

Town of Warwick

Selectboard

July 16, 2018

Minutes

Members present: Lawrence Pruyne, James Erviti

Others present: Town Coordinator David Young, Town Secretary, Town Clerk and Animal Control Officer Rosa Fratangelo, Highway Superintendent Larry Delaney, Police Chief David Shoemaker, Dawn Magi, Steve Ruggiero, Nancy Kilhart, Bruce Kilhart, Bob Croke, Kevin Alden, Kristy Delfausse, Dan Dibble, Wayne Kirley, Tracey Kirley, Joe Kirley, Erika Nygard, Ross Nygard, Catherine Findlay Stewart, Julian Findlay, Jon Calcari, Max Marcus (*Greenfield Recorder*)

I. Call to Order

Chair Pruyne called the meeting to order at 6 p.m. in the Town Hall.

II. Minutes

Erviti MOVED to approve the July 2, 2018 minutes as printed. Pruyne SECONDED. Motion CARRIED 2-0-0.

III. Presentations and Discussions

1. Appointments—Young said that the Selectboard needed to appoint a representative and an alternate to FRCOG.

Erviti MOVED to appoint Lawrence Pruyne as Representative and Jim Erviti as Alternate to the Council. Pruyne SECONDED. Motion CARRIED 2-0-0.

2. Special Election—Pruyne said that a Special Election was needed to elect someone to the Selectboard to serve out the remainder of recently resigned Dawn Magi's term (until May 2019).

Erviti MOVED to schedule the Special Election to be held on the same date as the General Election: Tuesday, November 6, 2018. Pruyne SECONDED. Motion CARRIED 2-0-0.

3. Update on Verizon Warranty Covenant Right and Easement— Young said the document has been signed and notarized. He noted that Verizon is moving forward with the upgrades based on our assurance that we will better document the easement and record it with the Registry of Deeds. Young explained that the land has been owned by the Town for centuries, was never taxed and no deed was ever created. Per Town Counsel the likelihood of any challenge to this is quite minimal.

4. Highway— Highway Superintendent Larry Delaney said that Chapter 90 project request forms signed by Board members at the last meeting have been all taken care of and are in the mail. He noted that generally it is about a 2-week turnaround for the approval letter to be received from Mass DOT.

Delaney said that FRCOG procured bids on our behalf for the road milling project, and that Lane was the low bidder. He said that he had played phone tag all day with lane and the paving company but hoped to speak with someone from each company tomorrow. Delaney explained that he is tentatively looking at dates in August, and that once DOT approves the project it can go forward. He estimated three days of milling for Orange Road.

Delaney said that while he was on vacation last week the crew did patching on the roads, and that now road shoulder clean-up will commence in anticipation of the milling and paving. He noted that while milling is not affected by the weather, it cannot be wet for paving to occur.

Delaney explained that the paving will happen faster than milling, as milling takes two passes per lane while paving is done in one pass. He said that it will be best to have a couple of the roads milled before the paving begins.

Pruyne said that last night he hit a deep pothole before the bridge on upper Wendell Road and recommended that Delaney take care of that pothole. Erviti pointed out that there are a couple of potholes on the top of Barber Hill (Orange Road) with red or orange paint around them. Delaney said the paint likely came from the bicycle race, as it was not done by the Highway crew. Kristy Delfausse said that the worst potholes she has seen are on the Northfield Road by Jim Toth's house. Delaney suggested people drive more slowly in that area for now, and that it will be milled later. Delfausse said that as a taxpayer she is entitled to have roads that she can drive on. Delaney said that they are also filling potholes on Northfield Road.

Kevin Alden asked if there is money left over from Chapter 90 it could be used for another project this Fall. Delaney said that we never want to spend all the Chapter 90 funds we have. Young pointed out that should some storm event occur, and damage happen after the tax rate is set, extra Chapter 90 funds could be used for repairs and that is why funds should always be set aside just in case.

Bruce Kilhart inquired as to why no STRAP grant applications have been made recently.

Delaney explained that Tim Kilhart got a STRAP grant in 2013 and that we were not eligible for another one until 2017. He noted that he was so busy last year that he did not have the time to get through all the paperwork (at least 60 – 80 pages) required for submission of the application.

Erviti said that it seems we should attempt to get these funds, and that is a big part of the

Highway Superintendent's job. Delaney agreed. Alden said that the Superintendent is not a secretary and that someone should be assigned to assist him with the paperwork to get it moving along. He suggested Young assist Delaney in this capacity. Pruyne said that we could possibly hire a consultant. Steve Ruggiero said that the Conservation Commission can help with certain portions of the application. Dan Dibble asked if FRCOG could provide any grant writing assistance; Delaney said he would call FRCOG and inquire about that.

Delaney ended his discussion by saying that he needed more time to review the DOT's bridge reports, which are quite technical and take time to read them through well.

5. Nuisance Dog Hearing—Pruyne opened the nuisance dog hearing at 6:30 p.m. and then called the Nuisance Dog hearing to order.

Animal Control Officer gave an overview of her summary of twelve separate reported incidents and her recommendations to the Selectboard, which were the installation of a 6-foot high chain link kennel big enough for 6 large dogs, and at least two cable tie-out/runs with tension springs on both the cable attached from the house to a tree as well as the cable that hooks to the dog's collar.

Pruyne asked Ross Nygard and Joe Kirley to come before the Board to tell their experiences with the dogs at 460 Richmond Road belonging to Catherine Findlay Stewart. Each boy gave their full name and address before telling the Board about their encounters with the dogs. Joe Kirley said that he was riding his bicycle past the house where a bunch of dogs came out trying to bite his butt and he climbed a tree while the dogs were trying to bite his shoes. He said he was scared. Ross Nygard told the Board that he and Joe Kirley were on the Kirley property building a fort and three or four dogs came running right at them. He said the dogs chased them into the hoop house where the ducks are, and one dog stood and watched them for a while. Ross Nygard said that the dogs then "crapped on the lawn" before running off. Erika Nygard said that she is genuinely concerned that her son and his friend were chased by a pack of dogs that could do damage. She said it is frightening.

Catherine Findlay Stewart said that her husband bought the house at 460 Richmond Road in May of 2013, and at that time they had two female Golden retrievers. She proceeded to list some of her husband's medical and health issues. Ms. Stewart claimed that the dog belonging to Wayne and Tracey Kirley came onto the property around August 7th of 2013 and mated with one of her dogs. She said she spoke with Wayne Kirley at the time; she also claimed to have contacted the Animal Control Officer, but the ACO had found no record of any contact from or with Ms. Stewart prior to December 18, 2014. Ms. Stewart said that the Kirley dog "Mogie" impregnated her second female dog as well and complained that the dog came onto her property without a collar. She cited growing and unchecked anxiety with the neighbors and that she had made complaints to Shelburne Control. Ms. Stewart stated that there is extensive damage to the property from the 48 puppies she alleged to have been sired by the dog "Mogie".

Erviti said that nothing of what she had said so far pertained to or addressed the twelve incidents outlined in the ACO report. Ms. Stewart admitted that per MGL Chapter 140 Section 157 her dogs certainly are a disturbance but went on to say that she and her family have been hurt and intimidated by the neighbors, and she demanded that be put on the record.

Ms. Stewart said that on April 26, 2018 her husband Stephen Stewart was throwing the ball to the dogs for exercise. She said that only four of the six dogs were there, as the other two were with her son's Julian's girlfriend in Hadley. Julian Findlay said that they could not handle all twelve dogs any longer because they were overwhelmed financially and emotionally, which resulted in their finding new homes for six dogs. He said the beginning of this issue was when the Kirley dog inseminated their females. Findlay said that he and his mother feel as though people want to exile them from this town and suggested that some of the reports filed with the ACO were made up. He said he was apologetic if any of the dogs made people feel fearful and noted that he is a teacher and does not want any child to be afraid. Findlay said he doesn't want to see anyone hurt. Tracey Kirley said that everyone was just trying to keep the community safe. Findlay then asked for an apology from the Kirleys.

Pruyne said that we are all neighbors here and we want a respectful environment where people can be on the roadways without fear. Ms. Stewart said that she felt she was under high scrutiny and was experiencing high distress.

Erviti and Pruyne repeatedly tried to deescalate and refocus the comments made by the dog owners. Erviti went through each of the twelve incidents documented in the ACO report and each time asked Ms. Stewart if the reports were true. She acknowledged some were true and said she only became aware of the incidents involving a car being chased from the ACO. Ms. Stewart said that the obvious pattern emerging was no fencing.

Pruyne said that he had no objections to the corrective measures recommended by the ACO but thought 30 days a more suitable time frame than the 21 days suggested by the ACO. All parties agreed that 30 days was an acceptable amount of time.

Pruyne closed the nuisance dog hearing at 7:19 p.m.

Erviti MOVED to accept the recommendations of the Animal Control Officer and order a chain link kennel be put up along with any other restrictive devices which are to be in place by August 15, 2018 and a scheduled appointment with the ACO to inspect the kennel on August 15th . Pruyne SECONDED. Motion CARRIED 2-0-0.

Ms. Stewart and Mr. Findlay left the meeting.

6. Highway (Continued) — Delaney stayed until after the conclusion of the dog hearing to have both Board members sign the contracts for Lane for milling and a contingency contract from Rafferty Fine Grading, Inc. in case Lane cannot get the work done in a timely fashion.

7. Selectboard Reports— None.

8. Coordinator Report— Young said that he had a nice vacation.

9. New and Other Business Unanticipated at Time of Posting Meeting—None.

10. Public Comment— Ruggiero asked for a simple explanation of why the second vote was taken for Chair of the Selectboard. He noted that the first vote was never rescinded, and he wanted to know why Pruyne allowed another vote and why he changed his vote. Pruyne said that he realized he made a mistake; when pressed by Ruggiero to explain further, Erviti said that Pruyne did not have to voice his reasons publicly. Young said that neither a public meeting nor a public hearing compels answers. Pruyne said that he and Dawn Magi were remiss in voting without Erviti present and that he should have opted to hold off on voting any reorganization of the Board until Erviti's return from vacation.

Ruggiero asked Pruyne why he nominated Magi and then change his mind and second Erviti's nomination of Pruyne as Chair, as he did not understand why Pruyne would change his mind once Erviti returned. Pruyne said that Magi had wanted to be Chair, and that he didn't really want to remain Chair as it is a lot more work. He noted that reorganization of the Board is a standard piece of business after each annual Town election, and that usually, but not always, the positions of Chair, Vice Chair and Clerk rotate between the Selectboard members. Ruggiero asked Pruyne why accept a position when he didn't really want it, when leaving it he would have allowed Dawn Magi to retire as Chair next May when her term expired, as she did not intend to run for another term. Kristy Delfausse asked Erviti if he was aware that the vote was happening. Erviti said that he gave the initial vote no thought, as he was on vacation travelling cross-country on his motorcycle.

Young said that Magi's resignation means that we lost a highly experienced person whom he highly values. Pruyne said that he wished this didn't happen, that he enjoyed Dawn Magi's time on the Board and that he appreciated her quiet dignity. Pruyne stated that he has nothing against Magi and finished by saying that the way this was done was regrettable but not wrong.

Young said that the Selectboard has been invited to an event on Friday, July 20 at 1:45 p.m. in Winthrop for the Green Communities Competitive Grant Award announcements. He said that he did not know whether or not Warwick would be awarded any grant funds. Young noted that he also informed the Chair of the Buildings and Energy Committee of the announcements, as Warwick applied for a \$250,000.00 grant.

Issues for inclusion on the next agenda include an alternate to the FRCOG Planning Board, which can be important for grants. Pruyne wanted the Meeting Behavior/Civility policy revisited, and Young said there might be another update on the Verizon upgrades.

10. Executive Session— There was no executive session called.

IV. Adjournment

Erviti MOVED to adjourn at 7:40 p.m. Pruyne SECONDED. Motion CARRIED 2-0-0.

Documents consulted at this meeting:

*Draft Minutes of July 2, 2018

*Email from Andrea Woods of FRCOG to Highway Superintendent Larry Delaney dated July 11, 2018 RE: Road Milling Bid

*FRCOG Warwick Cold Planing and Milling Bid #20180711 Bid Opening July 11, 2018 2 p.m.

*Bid Signature Page Roadway Milling Town of Warwick Bid 20180711

*Tax Compliance and Non-Collusion Statements

*Certificate of Non-Collusion

*Department Statement

*OSHA Certification

*Animal Control Officer Report for Nuisance Dog Hearing

*Animal Control Officer Summary and Recommendations for Nuisance Dog Hearing