

**Norfolk Select Board's Open Session Meeting Minutes  
June 29, 2020**

**This meeting was held as a Remote Access Zoom Virtual Meeting.**

Members Present: Kevin Kalkut; CiCi Van Tine; Anita Mecklenburg. Members Not Present: None. Also Present: Blythe Robinson, Town Administrator; Judith Lizardi, Executive Assistant.

Mr. Kalkut called the Remote Access Zoom Virtual Meeting to order at 7:00 p.m. He announced this meeting is being both video and audio recorded. He read a statement regarding the Massachusetts State of Emergency and the associated state legislation allowing towns to hold remote access virtual meetings during the COVID-19 pandemic crisis. He reviewed that in accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, relating to the 2020 novel Coronavirus outbreak emergency, the June 29, 2020, 7:00 p.m. public meeting of the Norfolk Select Board shall be physically closed to the public to avoid group congregation. Alternative public access to this meeting shall be done via Zoom online video conferencing. This application will allow users to view the meeting and provide comments during allocated windows as outlined in the Board's Public Comment Policy. He noted the Zoom Meeting link and the Zoom Meeting call-in number are provided on the agenda. He stated that all supporting materials have been published to the website.

Ms. Robinson reviewed the agenda.

Public Comment

None.

**Action Items**

Please consider the extension of an interim restraining order for a dog owned by Ms. Melissa Mitchell in accordance with the Town's General Bylaws, Article XIII, Section 3.F.

Ms. Robinson stated that included in the Select Board's meeting packet is a temporary restraining order issued by Hilary Cohen, the Town's Animal Control Officer, to Ms. Melissa Mitchell for her dog as a result of an incident on June 13, 2020. On that day, Ms. Mitchell's dog, Annabell, bit a minor child who was present on her property. The Town's General Bylaws, also included in the meeting packet, provide that the Animal Control Officer may issue a temporary restraining order for up to 14 days after which the order can be either extended by the Select Board, or vacated if the Board takes no action. The date of this meeting is the fourteenth day after the restraining order was received by the Town Administrator's office, and thus the last day that the Board can act if it decides to do so. She stated that this is not a hearing; it is a meeting to determine if the restraining order should be extended. She noted that a written complaint was received from the family of the victim, and there is some history with the animal. She explained that there is state law regarding hearings, and if one is requested, a specific process must be followed. She recommended a limited extension of the restraining order to allow that process to take place. The following parties were present at the Zoom meeting: Hilary Cohen, Animal Control Officer; Melissa Mitchell, dog owner; Sarah Durand and Brian Beachkofski, parents of the minor child; and Christopher Wider, Animal Inspector. Mr. Wider's role in this event was to quarantine the dog for 10 days after being alerted to the incident by the Animal Control Officer per State law.

Ms. Cohen provided a brief background regarding the history of this dog. She reviewed a situation occurring in July 2017 when she was contacted by the Norfolk Police Department to contact Ms. Durand of 94 Boardman Street due to an incident involving Ms. Mitchell's dog. In this instance, the dog, Annabell, bit Ms. Durand's dog. Ms. Cohen contacted the Animal Inspector and the dog was quarantined for 10 days. A written warning for biting and unlicensed dog was issued. Ms. Cohen noted that it is also reported that a previous incident occurred, but it was never reported to her. The newest incident reported on June 13<sup>th</sup> involved the same dog. She described the incident as outlined in the materials provided in the Select Board's meeting packet. Ms. Cohen stated that she is requesting an extension of the restraining order to allow time to speak with this animal's dog trainer to obtain more information regarding the training plan going forward to determine whether a hearing is needed or if this can be resolved without a hearing.

Ms. Van Tine summarized that because Ms. Cohen has not yet been able to speak with the dog trainer, this situation is not ready to be determined beyond an extension. Mr. Kalkut stated there is disparity between the local bylaws and state law. Ms. Cohen discussed the Town bylaws. Mr. Kalkut confirmed that the Select Board is able to enact an extension. Ms. Robinson stated that Town Counsel's recommendation was to allow a brief extension of 30 days so the family of the injured party can make a request for a hearing and that the dog trainer can provide information, as well. She noted the next Select Board meeting is scheduled for July 14, 2020. Mr. Kalkut confirmed with Ms. Cohen that if the Select Board does not act to extend the restraining order at tonight's meeting because of perceived differences between local bylaws and state law, the order would vacate. Ms. Robinson stated that in order to make sure the hearing process is preserved, it would be best to not take any input from the dog owner or the parents of the dog bite victim at this time. She stated that she believes the family has the right to request a hearing even if more information is obtained from the trainer.

A motion was made by Mr. Kalkut that the Board vote to extend the restraining order issued by the Animal Control Officer for the dog named Annabell, owned by Ms. Melissa Mitchell, for a period of 30 days. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

Please consider ratifying the designation of the Police Chief to file notice with the Attorney General's Office regarding the postponement of the Annual Town Meeting date to June 27<sup>th</sup>

Ms. Robinson stated that in response to the COVID-19 pandemic a number of legislative changes were approved by the State to facilitate spring town meetings and provide towns with flexibility to address financial matters. In particular, Moderator's were given more latitude to change the date of a Town Meeting in order to address either inclement weather, a public safety emergency, or both that would impact those attending the meeting. Besides the Moderator issuing a notice of declaration to recess or continue the meeting, a required step is to have "a local public safety or public health official designated by the Board of Selectmen" submit a report to the Attorney General providing justification for the declaration, per section "d" of the statute. As the decision to change the meeting date did not occur until Monday, June 22, 2020, there was no time to have the Select Board meet to vote on the declaration. At Town Counsel's recommendation, this notice has already been filed under the signature of the Police Chief. Town Counsel further recommended that the Select Board act to ratify the designation of the Chief for this purpose. Copies of the letter, Moderator's declaration, and the law on this topic are provided in the Select Board's meeting packet.

A motion was made by Mr. Kalkut that the Board ratify the designation of the Police Chief to file notice with the Attorney General's Office regarding the postponement of the Annual Town Meeting date to June 27th. It was seconded by Ms. Van Tine. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

### **Report of Warrants**

The following warrants have been signed:

A motion was made by Mr. Kalkut to approve the following warrants:

- 6/23/2020 52V20 \$717,279.00
- 6/23/2020 52VSA20 \$230.37
- 6/23/2020 52VS20 \$65,635.46

It was seconded by Ms. Mecklenburg. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

### Public Comment

Ms. Mitchell clarified the incident involving her dog in July 2017. She stated that the Mitchell's dog came onto her property when it was nipped by her dog, Annabell. She stated that Annabell is a rescue dog. Mr. Kalkut explained that testimony will not be taken at this time; this meeting is only to extend the restraining order. Ms. Mitchell questioned the disparity between the town bylaws and state law and expressed concern that the correct process has not been followed. Mr. Kalkut noted there is a conflict between local bylaws and state law; as such, the Select Board obtained a recommendation from Town Counsel which is the action they are taking in order to determine additional facts. He stated that the concerns of Ms. Mitchell will be reported to Town Counsel.

At 7:34 p.m., a motion was made by Mr. Kalkut to adjourn the meeting. It was seconded by Ms. Mecklenburg. A roll call vote was taken as follows: Mr. Kalkut – aye; Ms. Van Tine – aye; Ms. Mecklenburg – aye. All were in favor.

The next meeting of the Norfolk Select Board is scheduled to be held remotely on Tuesday, July 14, 2020, at 7:00 p.m.

This is a true and accurate report of the Select Board's remote meeting of June 29, 2020.



Cici Van Tine, Clerk