

## **MINUTES OF MEETING OF THE BOARD OF SELECTMEN**

Date of Meeting: May 7, 2019  
Date of Transcription: May 8, 2019  
Transcribed by: Janet Wilson

### **1. CALL MEETING TO ORDER BY CHAIRMAN**

### **2. ROLL CALL**

Selectmen Present: Patrick G. Tropeano, Chairman  
Mary Bruce, Clerk  
Alan H. Slavin  
Peter W. Teitelbaum  
James M. Munise

Also Present: Derek Sullivan, Town Administrator  
Richard Bowen, Town Counsel

### **3. PLEDGE OF ALLEGIANCE**

### **4. ANNOUNCEMENTS**

Roadwork will begin in Onset on May 9<sup>th</sup> – May 16<sup>th</sup>, starting at Onset Avenue from the Stone Bridge to Jefferson Shores and then continuing onto West Blvd/South Blvd. The paving of the roads will begin on May 17<sup>th</sup>, weather permitting. No parking will be allowed on these streets from 6am-7pm.

The Onset Fire District meeting will be held on Monday May 20<sup>th</sup> at 7:30 pm at the Onset VFW, the election will be held on May 21<sup>st</sup> from 4pm-8pm.

The Mass Cultural Council is collecting opinions to help set their funding priorities for the next few years. Please take the survey at [www.wareham.ma.us/cultural.council](http://www.wareham.ma.us/cultural.council) surveys are also available at both the Main or Spinney Libraries.

The Wareham Garden Club will be holding its plant sale on Saturday, May 18<sup>th</sup> from 9am - noon at the Methodist Meeting House.

### **5. CITIZENS COMMENTS**

Present before the board: Sandy Slavin

Ms. Slavin was before the board stating that since the board will be discussing Liaisons to boards and committees, she would like to suggest that they attend a meeting to meet the members and see what they do. She also recommended that

## SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

the Board of Selectmen invite committees to come before them so that they can update the board on what exactly their board is working on.

### **6. BOARDS COMMENTS**

Selectman Slavin wanted to thank Municipal Maintenance for remarking the lines at the Tempest Knob Parking lot.

Selectman Slavin stated that there have been no issues with people parking at Besse Park for Verilife, he said that the Police have also reported no issues with traffic and that some of the businesses downtown has noticed an increase in business.

Selectman Munise stated that people can apply online for boards and committees as well as see a list of vacancies.

Selectman Teitelbaum announced that usually the Town has begun grading some of the roads however; with the rain we have been having it's being pushed back.

### **7. APPOINTMENTS/REAPPOINTMENTS/INTERVIEWS**

#### **a. Constables**

- i. David A. DiCenso
- ii. Robert E. Short
- iii. Richard F. White

**MOTION:** Selectman Bruce moved to appoint David A. DiCenso, Robert E. Short & Richard F. White as Constables for the Town of Wareham to a term to expire no later than June 30, 2020. Selectman Slavin seconded.

**VOTE: 5-0-0 (Unanimous)**

#### **b. Wareham Redevelopment Authority**

- i. Peter W. Teitelbaum
- ii. Mary Bruce

**MOTION:** Selectman Slavin moved to appoint Peter Teitelbaum & Mary Bruce as members to the Wareham Redevelopment Authority to a term to expire no later than June 30, 2020. Selectman Munise seconded.

**VOTE: 3-0-2 (Selectman Bruce & Teitelbaum abstained)**

### **8. LICENSES AND PERMITS**

- a. Application from BPOE Wareham-New Bedford Lodge 73, Inc., 2855 Cranberry Highway, E. Wareham, MA for a change of hours.

Present before the board: Guy Diantonio & Steve Hunt

Mr. Diantonio was before the board with a request to open earlier on Sunday's to serve breakfast.

SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

**MOTION:** Selectman Bruce moved to approve the change of hours to open earlier on Sunday's at 9am. Selectman Teitelbaum seconded.

**VOTE: 4-0-1 (Selectman Slavin abstained)**

**9. DOG HEARING AT 7:15 P.M.**

**MOTION:** Selectman Slavin moved to open the hearing. Selectman Bruce seconded. Poll vote: Selectman Bruce-yes, Selectman Slavin-yes, Selectman Munise-yes, Selectman Teitelbaum-yes, Chairman Tropeano-yes. At this time Chairman Tropeano announced that he along with Selectman Teitelbaum have a conflict since they both board their dogs with Mr. Brady, Selectman Slavin also filed a conflict with the Town Clerk's office. Chairman Tropeano asked if they would be allowed to participate in the hearing out of necessity. The board did agree to have all three members participate. Selectman Teitelbaum asked all who were going give testimony please rise and raise their right hand and did swear everyone in. Poll vote: Selectman Slavin-yes, Selectman Teitelbaum-yes, Selectman Bruce-yes, Selectman Munise-yes, Selectman Tropeano-yes.

Present before the board: Garry Buckminster, Director of Natural Resources  
Mr. Buckminster read the complaint into the record (as attached). At this time Robert Brady appeared before the board. Mr. Brady was asked if he agreed with the facts that Mr. Buckminster read and he indicated some of it. He stated that he let his dogs Fritz & Max out early in the morning around 7pm as he usually does and said that they are usually out around 10 minutes to do their business and he said that this particular area is private and is posted. He said that he did learn that anyone who has property owned by A. D. Makepeace have an understanding which he wasn't aware of without a permit. He said that his dog Fritz was at the door ready to come in and he heard yelling and saw that Max was in the road and he called him off and he asked Ms. Choubina if she was ok and she responded no, and show Mr. Brady the sleeve and he saw two punctures on the sleeve, she said that at that point she walked away. Mr. Brady had a visit from the Department of Natural Resources within a few hours of the incident. Mr. Brady stated that he hasn't seen any pictures of the wounds and wasn't even sure if they existed and claims that no information about the incident has been provided to him other than the letter Mr. Buckminster read into record. Selectman Slavin asked Mr. Brady to show him on the map where the attack happened and was it on his leased property. Mr. Brady showed him where he believes the attack happened which was across the street, not within his leased property. Selectman Munise asked if part of his lease included using the property at will, Mr. Brady said yes.

Present before the board was Marina Choubina

Ms. Choubina stated that Mr. Buckminster's report is accurate and that she usually leaves the home around 8am to walk her dog. She said that the sign on the property

## SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

states that the gates close at 3:30 p.m and as for the other sign that says permits are requested for access which appeared after the incident. She said that she did raise her concerns when A.D. Makepeace leased the kennels to Mr. Brady, she said that it wasn't the first time that she had seen Mr. Brady's dogs loose many times. She said that her Mother was scared when she would ride her bike by the kennel as they would follow her when she would use that road to get to the YMCA. She said that she never reported that incident. Ms. Choubina provided the Board of Selectmen with photos of her injuries which were taken 4 days after the attack. She said that she saw a huge tan colored shepherd dog at the top of the road and she said that she stopped immediately in hopes that she would go back to the kennel or that someone would call her but she said unfortunately the dog ran to her and she said that she didn't move and the dog immediately bit her left hand, which she still has scars on, she tried to stop her and then she bit her right hand. She said that the dog didn't want to let go and the other dog was jumping behind him. She said that Mr. Brady called off Max and she said that Mr. Brady asked if she was ok, she responded she wasn't and she just wanted to leave. Ms. Choubina wanted to thank Mr. Buckminster for checking on her and he assured her that the dogs were vaccinated.

Present before the board: James Dugan

Mr. Dugan resides at 19 Red Pine Lane, he said that he cannot speak specifically on this day and wasn't there to witness the attack. He said that many people use that road and that A.D. Makepeace at the time he purchased the property were told they could use all the facilities and that particular road; he said that many of the residents were concerned when A. D. Makepeace announced they were going to lease that property for a kennel. He stated that they were told if they ran into any problems to please contact them. He was walking with his wife along with their yellow lab and two dogs from the kennel, which he said he can't be sure they were the same two dogs, came out to challenge them on a few occasions. Selectman Bruce asked Town Counsel since this happened on private property did they even have a say in this matter? Attorney Bowen stated that yes; the dog bylaw doesn't automatically distinguish between incidents that happen on private vs public property. He said that the accused in the matter during the opening statement sounded as if he was asserting trespassing defenses that questioned whether the alleged victim had any right to be on the property and certainly that is a defense that A. D. Makepeace as the property owner might be entitled to insert in a court case but doesn't feel that defense is applicable on the question if this person was bitten by the dog and whether the dog is dangerous. Mr. Buckminster stated that the recommendations are based on Mr. Brady having 3 incidents, one in which a child was bitten, at this time Mr. Brady came before the board and stated that he wasn't denying what happened or creating a defense and he said that he didn't know of any photos or report done by Animal Control or from the Director of Natural Resources, he stated that he only received a letter to come before the board. Mr. Brady wasn't happy that he would have to ask for a report from the Town of Wareham, Selectman Teitelbaum stated that the photos were just provided by the witness, Attorney Bowen explained that if you are charged

## SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

with something it would be his obligation to ask for the report and the photographs, he said that a prudent person charged with a serious matter would do that and it's not the Town's obligation to make his case for him as he didn't take those steps. Mr. Buckminster read off the list of recommendations, which were the same recommendations that were made at a previous hearing where 2 dogs were deemed dangerous (as attached). Mr. Brady also at this point said that he did have a mishap with another dog where he seriously hurt 2 people and he was put down. He also said that he would only be at this location for the next 2-3 months since he has found another place to have a kennel and said that the property would be private and nobody would be walking on the land for the record. Ms. Choubina asked if Mr. Brady would be allowed to walk the trails with his dogs, Selectman Teitelbaum stated that if the board were to impose the restrictions the dogs wouldn't be allowed to be walked off leash. Mr. Buckminster asked if Mr. Brady as part of the stipulation could provide an updated immunization to the Department of Natural Resources. Mr. Brady stated that the new location will have plenty of fencing and stated that it would be costly to put a 200-300 foot fence around the current property. The board did agree that he could wait until he moves to erect the fencing and that he would have to make sure they are on a lead and be muzzled when they are outside. **MOTION:** Selectman Tropeano moved to close the public hearing. Selectman Bruce seconded. Poll vote: Selectman Slavin-yes, Selectman Munise-yes, Selectman Bruce-yes, Selectman Tropeano-yes, Selectman Teitelbaum-yes. **MOTION:** Selectman Bruce moved to deem the two dogs Max & Fritz as dangerous. Selectman Slavin seconded. **VOTE: 5-0-0 (Unanimous).** **MOTION:** Selectman Bruce moved to impose the following conditions on Max & Fritz 1. When not under the direct control of a controlling person, the dogs shall be contained within a building, vehicle, or secure locked enclosure six (6') feet or higher or angled arms. 2. The dogs may only leave the owner's property accompanied by a controlling person over the age of 18 and on a leash not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds, used in conjunction with a muzzle. 3. Microchip or tattoo identification for the dogs. 4. Proof of insurance for dogs in the amount of no less than \$100,000.00 insuring the owner. 5. The dogs shall not be allowed to be left in a kennel area alone without a person over the age of 18 at the property where the two dogs are being kept. 6. That the kennel handling area be completely fenced to minimize the escape of other animals under the care of Mr. Brady/Upper Cape K-9 at the new location. 7. Records are to be submitted to the Department of Natural Resources on immunizations. Selectman Slavin seconded. **VOTE: 5-0-0 (Unanimous)**

### **10. TOWN BUSINESS**

#### **a. Liaison assignments.**

Some of the board members didn't send in their list therefore, they will be discussing this at their next meeting.

#### **b. Discussion and possible vote on appointment of special permit granting authority designee for the Tremont Nail Factory.**

## SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

**MOTION:** Selectman Bruce moved to appoint Mark Bobrowski as the Special permit granting authority designee for the Tremont Nail Factory overlay district. Selectman Teitelbaum seconded. Selectman Munise felt that the Board of Selectmen should continue to act as the special granting authority, Selectmen Slavin stated that it would be a conflict since the Wareham Redevelopment Authority has two Board of Selectmen members and also stated that he wasn't a fan of Mr. Bobrowski and would like have Mr. Whitten be the granting authority designee.

**VOTE: 3-2-0 (Selectman Slavin & Munise opposed)**

- c. Any other Town business not reasonably anticipated 48 hours prior to the posting of this meeting.

**MOTION:** Selectman Bruce moved to approve the request from the Wareham Garden Club to place signs on Town property. Selectman Teitelbaum seconded.

**VOTE: 5-0-0 (Unanimous)**

### **11. TOWN ADMINISTRATOR'S REPORT**

### **12. LIAISON REPORTS/INITIATIVE REPORTS**

Selectman Slavin spoke about the CPA funding adding \$36 million, plastic bag ban, chapter 90 funding.

Selectman Munise attended the Road Commissioners meeting and found them to be very considerate and sincere and are doing a good job.

### **13. CONSENT AGENDA**

- a. Authorization to sign bills and documents, etc.
- b. Approval of meeting minutes: Regular session: April 30, 2019; Executive session April 30, 2019.

**MOTION:** Selectman Bruce moved to approve the meeting minutes of April 30, 2019. Selectman Slavin seconded.

**VOTE: 5-0-0 (Unanimous)**

**MOTION:** Selectman Bruce moved to approve and hold the executive session meeting minutes of April 30, 2019. Selectman Slavin seconded.

**VOTE: 5-0-0 (Unanimous)**

### **14. ADJOURNMENT**

**MOTION:** Selectman Teitelbaum moved to adjourn. Selectman Bruce seconded.

**VOTE: 5-0-0 (Unanimous)**

### **15. SIGNING OF DOCUMENTS APPROVED BY THE BOARD**

SELECTMEN MEETING MINUTES-5-7-19 (CONT'D)

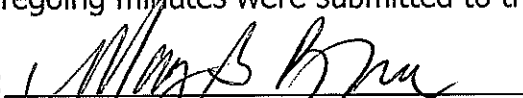
Respectfully submitted

**Janet Wilson**

Department Assistant

The foregoing minutes were submitted to the Board of Selectmen on:

Attest:

  
**Mary Bruce, Clerk**

Date Signed: 6-4-19

Date sent to the Town Clerk: 6-5-19

Attachment to 5-7-19  
meeting minutes  
RECEIVED

APR 16 2019

# Commonwealth of Massachusetts

TOWN OF WAREHAM  
BOARD OF SELECTMEN

## Complaint of Vicious or Barking Dogs Section 157, Chapter 140, General Laws

April 16, 2019

I hereby make complaint hereon, that dogs owned or harbored by:

Robert Brady  
18 Cypress St (POB 922)  
East Wareham, MA 02538

Are a nuisance by reason of:

### 1. Vicious, disposition

On Wednesday, April 10, 2019, at approximately 7:00 AM two dogs, described as black and tan, German Shepard's named Max and Fritz, owned or cared for by Robert Brady attacked a woman, identified as Mrs. Marina Choubina, unprovoked inflicting injury to both hands, described as multiple punctures, scratches and bruising. She reported that while walking on Tihonet Road from the area of the herring run, a German Shepard type dog (believed to be Fritz) exited the Upper Cape K9 property and ran up to her but did not immediately attack her. A second German Shepard type dog (believed to be Max) then exited the property of Upper Cape K9 and approached her as well. Mrs. Choubina advised me that once the second dog arrived (Max) the first dog (believed to be Fritz) bit her arm and hands. Mrs. Choubina explained the second dog (Max) then did bite the back of her jacket that she was wearing however he did not make contact with her skin or cause injury to her back. Mrs. Choubina explained as she was trying to get both dogs away from her she started to panic and yelled for help. An individual, later identified to be Robert Brady, from the Upper Cape K9 came from the property and assisted in getting the dogs away from her. Mrs. Choubina recalled the individual yelling the name "Max" which she believes was directed towards the second dog who had bitten the back of her jacket. The individual from the Upper Cape K9, Robert Brady, owner of Upper Cape K9 currently located on ADM property on Tihonet Road, took control of the two dogs.

The area of Tihonet Road where the incident took place had no "no trespassing" type signage posted. There is "no trespassing" signage present on the properties located on the sides of Tihonet Road. However nothing was posted for the roadway itself. Tihonet Road is a public road and turns into a private road owned by A D Makepeace Co. Mrs. Marina Choubina is a resident of one of the A D Makepeace Company's residential developments near the property where the incident took place. Through information I obtained from ADM, Mrs. Choubina has permission to access this roadway and ADM property.



A ten day quarantine order was placed on both dogs.

- The rabies vaccine for Max had expired on 3/7/2013
- No proof of rabies vaccine has been provided for Fritz

Robert Brady was issued a citation for M.G.L. C. 140 ss 145B failure to vaccinate/rabies and Wareham Town Bylaw DIV VIII, AR II, Sec 2, for a subsequent violation of the leash ( this is the third documented attack by unleashed dogs owned or cared for by Robert Brady in the area of Upper Cape K9)

This complaint is made under the penalties of perjury.

Complainant's signature and address:



Garry Buckminster, Director

Department of Natural Resources

Town of Wareham

54 Marion Road

Wareham, MA 02571

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Attachment to 5-7-19  
meeting minutes



# Town of Wareham

## Department of Natural Resources

54 Marion Road, Wareham Massachusetts 02571  
508-291-3100 Extension 3180  
dnr@wareham.ma.us

May 7, 2019

I, Director of Natural Resources/Animal Control Officer of the Town of Wareham request that dogs known as "Max" and "Fritz", two male German Shepard's, owned and cared for by Robert Brady/Upper Cape K-9, be deemed a dangerous dog, per M.G.L. Chapter 140 Section 157.

I further request that the hearing authority order, incorporated by reference as per the statue the following:

- ✓ 1. When not under the direct control of a controlling person, the dogs shall be contained within a building, vehicle, or secure and locked enclosure six ( 6') Feet or higher or angled arms.
- ✓ 2. The dogs may only leave the owner's property accompanied by a controlling person over the age of 18 and on a leash not more than four (4) feet having a minimum tensile strength of three hundred (300) pounds, used in conjunction with a muzzle;
- ✓ 3. Microchip or tattoo identification for the dogs;
- ✗ 4. ~~Behavior training for the dog from a trainer approved by the Animal Control Officer;~~
- ✗ 5. ~~Spaying or neutering of the dogs unless an owner of the dogs provides evidence that a veterinarian is of the opinion the dogs are unfit for alterations because of a medical condition, the owner of the dogs shall cause the dog to be altered so that the dog shall be reproductively intact;~~
- ✓ 6. Proof of insurance for dogs in an amount of no less than \$100,000.00, insuring the owner;
- ✗ 7. ~~The dogs shall not be allowed to be left in a secure area alone without a~~ Kennel *Ans* person over the age of 18 at the property where the two dogs are being kept.
- ✓ 8. That the kennel handling area be completely fenced to minimize the escape of other animals under the care of Mr. Brady/Upper Cape K-9

9. Records to be submitted to Dept of Natural Resources