr. Evans stated that he walks his dog past both the Aylward and Mahoney homes often. The Aylward dogs generally bark when he walks by. When walking past the Mahoney home, Loretta is general laying on the front porch and has never shown any aggression.

Mr. Salvucci suggested a temporary muzzle order for 6 months. If there are no further incidents know to Mr. Kenney, the order can be lifted.

Ms. Mahoney advised the Board that Loretta has been wearing a muzzle for 4 months. She is the only person who walks Loretta now and she walks her between 5:30 and 6:00 a.m. and again at 9:00 p.m. There have been no further incidents.

Mr. Bezanson **MOVED** to order Loretta, a dog owned by Casey Mahoney, be muzzled when not on her own property, until September. Attorney Sumners advised the Board that in order to make a requirement, the Board must make a finding of a nuisance dog or a dangerous dog. The case can also be dismissed. Chairman Kowalski asked if a requirement can be put in place if the case is dismissed. Attorney Sumners said no, if the case is dismissed, the Board does not have statutory authority to order a muzzle and the Animal Control Officer can order the dog be muzzled only until the hearing is held. Mr. Bezanson's motion did not carry.

Mr. Evans **MOVED** to dismiss the complaint pursuant to M.G.L., Chapter 140, Section 157 and Whitman's Dog Control Regulation XXVII Section XI submitted by Walter and Marie Aylward of 650 South Avenue against a dog allegedly owned or harbored by Casey Mahoney of 50 Perry Avenue. **Second** Mr. Salvucci, **so voted 3-2 (Chairman Kowalski and Mr. Bezanson voted against).**

At 8:49 p.m. Mr. Salvucci **MOVED** to adjourn the meeting and enter into **EXECUTIVE SESSION** in accordance with the M.G.L., Chapter 30A, Section 21a, (2) to conduct strategy sessions in preparation for negotiations with nonunion personnel. **Second** Mr. Bezanson. Roll call vote revealed: Mr. Bezanson – yes; Mr. Evans-- - yes; Mr. LaMattina – yes; Mr. Salvucci – yes; and Chairman Kowalski – yes. **So voted 5-0.** The meeting did not reconvene in Open Session.

Brian J. Bezanson, Clerk