

**Meeting of the Waterbury Select Board
August 4, 2014
Main Street Fire Station**

Present: K. Miller, Acting Chair; J. Grenier, C. Viens, and D. Schneider, Select Board; W. Shepeluk, Municipal Manager; A. Imhoff, ORCA Media; M. Orso, Waterbury Record; and C. Lawrence, Town Clerk.

Public: Peter Turmelle, Animal Control Officer; Robert & Lucille Becker; Sandra D'Amico; and Claudia Stauber and Amy Touchette (Justice for Dogs).

The meeting of the Select Board was called to order at 6:00pm to reconvene a Vicious Dog Hearing initiated on July 29, 2014.

K. Miller described the purpose for the hearing and the rules for all parties. She then read the complaint letter from Mr. Robert Becker and Dr. Lucille Becker, and administered the oath to those that would be presenting evidence. Testimony was given regarding the case.

J. Grenier made a motion to make this hearing the final public hearing and close the proceedings. The motion was seconded by D. Schneider and passed unanimously. There was then a discussion as to whether the deliberations should be private or public.

D. Schneider made a motion that Select Board enters into private deliberations for this case. The motion was seconded by C. Viens and passed unanimously.

The written decision of the Select Board setting forth its findings of fact, conclusion of law, and order for the domestic pet will be rendered in writing to the owner of the domestic pet by certified mail, return receipt requested within seven days.

J. Grenier made a motion that the ACO make contact with Lamoille Kennels to release the dog to Jeffrey D'Amico in Wolcott, and pay the kennel fees. The motion was seconded by D. Schneider and passed unanimously.

The Select Board stated that they will have a private deliberation at the conclusion of their regular meeting.

The Select meeting was called to order at 7:15pm.

Public: Everett Coffey, Paul Arnot, and Barb Farr.

APPROVE AGENDA

The agenda was approved.

CONSENT AGENDA ITEMS

The approval for the grant for tree planting and pruning was removed from the consent agenda and will be discussed separately. J. Grenier made a motion the approved the items on the consent agenda. The motion was seconded by D. Schneider and passed unanimously.

PUBLIC

None

GRANT FOR TREE PLANTING AND PRUNING

S. Lotspeich reviewed the terms of the grant, which will help fund tree planting at Hope Cemetery and Maple Street Cemetery, and prune trees in the Village. J. Grenier made a motion to approve the Grant Agreement for the Waterbury Tree Planting and Pruning project and to authorize William Shepeluk to sign the document on behalf of the Town of Waterbury. The motion was seconded by D. Schneider and passed unanimously.

PEDESTRIAN PATH

Paul Arnot has a building project on Perry Hill and would like to incorporate a pedestrian path between Lincoln Street and Perry Hill. He has offered to construct the path if the Town will pay for materials. His first request is for the Town do the work necessary to accept the easements.

S. Lotspeich updated the Board on the DRB's deliberation to enhance pedestrian access, and stated the need to look at whole process as to how to address pedestrian access.

K. Miller stated concerns with the Town paying for the materials and ongoing maintenance. W. Shepeluk stated that the developer should present complete projects to the Town, and that he should have come to the Board first. P. Arnot stated that this is \$8 million of taxable property and it needs pedestrian access. W. Shepeluk stated it is the developer's responsibility to develop to standards.

S. Lotspeich stated that there is not a master plan for this area, and this issue needs to be addressed. C. Viens asked about the cost to the Town if approved and who would be responsible for on-going maintenance issues. J. Grenier asked if the installation of the path is a condition of the permit. It is not a condition of the permit.

P. Arnot stated that securing the easements is important whether or not the path is built. He will prepare easement documents for the second meeting in September. The Board would also like the idea of costs.

S. Lotspeich gave an explanation of two private roads in the Waterbury Commons subdivision. D. Schneider made a motion to approve road names Tyler Ridge and Carrie Lane. The motion was seconded by C. Viens and passed unanimously.

APPOINTMENT OF REPRESENTATIVE TO CENTRAL VERMONT REGIONAL PLANNING COMMISSION

S. Lotspeich stated that Gunner McCain has resigned from the Commission after many years of service. Planning Commission member Mary Koen is interested in serving but will not be available for six month. S. Lotspeich suggested that he can serve in the interim. J. Grenier made a motion to appoint Steve Lotspeich as the Town's representative to the CVRPC for a term to expire on April 30th, 2015. The motion was seconded by C. Viens and passed unanimously.

MUNICIPAL BUILDING ITEMS

B. Farr was present to discuss a remediation plan for hazardous materials at the Jane's site. A summary of the plan was distributed earlier in the day, which identifies the likely costs. The cost is estimated to be \$48,014, and \$25,000 was budgeted.

J. Grenier made a motion to approve the soil management plan and building remediation plan as completed by KAS Engineers, with a correction to the number of acres listed in the plan. The motion was seconded by D. Schneider and passed unanimously.

B. Farr stated that .35 acres is within the flood plain, including some of the foundation and the parking lot. The 8 step process was initiated and today was the deadline for comments. The next step is to go through the final notice, which has a seven day period. The notice will go in the Waterbury Record on Thursday and will have a seven day comment period. The final process will be the intent to release funds, and then the grant agreement can be signed. Everything is in process to move forward and there should be a signed grant agreement in September. The next building design meeting is next Monday at 1:00pm to review mechanical systems, and B. Farr extended an invitation to all Board members.

A. Murray of VIA will meet with library and municipal staff on August 11th to finalize design.

MANAGER'S ITEMS

The bond sale has happened and the net interest cost is 3.497%. The \$2.95 million has been deposited at the US Bank in a money market. W. Shepeluk is working with the US Bank to purchase some CD's, as the spending will be pushed off until late this year and into next year.

A line of credit was approved at the last meeting for the roundabout project. The Town has not yet drawn down this credit.

There being no further business, the Select Board meeting was adjourned at 8:19pm.

The deliberative session under the Vicious Dog Hearing commenced at 8:25 and closed at 9:10pm. The decision and protective order is attached to these minutes.

Respectfully submitted,

Carla Lawrence, Town Clerk

Approved on: September 2, 2014

VICIOUS DOG HEARING DECISION/PROTECTIVE ORDER
Town of Waterbury Select Board

In re: Sammy D'Amico

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves a vicious dog complaint submitted by Mr. Robert Becker and Dr. Lucille Becker and received by the Select Board on July 18, 2014.
2. On July 25, 2014, public notice of this vicious dog hearing was posted in or near the Town Clerk's office, the Waterbury Post Office, and the Waterbury Public Library, to each Select Board member, and to a reporter at the Waterbury Record. Notice of this vicious dog hearing was hand delivered to Sandra D'Amico, owner of Sammy; and mailed to Mr. Robert Becker and Dr. Lucille Becker.
3. On July 29, 2014 at 3:00pm, the hearing convened and was scheduled to reconvene on August 4, 2014 at 6:00pm.
4. On July 30, 2014, public notice of this reconvened vicious dog hearing was posted in or near the Town Clerk's office, the Waterbury Post Office, and the Waterbury Public Library, to each Select Board member, and to a reporter at the Waterbury Record. Notice of this hearing to reconvene on August 4, 2014 was mailed by certified mail to Sandra D'Amico, owner of Sammy; and Mr. Robert Becker and Dr. Lucille Becker.
5. On August 4, 2014, the vicious dog hearing was reconvened at 6:00pm at the Main Street Fire Station.
6. Present at the hearing were the following members of the Select Board:
 - Karen Miller, Acting Chair
 - John Grenier
 - Chris Viens
 - Don Schneider
7. Present at the hearing who were sworn in to provide testimony were:
 - Sandra D'Amico, dog owner
 - Robert and Lucille Becker, complainants
 - Peter Turmelle, Animal Control Officer
 - Claudia Stauber and Amy Touchette, Justice for Dogs
8. During the course of the hearing the following exhibits were submitted to the Select Board:
 - Letter of Complaint from Robert & Lucille Becker
 - Waterbury Animal Control Officer Complaint Form
 - Waterbury Town Health Officer Animal Bite Report
 - Two letters of support from neighbors of Sandra D'Amico

RELEVANT ORAL TESTIMONY

1. Mr. Becker was bitten at his mailbox and received a puncture wound that required medical attention.
2. Mr. Becker perceived that the attack was unprovoked.

3. As Ms. D'Amico was holding her dog by his collar when putting him on his outdoor run, the dog got away from Ms. D'Amico and ran towards Mr. Becker. Ms. D'Amico ran after her dog commanding her dog to stop which the dog did not do.
4. Although frequency is unknown, the dog has previously run loose off the property.
5. The Becker's are fearful of the dog.
6. The Becker's do not want the dog to return to Stuart Lane.
7. Ms. D'Amico believes her dog is not vicious and provided examples of the dog's behavior to support her belief.
8. Ms. D'Amico would like the dog returned to her home.
9. Ms. D'Amico stated that she lets the dog loose when the Becker's are not home.
10. Ms. D'Amico stated that a child was nipped while rough housing with the dog about a year and a half ago.
11. Representatives from Justice for Dogs stated that the dog is not vicious in their opinion.

FINDINGS OF FACT

1. The dog was not licensed at the time of the incident.
2. The dog got loose as the owner tried to put the dog on his run.
3. Ms. D'Amico did not have physical or voice control of the dog at the time of the incident.
4. The dog left its premises and bit Mr. Becker in his right forearm resulting in a puncture wound that required medical attention.
5. The dog did have a valid rabies vaccination.
6. The Becker's expressed a fear of the dog.
7. At the time of the incident, the dog was not provoked.

CONCLUSION OF LAW

The dog owner must construct a fenced in area that includes direct access from the house. An electric fence is not sufficient. The dog must be on a leash and under physical control at all times when not in the fenced area. The fence must be constructed and the installation verified before the dog can return home. The installation of the fence must be verified by the Animal Control Officer. If there is another offense, the dog must be permanently removed from the property.

DECISION

Based on the foregoing findings of fact and conclusions of law the Select Board finds that Sammy did bite Mr. Robert Becker without provocation and therefore a protective order will be rendered.

PROTECTIVE ORDER

Based on the foregoing facts and circumstances, and pursuant to 20 V.S.A. §3546(c), the Select Board hereby orders that the domestic pet named Sammy and owned by Ms. Sandra D'Amico is to be contained in a fenced in area that includes direct access from the house. An electric fence is not sufficient. The dog must be on a leash and under physical control at all times when not in the fenced area. The fence must be constructed and the installation verified before the dog can return home. The installation of the fence must be verified by the Animal Control Officer. If there is another offense, the dog must be permanently removed from the property.

Until such time as completion of the conditions set forth in this order can be satisfactorily verified, Sammy shall be released to Jeffrey D'Amico in Wolcott, with all associated costs being the responsibility of the owner. Associated costs incurred by the Animal Control officer and due to the Town of Waterbury are as follows:

Mileage	63 miles @ .56 / mile =	\$ 35.28
Visits	5 visits @ \$30 / visit =	\$150.00
Telephone Time	4.75 hours @ \$20 / hour =	\$ 95.00
Total Fees		\$185.28

Failure to comply fully with the conditions set forth in this order shall subject the owner to the penalties provided for in Title 20 Section 3546.

This decision/order was approved by the Waterbury Select Board on August 4, 2014.

Karen Miller, Vice-Chair