

DRAFT

MINUTES – REGULAR SELECTBOARD MEETING TOWN OF BARNET, VERMONT MONDAY, SEPTEMBER 12, 2016

Meeting convened at 7:00 p.m. in the conference room of the Barnet Town Clerk's Office.

Board members present: Chair Jeremy Roberts, Gary Bunnell, and Dylan Ford.

Others present: Town Agent Steven Adler, Road Foreman Mark Chase, Town Clerk Benjamin Heisholt, Zoning Administrative Officer Shirley Warden, Gary Briggs, Marianne Briggs, Edward Brower, Nancy Brower, Kathleen Campbell, and David Price.

1. Consideration of approval of minutes of regular meeting held August 22, 2016 and special meeting held September 1, 2016

- August 22, 2016. Town Clerk Benjamin Heisholt noted that a correction in item #7 of the minutes should be made, to eliminate Paul Tomasi's name from a sentence describing disputed findings of a Transfer Station & Recycling Center inspection. Mr. Tomasi did not dispute the findings. Mr. Heisholt indicated that the sentence should read, "Correspondence from Bruce Marston refutes some of these findings..." Mr. Bunnell moved to approve, with the correction suggested by Mr. Heisholt, the minutes of the regular meeting held August 22, 2016. Seconded by Ms. Ford and approved by voice vote.
- Mr. Bunnell moved to approve as presented the minutes of the special meeting held September 1, 2016. Seconded by Ms. Ford and approved by voice vote.

2. Appearances by members of the public

There were no appearance by members of the public.

3. Consideration of three Animal Control Complaint Forms alleging violations of the Animal Control Ordinance by dogs residing at 1998 Roy Mountain Road

Mr. Roberts read or summarized three complaints received prior to the posting of the agenda for this meeting. These are summarized below:

- a. Received from Mike DeKoeyer describing an incident occurring August 11, 2016. Reports that a medium-sized brown dog owned by Kathleen Campbell violated the ordinance, but does not provide a description of the incident. The Board indicated that this complaint was described at a previous Board meeting as involving a dog named Harley running out into the road at Mr. DeKoeyer's truck while it was traveling in the roadway.
- b. Received from Edward and Nancy Brower describing an incident occurring August 20, 2016. Reports that tenants of Kathleen Campbell, Timothy O'Keefe and Jennifer Hall, stopped at the Browsers' residence to inform them that Ms. Campbell's dog, Harley, was loose.
- c. Received from David Price describing an incident occurring August 23, 2016. Reports that a dog owned by Kathleen Campbell aggressively approached Mr. Price as he traveled on a bicycle on Roy Mountain Road, and that Mr. Price pepper-sprayed the dog to avoid harm from the dog. The Board indicated that after their receipt of this report they received communication from Timothy O'Keefe, who indicated that it was his unlicensed pit-bull mix dog who was involved in this incident, not Ms. Campbell's dog.

Mr. Roberts also read or summarized three other complaints received subsequent to the posting of the agenda for the meeting. These are summarized below:

- d. Received from Marianne Briggs describing an incident occurring May 15, 2016. Reports that a black Labrador mix owned by Kathleen Campbell aggressively approached her while she was walking on Roy Mountain Road. The Board noted that this incident has already been addressed at a previous meeting, and civil penalty was assessed.
- e. Received from Edward and Nancy Brower describing an incident occurring September 10, 2016. Reports that a dog named Harley, owned by Kathleen Campbell was found running at large on the Browsers' property.
- f. Received from David Price describing an incident occurring September 11, 2016. Reports that a dog owned by Moses and Brandy Roy at 16 MacLeroy Lane aggressively approached Mr. Price and three other bicyclists on Roy Mountain Road, and that Mr. Price pepper-sprayed the dog to avoid harm from the dog.

Discussion ensued.

- Town Agent Steven Adler advised the Board regarding their obligations and opportunities for enforcement prescribed in the Animal Control Ordinance.
 - Mr. Adler indicated that the Ordinance allows landlords to be liable for the actions of animals housed at their properties, even if these animals are owned by a tenant.
 - Mr. Adler indicated that in the Board's previous action on April 28, 2016, imposing a \$1,000 civil penalty on Ms. Campbell on the basis of two violations of the Ordinance, an appeal was heard and denied by the Board. A subsequent appeal to the superior court was available to Ms. Campbell, but she did not avail herself this opportunity within the timeframe provided by the Ordinance. Payment of the civil penalty has not been paid within the time prescribed in the Ordinance. The Board now has the opportunity to apply to the superior court for a remedy, which can include a court order for collection of the penalty, seizure and disposition of the animal, etc.
- Ms. Campbell indicated that she was out of town for some of the dates on which these incidents occurred, but that she was unaware of her dog having been loose. She also indicated that only one dog currently resides at her residence.
- Edward Brower, Nancy Brower, and Marianne Briggs spoke regarding their frustration with their ongoing complaints concerning Ms. Campbell's dogs.
- The Board discussed the elements described in Section 12, Part C.3. of the Ordinance, concerning the considerations in determining the amount of civil penalty to be ordered.

The Board reached the following decisions regarding the Complaint received:

- The Board agreed to send a Constable with a letter to the property of Moses and Brandy Roy; the letter and the visit will indicate to Mr. and Ms. Roy that they must not allow their dog to run at large, and that further complaints will result in the assessment of civil penalties of up to \$500 per incident.
- The Board agreed to request that Mr. Adler contact Ms. Campbell's homeowners' insurance provider to determine if coverage is in place for incidents in which Ms. Campbell's dog causes harm or damage to persons or property through violation of the Ordinance.
- Ms. Ford moved to assess to Kathleen Campbell a civil penalty of \$500 for each of four incidents described above as items a, b, c and e, for a total civil penalty of \$2,000. Seconded by Mr. Bunnell and approved by voice vote.
- Ms. Ford moved to request that Mr. Adler proceed with application to the superior court for remedy relating to the unpaid civil penalties stemming from the April 28, 2016 decision of the Board, with said remedy including up to euthanasia of Ms. Campbell's dog. Seconded by Mr. Bunnell and approved by voice vote.
- The Board agreed to send a Constable with a letter to the residence of Timothy O'Keefe; the letter and the visit will indicate to Mr. O'Keefe that he must license his dog and must not allow his dog to run at large, and that further complaints will result in the assessment of civil penalties of up to \$500 per incident.

4. Consideration of appointment of additional Animal Control Officer authorized to administer the Animal Control Ordinance

Mr. Adler indicated that he suggested the inclusion of this item on the agenda to allow the Board to consider appointing an Animal Control Officer who would have the authority to administer issuance of civil penalties upon receipt of Animal Control Complaint Forms. This would eliminate the necessity of holding two hearings for each complaint – one for the issuance of a decision and penalty and another for any potential appeal of the decision. Instead the Animal Control Officer could act promptly in issuing a decision and penalty outside of the context of a meeting, and the Board could later address an appeal, if taken, in a hearing. Discussion ensued.

- The Board agreed to table this matter until the next meeting.

5. Consideration of seasonal lowering of water level of Harvey's Lake

The Board discussed the timing of the annual seasonal lowering of water level at the lake by means of removal of stop logs at the Harvey's Lake Dam. Discussion was also had about the beaver dams currently present in the channel exiting the lake, which would make lowering of the water level difficult.

- The Board agreed to remove the stop logs at the dam in attempt to lower the water level of the lake beginning on October 12, 2016, and to attempt to remove the beaver dams from the channel prior to that date.

6. Appearance by Road Foreman Mark Chase regarding Highway Department matters

a. Ditching and resurfacing. Mr. Chase indicated that the Highway Department has recently completed ditching and/or resurfacing projects on gravel-surfaced roads Brook Hill Road, Keyser Hill Road, Kitchel Hill Road, and Patneau Lane.

b. Rainstorm. Mr. Chase indicated that the Highway Department spent time on Sunday, September 11 and subsequently cutting trees and repairing roads after torrential rains, which were especially damaging in West Barnet.

c. Little France Road guardrail. Mr. Chase reported that the guardrail project on Little France Road, discussed at previous meetings, is complete.

7. Re-consideration of bids for excavation work on Garland Hill culvert project

At the September 1, 2016 special Board meeting the bid of Chief Crushing & Excavation was accepted for the Garland Hill project. Mr. Chase reported that it was later discovered that Chief Crushing & Excavation is unable to perform the work. The Board considered the other two bids submitted, from Mathews Excavating (\$32,803) and Raymond Heath Construction, Inc. (\$25,090).

- Mr. Bunnell moved to accept the bid of Raymond Heath Construction for the culvert project on Garland Hill. Seconded by Ms. Ford and approved by voice vote.

8. Correspondence from Green Mountain Power with petition for the location of primary underground cable crossing Kitchel Hill Road

The Board reviewed the petition and attached sketches and discussed with Mr. Chase.

- The Board agreed to table discussion of this matter until the next Board meeting, pending a site visit and review by Mr. Chase.

9. Consideration of proposal from North Country Welding Supply, LLC

The Board reviewed a proposal for supply of leased tanks for welding gases. The proposal quotes \$35 per tank for a one-year lease. The Board also reviewed a lease renewal proposal from Airgas, which indicates a cost of \$40 per tank for a one-year lease. Discussion ensued.

- The Board agreed to contract with North Country Welding Supply, LLC for supply of welding tanks and gases.

10. Correspondence from Board of Listers with request for errors and omissions Grand List revision

Mr. Heisholt indicated that the Board of Listers had withdrawn their errors and omissions filing.

11. Consideration of request from Library Board of Trustees for outdoor electrical outlet on porch of the library

Ms. Ford, who is also Librarian of the Barnet Public Library, communicated the Trustees' request that the Board consider installing an outdoor electrical outlet on the porch of the library. Such an outlet would be intended primarily for outdoor programs, but also for some patrons who need to use the Library's public wireless internet and have computers with insufficient batteries. Discussion ensued.

- The Board agreed that Mr. Roberts will assign this task to his St. Johnsbury Academy electricity class.

12. Correspondence from Vermont Natural Resources Board regarding paperless Act 250 application process and Act 250 training

The Board reviewed an email and attached delegation of authority form. The email indicates that the Natural Resources Board is implementing a paperless (i.e. electronic) Act 250 application process on a statewide basis commencing Monday, October 3, 2016. The delegation of authority, if signed by the Selectboard, would delegate the Town Clerk as having authority to receive Selectboard Chair notices of any Act 250 Application. Discussion ensued.

- With the Board approval, Mr. Roberts signed the delegation of authority form.

13. Other business

No other business was discussed.

14. Outstanding check warrants

The Board reviewed and approved all outstanding check warrants.

15. Adjournment

Mr. Bunnell moved to adjourn. Seconded by Ms. Ford and approved by voice vote. Meeting adjourned at 8:45 p.m.

A true copy.

Attest: _____ Town Clerk