

TISBURY SELECT BOARD MEETING MINUTES

Tuesday, July 13, 2021, at 4:00 PM
Jeff Kristal; Larry Gomez, Roy Cutrer

Due to ongoing efforts to prevent spread of Covid-19 this meeting was held remotely via Zoom platform. The Public could attend and participate in the meeting by joining scheduled Zoom Meeting ID: 950 6198 6821 Passcode: 061032 One tap mobile +1 646 876 9923 US (New York)

Members Present: Jeff Kristal, Larry Gomez, Roy Cutrer

Others Present: John Grande – Town Administrator, Alexandra Kral -Executive Assistant, David Doneski, Kate Hoffman

CALL MEETING TO ORDER

TOWN ADMINISTRATOR REPORT

One-Day Alcohol License:

Martha's Vineyard Museum: Exhibit Opening- July 23rd

Martha's Vineyard Museum: Museum Program- July 16th

Member Gomez motioned to approve one-day alcohol licenses for stated above events . Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved

Busker License:

Michael Grasing

Nancy Jephcote

Member Gomez motioned to approve busker license for Michael Grasing and Nancy Jephcote . Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Common Victualler License:

Danielle's Fuel, Inc. d/b/a Scottish Bakehouse, 977 State Road

Pig Sprouts d/b/a Larder, 342 State Road

Island Fresh Pizza & Subs Inc, 395 State Road

Member Gomez motioned to approve common victualler licenses as stated above. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Taxi License:

Bluefish Taxi, 80 Indian Hill Road

Member Gomez motioned to approve taxi license for Bluefish Taxi. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Veterans Park Agreement:

Beach Road Weekend Music Festival

Town Administrator provided Select Board with a draft agreement for the Beach Road Music Festival. The Town Accountant confirmed that the town holds the remaining amount of \$16,412.67 from the prior event. The Applicant needs to make an additional deposit for town personnel expenses and security deposit as determined by the Select Board.

Member Gomez motioned to approve draft agreement for the Beach Road Music Festival . Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved

APPOINTMENTS

Interim Police Lieutenant: William Brigham

The Town Administrator informed the Board that the position of Lieutenant is no longer included on the approved Management and Professional Scale or Staffing Plan for the Tisbury Police Department. Following a

meeting with representatives of the Police Union, they support the appointment of a Temporary Police Lieutenant. William Brigham is a member of the Police Union and therefore this special assignment will require impact bargaining with the union.

Member Gomez motioned to appoint William Brigham as Temporary Police Lieutenant for up to six months. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Member Gomez motioned to authorize the Town Administrator to initiate impact bargaining with the Police Union to work through the specific duties and responsibilities for this temporary position. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

PUBLIC HEARING

5:15PM Public Hearing to review and consider an application for the Common Victualler License by Fish Tales MV Inc., 80 Main Street

Member Kristal opened public hearing and read out public hearing notice. Stephen Bowen, the applicant was present at the meeting. All sigh-offs are complete. No public comment.

Member Gomez motioned to close public potion of the hearing. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Member Gomez motioned to approve Common Victualler License for Fish tales MV Inc. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

5:20 PM Public Hearing to determine whether a dog is a nuisance or a dangerous dog pursuant to Massachusetts General Law, Chapter 140, Section 157.

Member Kristal opened public hearing and read out public hearing notice. In accordance with the protocol for public hearing to determine whether a dog is nuisance, or a dangerous dog Member Kristal swore in Kate Hoffman, Tisbury Animal Control Officer, Andrea Peraino, dog owner, Kathleen Poliquin and Kim Rodak, victims of the dog bite, attorney Jeremy Cohen. Member Kristal asked Ms. Hoffman to present case facts to the Board. Ms. Hoffman was contacted on 5/26/21 at 11:45 a.m. by Andrea Peraino of 20 Beach Street Extension in Tisbury, who informed ACO that her dog, Ranger, had bitten someone outside her residence. ACO responded to the scene where Andrea stated her dog broke through her door and bit a woman on the back of the leg. The victim had been transported by car to the hospital prior to ACO's arrival. Andrea was fined \$25.00 for violating the town leash By-law and \$25.00 for the dog not being licensed in accordance to MGL Ch 140 Sec 137. The dog, a 5-year-old, intact, all white German Shepherd was placed on a 10-day in home rabies quarantine.

ACO spoke to the victim, Kathleen Poliquin when she returned home from the hospital. She stated she was walking into the Black Dog Tavern when a large, all white German Shepherd suddenly ran out of an apartment, down the stairs and bit her on the back of the right thigh and buttocks area. She was treated at Martha's Vineyard Hospital for puncture wounds, scrapes and bruising. She received antibiotics and a tetanus shot.

Two days later on 5/28/21 at 4:00 p.m. ACO was dispatched by communications to a dog bite at the Black Dog Tavern on Beach Street Extension. When I arrived at the scene I observed the victim, Kim Rodak being treated by EMS accompanied by her husband, as well as Andrea Peraino sitting at a table to the side, crying. Kim informed ACO that she was parking her bike when a dog suddenly ran up, bit her on the back on her left thigh and ran away with the female owner chasing it. She described the dog as a large, all white German Shepherd. ACO approached Andrea who stated the dog broke out of the house chasing after her and their other dog, bit the woman and ran. The victim was treated at the scene and was not transported to Martha's Vineyard hospital but later received treatment at her local doctor's office where she received antibiotics and a tetanus shot.

The dog, Ranger was taken into Animal Control custody and placed in the Town kennel for the remainder of the quarantine. Andrea received a \$50.00 fine for violating the town leash By-law.

Based on ACO's observations as a certified ACOAM graduate with core competency training it is her opinion that Ranger is a dangerous dog. The dog is up to date on its rabies shots and owners took proactive step to neuter the dog. Additionally, Ranger has been enrolled in a 5-week training program, where he is currently.

Member Cutrer asked how the Board would know if the training program was successful. Ms. Hoffman stated that there is no way of knowing if training program will be effective however restrictions that she would like to recommend to the Board will help ensure public safety regardless of the training program outcome. Member Kristal opened discussion to the public. Kathleen Poliquin first victim gave a statement to the Board. Ms. Poliquin stated that the incident was extremely traumatizing for her. She was also very disappointed to find out that someone else was bitten by the same dog only two day after her incident. She expressed her disbelief in owner's ability to control their dog and that adequate measures are not being taken to protect public safety. Member Kristal asked Andrea Peraino if the dog has bitten someone prior Ms. Poliquin? Andrea stated that the dog bit vet when he was under a year old, and the circumstances of the bite were absolutely different from what happened to Ms. Poliquin and Ms. Rodak. Ms. Rodak gave her statement next. Ms. Rodak also suffered a lot of trauma due to the dog bite. She was especially concerned over the fact that it was an unprovoked attack that happened in the very public place in Town. MS. Rodak expressed her belief that Ranger is an extremely dangerous dog, and she is extremely concerned for public safety. Ms. Peraino gave her statement next. Ms. Peraino understood how terrible it is that both those incidents were allowed to happen. She stated that the fault is with the owners not the dog. The owners just recently gained access to the portion of the home from which Ranger escaped. Before a different three-point entryway was used to access the property. Since alterations were made to make current entrance more secure, Ranger was neutered and sent to behavior modification training. His trainer does not find him to be aggressive. Both owners feel awful that those incidents took place and are prepared to comply with any restrictions. Jeremy Cohen attorney representing Andrea and Ranger stated although the incidents are terrible and there has been extreme impact on the victims, those bites don't qualify as an extremely dangerous dog bites. The owners are responsible and took multiple proactive steps, including an expensive off-island training, restructuring of the entryway, and muzzling the dog. Mr. Cohen stated that it is his belief that owners earned an opportunity to comply with recommended restrictions and preserve dog's life. Member Gomez expressed his sympathy for both victims and his concern for the public safety. Member Cutrer stated that he is especially concerned that dog resides in such congested area in Town. He also asked for Town Counsel opinion on what is Town's liability in case the dog bites again. David Doneski stated if another incident was to occur it is conceivable to say that someone could make a claim against the Town based on action taken or not taken, depending on the circumstances of the incident and restrictions posed by the town, Mr. Cohen stated when the Board acts on the dangerous dog hearing its exercising its discretionary function, so the Board and the Town would not be held liable. Mr. Doneski stated that it would be dependent on the circumstances and it's unfair to rule out potential liability.

No additional comment from the public.

Member Gomez motioned to close public portion of the hearing. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Member Kristal stated that first the Board has to determine if the dog is dangerous and after based on the determination made imposed applicable orders. Mr. Doneski confirmed the process is correct.

Member Gomez motioned that pursuant to chapter 140 section 136 the Select Board determine Ranger to be a dangerous dog. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal - Aye. The motion was approved.

ACO presented recommended following orders to the Board: double gated entry in all entrances/ exits of the dwelling, six feet high and of durable construction, when the dog is not on the premises the owner/keeper must humanly muzzle the dog with basket muzzle and restrained with a leash having a minimum tensile strength of 300 pounds as well as dangerous dog collar or harness, that dog's identification information be provided to the ACO including but not limited veterinary records, picture, microchip information. If the dog is moved to a different municipality, it must be immediately registered within that municipality. If there is a yard owner/keeper must provide six-foot double gated enclosure no less than 200 square feet of durable construction and a manner which prevents dog from escaping. Additionally, the owner must provide proof of the liability insurance in amount of no less than a \$100,000. The orders issued by the Select Board will be valid throughout the Commonwealth. Additionally, the Select Board will set time of two weeks to comply with all referenced above orders. If the dog bites again the ACO will have authority to seize the animal. Board members were also informed that dog owners are actively looking to move into a less congested area.

Member Gomez motioned to order the owner to comply with the recommendations of the Town of Tisbury Animal Control Officer. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- No, Kristal -Aye. The motion was approved.

DISCUSSION

Vineyard Power: Vineyard Wind Presentation

Postponed until next meeting.

ADMINISTRATIVE SESSION

Payroll 07/07/21 \$80,214.71

Member Gomez motioned to approve payroll as stated above. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Bills Payable 06/29/21 \$297,980.07

Bills Payable 07/01/21 \$2,050,512.28

Bills Payable 06/30/21 \$25,431.44

Member Gomez motioned to approve bills payable as stated above. Member Cutrer seconded the motion. Roll Call Vote: Gomez- Aye, Cutrer- Aye, Kristal -Aye. The motion was approved.

Minute's approval: June 15th, 2021; June 28th, 2021; July 7th, 2021

Member Gomez motioned to approve stated above minutes. Member Kristal seconded the motion. Roll Call Vote: Gomez- Aye, Kristal -Aye. The motion was approved.

PROSPECTIVE MEETING AGENDA(S)

MEETING ADJOURNMENT

Respectfully submitted by
Alexandra BenDavid

DocuSigned by:

Jeff Kristal

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Jeff Kristal
Chair

DocuSigned by:

Larry Gomez

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Larry Gomez
Vice Chair

DocuSigned by:

Roy Cutrer

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Roy Cutrer
Clerk