

**BOARD OF SELECTMEN  
MEETING MINUTES**

September 22, 2015

The Board of Selectmen met in the Lunenburg Town Hall, Joseph F. Bilotta Meeting Room, as scheduled with Jamie Toale, Chair; Robert Ebersole, Vice Chair; Thomas Alonzo, Clerk; Paula Bertram, Member; Phyllis Luck, Member and Town Manager Kerry Lafleur. The meeting opened at 7:00 P.M with the Pledge of Allegiance.

**Public Comment:** Ms. Luck wanted to correct the date for the presentation of the Boston Post Cane to Sarah Powell to October 19 at 2:00 p.m. at the Eagle House Senior Center. She also reminded everyone of the Farmers' Market on Sundays from 10 a.m. to 1 p.m.

Mr. Toale announced a vacancy on the Taxation Aid/Property Tax Workoff Committee as well as the Finance Committee, and two positions on the Building Reuse Committee.

Jim Cote, 431 Mulpus Road, asked about any updates on the availability for solar for residents. He asked if the Nexamp proposal would affect his application for a solar installation on his home. Mr. Alonzo reported Unutil has not provided any further information to the Town on the third circuit and if the negotiations go forward with Nexamp, this would allow residents to get the benefits of solar without actually having solar installations on their houses.

**Appointments:**

**Lineage Vapors, LLC – License Application for (2) Automatic Amusement Devices**

Manager Sean McGonagle was present and requested to have a crane machine and a video game license. The crane machine would dispense samples of products that they sell. Ms. Bertram believed there might be a need for a common victualer license. Ms. Lafluer stated she would check with Executive Assistant Peterson on the requirements for common victualer licensing. Ms. Luck asked if you had to be over eighteen years of age to enter the store and Mr. McGonagle stated this was their policy. Ms. Bertram asked about the bar area. Mr. McGonagle stated it was just an area for customers to sit. Mr. Toale asked if anyone else was present to speak for or against the license application. There was no one. He closed the hearing.

**Motion: T. Alonzo**

**2<sup>nd</sup>: P. Bertram**

**To approve the license for two automatic amusement devices (1 crane and 1 video game) as presented for Lineage Vapors, LLC**

**Vote: All in Favor**

**Current Business**

**1. Animal Control Services (ACO)**

Ms. Lafleur delivered the first part of the presentation. In addition to state regulations addressing ACO services, there are local regulations. Animal control is geared towards companion animals (dog, cats, etc.) and does not involve wild animals; these are covered by the MA. Division of Fisheries and Wildlife. Non-domestic/farm animals fall under the jurisdiction of the Department of Agricultural Resources and are managed locally by the Board of Health through the Animal

Inspector, Field Driver and Pound Keeper positions. In Lunenburg there is one person who holds all those titles but we are just addressing dogs and cats this evening.

Animal control is governed by M.G.L. Chapter 140, § 136A-174E and through the Town Bylaws, Article IX, §1A –C.

- All residents are required to license any owned dog over 6 months of age
- To receive a license, the owner must provide proof of rabies vaccination and if the dog is spayed/ neutered (higher fees may be levied, if not)
- Owners must keep the dog's license tag on the animal at all times
- Any resident owning or keeping more than four dogs on a single premises must have a kennel license issued by the Town & inspected by the ACO
- Dog licenses do not automatically transfer
- Owners have 30-days to obtain a license if there is a change of residency

Ms. Lafleur stated M.G.L. Chapter 140, §151 states the ACO shall be appointed annually by the Board of Selectmen. Since she has been Town Manager the appointment had been made by her and ratified by the Board. Going forward the appointment shall be made by the Board of Selectmen. The notice of appointment is required annually to the Department of Agricultural Resources. In 2012 there were several changes made to the law that regulates animal control; one change was required training defined by §151C. "The Commissioner shall, from time to time and subject to the availability of funds...provide for a training course for animal control officers...there shall be a preference for persons who have been in the employ of a city or town as an animal control officer for 12 months or less..." According to Lauren Gilfeather, MA Animal Fund Coordinator, as of August 2015, the training has not been "rolled out" and no ACO has gone through the mandatory training.

Duties of the ACO are defined in section 151A (A), the Board of Selectmen shall annually issue a warrant (form of warrant is found in Section 153) to the animal control officer directing the officer

1) to seek out, catch and confine all dogs within the city or town which are not licensed, collared or harnessed, or tagged. The ACO must confine dogs in a place suitable for the detention of dogs and kept in a sanitary condition. The Department of Agricultural Resources is charged with periodically inspecting locations.

2) to enter and prosecute a complaint for failure to comply (license) with this chapter against the owners or keepers, if known.

3) to euthanize or caused to be euthanized, each such dog not licensed, collared or harnessed, or tagged, after being detained by the officer for a period of 7 days. During the detainment period, ACO must actively seek the rightful owner by scanning the animal for a microchip and comparing the animal against descriptions of dogs licensed within the town; ACO should use whatever means are at their disposal to advertise found animals in an attempt to locate the rightful owner. ACO may make dog available for adoption after 7 days if the dog is free of disease.

4) ACOs must maintain complete records that disclose the following information about each animal in their custody: the date and location of where the animal was found, description of the animal, the place of detainment, if tagged, the name and address of the owner of the animal and the name and address of a new owner, if any, including the date of sale or transfer of the animal. If the animal is euthanized, the method and date of euthanasia and the name of the person who euthanized the animal should be reported in a record. Also the date, location and description of

an animal euthanized by gunshot in case of emergency, the disposition of the animal remains and a description of the situation requiring the gunshot. Records must be kept for not less than 2 years.

- ACO must submit quarterly reports to the Board of Selectmen, on or before 1<sup>st</sup> of October, January, April and July. Note: the ACO currently submits a monthly record with invoice that meets some of the above requirements. Required records must be submitted going forward.

Ms. Lafleur moved on to the Town Bylaw, Article IX, Section 1A, Dog Restraint.

No owner or keeper of any dog shall permit such dog, whether licensed or unlicensed, to become a public nuisance.

- Duty of the ACO is to apprehend any dog which he/ she has reason to believe is a nuisance.
- Public Nuisance is defined as: any dog shall be deemed a public nuisance when attacking persons or domestic animals while such dog is on property other than that of the dog owner; when destroying property; when on a public school ground and not under restraint; when it persistently chases moving vehicles; when it persistently and continuously barks or howls; when it is permitted to run at large and unrestrained on property other than its owners; any unspayed female dog in season shall be deemed a public nuisance when not confined indoors or house in a veterinary hospital or registered kennel.

Ms. Lafleur then referred back to M.G.L. regarding nuisance or dangerous dogs. M.G.L., Chapter 140, Sections 157 – 165, Nuisance or Dangerous Dogs. Nuisance is no longer defined in M.G.L., Section 157 sets forth the process for conducting a hearing.

- Any person may file a complaint in writing to the hearing authority that a dog is a nuisance or dangerous dog, provided that no dog shall be deemed dangerous solely based upon growling and/or barking or based upon the breed of the dog.
- If the dog was reacting to another animal or person and the dog's reaction was not grossly disproportionate to any of the following: the dog was protecting or defending itself, offspring, another domestic animal or person from attack or assault, the person who was attacked or threatened by the dog was committing a crime upon the person or property of the owner or keeper of the dog, the person attacked or threatened by the dog was engaged in teasing, tormenting, battering, assaulting, injuring or otherwise provoking the dog, at the time of the attack or threat, the person or animal that was attacked or threatened by the dog had breached an enclosure or structure in which the dog was kept.

Ms. Lafleur presented monthly statistics for Fiscal Year 2015:

- Average of about 38 calls/ complaints
- Average of about 10 which are handled solely over the phone
- Average of about 28 require site visit
- Average of about 20 dogs detained in kennel

She did ask Police Chief Marino to review the current level of service;

#### **Proposal for Moving Forward**

- Police Chief conducted a review of current operations & both he and the Town Manager agree
- Transfer day-to-day operations of Animal Control Services to the Police Chief, effectively immediately

- Police Chief to review proposal

Ms. Lafleur presented the current budget for ACO:

		FY2013 Appropriated	FY2014 Appropriated	FY2015 Appropriated	FY2016 Town Mgr Adjusted 04/03/15
292 - ANIMAL CONTROL	511000 SALARY ANIMAL CONTROL OFFICER	\$ 11,580	\$ 11,580	\$ 11,580	\$ 12,000
	<b>Personnel Sub-Total:</b>	<b>\$ 11,580</b>	<b>\$ 11,580</b>	<b>\$ 11,580</b>	<b>\$ 12,000</b>
	531025 VETERINARY CHARGES	\$ 2,800	\$ 2,800	\$ 2,800	\$ 2,800
	531026 CARE AND CUSTODY	\$ 7,500	\$ 7,500	\$ 7,500	\$ 7,500
	534200 PRINTING	\$ 500	\$ -	\$ -	\$ 500
	540000 OFFICE SUPPLIES	\$ 1,000	\$ 1,000	\$ 1,250	\$ 1,000
	571000 MILEAGE REIMBURSEMENT	\$ 1,200	\$ 1,200	\$ 1,200	\$ 1,500
	<b>Expenses Sub-Total:</b>	<b>\$ 13,000</b>	<b>\$ 12,500</b>	<b>\$ 12,750</b>	<b>\$ 13,300</b>
<b>292 - ANIMAL CONTROL - Total</b>		<b>\$ 24,580</b>	<b>\$ 24,080</b>	<b>\$ 24,330</b>	<b>\$ 25,300</b>

The proposed changes to implement would be cost neutral. The ACO is paid by a stipend of \$1000 per month averaging to about twelve hours per month at \$20 per hour. Ms. Lafleur stated there would not be changes to this.

Police Chief Marino stated the supervision of the ACO falls under him.

He reported:

- Many calls are presently directed to the ACO's home instead of through Dispatch,
- There is no formal, modern or accurate method of keeping or archiving records,
- There is no definitive scope of services or response policies in written form,
- There is no Assistant ACO job description or clarification of authority to hire,
- Professional development/in-service training mandates and need has not been noted,
- There would be no formal Acting ACO, should the ACO take a vacation or extended leave,
- There is no direct communication with the Police Department via police radio or organized method of logging calls,
- There is nothing in place to ensure the safety of the ACO while responding to animal complaint calls.

The Animal Control Officer has been employed by the Town since the 1970s. Ms. Comeau works from home where she has provided kenneling for dogs and cats throughout her tenure... the majority of animal calls are received at her home via her home phone. The calls are recorded on a notepad in handwriting. A small number of calls are handled on the phone while the majority of calls require a service call to the location. In many cases, the ACO responds to the scene of the complaint at all times of the day and night without the knowledge of the police, or anyone else. Chief Marino found this situation extremely dangerous, and therefore suggests primarily for this reason, but also for other reasons, that there be oversight by the police. He suggested having her connected to the Police through a portable radio in her vehicle as well.

There is no formal set of rules, policies, or procedures that the ACO follows leaving much confusion as to how calls for animal service are handled and how violations are enforced. In many cases the confusion results in a citizen complaint against the ACO which more often than

not involves an investigation by the police. The police are left to interview the ACO because there is no written recording of the ACO's action relating to the call. The police would then have to interview the complainant only to find in most cases the complainant was confused as to the proper response to their particular complaint.

If every call had a written response as to the call type and action taken, then a more immediate explanation would be available for the police to access which would save an enormous amount of labor. In addition, recording the calls would provide the police and the town with statistical data that could be used for a number of reasons including analysis and prevention.

Recording call types and actions with a written set of policies, procedures, rules and regulations would provide more consistent enforcement practices for animal complaints and clarify response to calls for service thereby reducing the number of citizen complaints. In addition to social media, the Town's website and news media should be used to promote public awareness as to the responsibilities of the ACO and create more transparency.

He added this is something that is not going to happen overnight, it will take time to institute the changes. Ms. Luck asked when he thought Dispatch would be able to handle the calls. Ms. Lafleur stated they are looking to make the transition from calls to the ACO's personal residence to Dispatch immediately and based on the call volume it should not be a big issue. Mr. Ebersole asked about the time table for the policies and procedures. Chief Marino stated he would probably need about a month to research and complete. Mr. Ebersole asked if this position is listed in the town bylaw. She stated it is not under the salary administration plan. He clarified more about having an evaluation tool for the position as with every other town position. Ms. Lafleur stated that was a reasonable expectation. Ms. Luck asked about a loose dog being considered a nuisance according to bylaw and if it should be picked up by the ACO. Ms. Lafleur confirmed she has discussed such situations with the ACO. There is a short period of time that the ACO tells the caller to wait, if the dog appears okay, and see if it will go home by itself. But the ACO does tell them to call her back if the dog does not. Ms. Lafleur added fines can also be levied for nuisance dogs by the ACO.

Mr. Ebersole pointed out that the Lunenburg bylaw is a "restraint" bylaw versus a "leash" law and this needs to be communicated to the public by placing policies and procedures on the town website. He also suggested looking into possible liability for the town for a dog that is loose on the street and in the event something bad results from something the town did or did not do. Mr. Alonzo added keeping events well documented is good for everyone.

Further discussion ensued about policy and procedure. Mr. Alonzo thanked ACO Comeau for participating in the process and her helpful information. Ms. Comeau wanted to thank Chief Marino and Ms. Lafleur for their contributions to the process as well. Ms. Comeau stated since 1977 she has only had 24 dogs euthanized. Ms. Bertram asked Ms. Comeau about her budget and how she cares for all the dogs. Ms. Comeau stated a lot of the times she uses her personal money to feed the dogs. Mr. Alonzo stated that is why there needs to be a policy and owners should have to pay for their dogs being cared for upon picking them up as it is a service that has value to it.

Ms. Comeau stated she is ready to be done with the job but will remain until a replacement is found. The budget will have to be increased if someone else picks up the job. Mr. Ebersole asked if she charged any adoption fees. Ms. Comeau stated she does not charge a fee and every dog gets a bath before it is released to a new home. She will charge the town \$3 per day for care

although it is usually more than that. Mr. Ebersole asked the Chief to add something to address adoption fees while drafting the policies. Mr. Toale thanked Ms. Comeau.

## **2. Open Warrant for Special Town Meeting for Nov. 16**

Ms. Lafleur proposed opening the warrant this evening and closing it on Monday, October 5 at 4:00 P.M. She also identified the meetings of the Finance Committee and Board of Selectmen in order to review warrant articles. She has pulled everything from the 2015 Annual Town Meeting that was not taken up and added in a collective bargaining agreement budget adjustment article. She will also include an amendment to the salary administration plan bylaw from the Personnel Committee. Ms. Lafleur stated she still needs to check with the Planning Board for any other items.

**Motion: R. Ebersole**

**2<sup>nd</sup>: T. Alonzo**

**To open the Warrant for the Special Town Meeting of November 16**

**Vote: All in Favor**

## **3. Turkey Hill Family Lions Club Tollbooth Request for Sept. 26**

Mr. Toale read the request from Lions Club President Lisa Normandin for the fundraiser on Saturday September 26, 2015 from 8:00 a.m. to 2:00 p.m.

**Motion: T. Alonzo**

**2<sup>nd</sup>: P. Bertram**

**To authorize the tollbooth fundraiser as presented**

**Vote: All in Favor**

## **4. Mission Statement for the Stormwater Task Force**

Ms. Bertram read the draft mission statement aloud:

“The Stormwater Task Force is charged with the development of a comprehensive stormwater management plan that complies with state and federal regulations, provides a storm and surface water system that controls damage from storms, protects surface water quality and protects the environment. The plan shall determine which local agency or agencies will be responsible for implementation, establish the estimated cost of the program, as well as provide for the creation of an ongoing funding source to enable its success.”

Mr. Toale thanked Ms. Bertram and Ms. Luck and suggested going forward this format could be used for the other two goals; Economic Development and Pavement Management Plan/Traffic Rules & Orders.

Ms. Bertram referred to the suggested composition of the task force and wondered if they should be solicited now. The suggested members/representatives for the Stormwater Task Force would be a member from: Planning Board, Conservation Commission, DPW, Board of Health, Selectmen and 2 Members at Large. It will be circulated to all the pertinent boards and personnel and posted on the town website.

**Motion: P. Bertram**

**2<sup>nd</sup>: R. Ebersole**

**To establish a storm water task force with the membership composed as presented**

**Vote: All in Favor**

## **5. Minutes/ Warrants/ Action File Issues**

Minutes of September 8, 2015 were presented for signatures. A warrant for school construction in the amount of \$3,053,290.84, a payroll warrant in the amount of \$684,778.10, an accounts payable warrant in the amount of \$795,252.63 and a payroll deductions warrant in the amount of \$143,331.24 were presented for signatures.

Mr. Toale presented two proclamations for signatures for an Eagle Scout Ceremony on October 3<sup>rd</sup>.

Mr. Ebersole asked about the status of the bylaw review committee. Ms. Lafleur reported there is a meeting tomorrow with staff concerning the editorial and legal analysis of the codifications project. It will be reviewed and suggestions will be forwarded to the Board.

Mr. Alonzo asked about the Charter Review committee timeline as well. Ms. Lafleur will report back on that as well.

## **6. Committee Reports**

Mr. Ebersole reported the Board of Health will be meeting with this Board on October 6<sup>th</sup> to mutually appoint to the BOH vacancy until the next election. The Library Board of Trustees had their first meeting with the two newly appointed trustees. The two new librarians came in and spoke with them. They have a new program for children and the school department for the upcoming year. The Sewer Commission reports the major construction on the Pratt Street, Lakeview Avenue sewer extension project has been completed. Final pavement and betterment assessment will begin in the spring.

Mr. Alonzo reported Cable Advisory will be meeting with P.A.C.C. on October 5<sup>th</sup> regarding their business plan. Finance Committee meets this Thursday (24<sup>th</sup>). Next meeting for the School Building Committee is in October.

Ms. Bertram reported she did not attend, but a Conservation Commission member reported to her that the Conservation Commission approved the LSIC Order of Conditions for Lake Shirley. They have requested annual updates from LSIC and a full lake management plan by January. They also discussed Conservation Commission regulations and town bylaws conflicts and possible changes. There was discussion about potential conflicts of interest of four members of the Commission due to living near lakes and ponds; they will be coming before the Board for a determination.

Ms. Luck reported the School Committee met on September 16<sup>th</sup>. John Londa, Facilities Director, reported on the Passios School facilities plan; it typically costs around \$200,000 per year to operate Passios. It would cost approximately one million dollars to demolish it. Regarding Turkey Hill Middle School as a Grade 3- 5 elementary school; he had three options. Option 1 is to renovate in FY'24, it would be phased and rely on proximity to the Middle/High School and temporary portable classrooms to succeed. This would cost an estimated \$22 million for asbestos abatement, roof repair, HVAC, window replacement and electrical work. Option 2 is to build a new grade 3-5 elementary school in FY'24 on the central campus and demolish Turkey Hill for additional field space.

Option 3 is to purchase 25 acres for replacement of the school building project in FY'24. School Committee Chair Berthiaume felt 2024 is too soon and wanted Mr. Londa and Supt. Calmes to figure out how to extend the use of the school for an additional ten more years before approaching the town for another school. Mr. Londa also is pursuing rebates from Unitil and National Grid in connection with the new middle/high school. MSBA will receive 53% of the rebates. Ms. Luck commented on the negative effects of the large class size in grades two and three at the Primary School. They said they have no room and are even using the music room as a classroom. When grade three moves to Turkey Hill Middle School next year, they will have more room.

The ZBA will be hearing ZEDA's request for an outside patio tomorrow night.

MPO met on September 16<sup>th</sup>, they heard a presentation on MART's new transportation plan and bus route changes which will be implemented in October. There will be a representative coming to the Board regarding their updates.

Mr. Toale reported Building Reuse met last evening and they are working with Tappe Architects on the feasibility study. The committee is departing from their current meeting schedule and will meet as needed due to quorum issues. Next meeting is on October 5<sup>th</sup>. He encouraged anyone with interest to request to be appointed to fill the committee vacancy.

There was no Town Manager or Department report this evening.

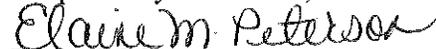
**Public Comment:** Ms. Bertram stated she attended the Story Hour at the Library with her grandchildren and it was a wonderful program for the kids. She encouraged others to attend the programs at the Library.

Mr. Toale reported this Board meets again on October 6<sup>th</sup>.

**Motion: P. Bertram**  
**To adjourn the meeting at 9:27 p.m.**

**2<sup>nd</sup>: R. Ebersole**  
**Vote: All in Favor**

Respectfully submitted,

  
Elaine M. Peterson

Executive Assistant to Town Manager