

IN BOARD OF SUDBURY SELECTMEN
TUESDAY, JUNE 14, 2016

Present: Chairman Susan N. Iuliano, Vice-Chairman Charles C. Woodard, Selectman Leonard A. Simon, Selectman Patricia A. Brown and Assistant Town Manager Maryanne Bilodeau

Absent: Selectman Robert C. Haarde and Town Manager Melissa Rodrigues

The statutory requirements as to notice having been complied with, the meeting was convened at 6:30 p.m. in Lower Town Hall.

Opening Remarks

At 6:30 p.m., Chairman Iuliano opened the meeting.

Joint Meeting: Sudbury School Committee – Discussion Regarding Future Office Needs

Present: Combined Facilities Director Jim Kelly, Sudbury Public Schools Superintendent Anne Wilson, and Sudbury Public Schools' Committee members: Lucie S. St George, Christine A. Hogan, Lisa V. Kouchakdjian, Richard J. Tinsley, Ellen W. Joachim

At 6:30 p.m., Chairman Iuliano opened a Joint Meeting with the Sudbury Public Schools' (SPS) Committee to discuss and possibly vote on whether the Fairbank Community Center Study Task Force should plan for the future office needs of the Sudbury Public School (SPS) in its recommendations for building options and design.

There was discussion of the options where SPS Administration could be housed so as to give a better idea to the Board of Selectmen as they redefine the mission of the Fairbank Community Building Task Force. Two challenges to be discussed tonight - the long term plan, and the short term plan.

Options:

SPS Administration in Fairbank Community Center

A positive point is that we'd be within a construction project of \$2.8 million, which would be the additional cost of adding it to the new Fairbank Community Building – (based on \$400 per square foot at 7,000 sq. feet)

SPS Administration would be on the second floor. With or without SPS a second floor would be added to leave room for expansion. (If you're building a 40,000 to 50,000 sq. foot bldg.)

Leasing

This depends on the length of time, and isn't the best option (lease payments as opposed to owning it.)

The Town could buy a building with renovations (\$2.5 million?). This would be 12,000 square feet and give more square footage.

Nixon School (\$5.5 million estimate). Jim believes this is a conservative estimate, and the School Committee feels that if the school population grows that would push them out.

Jim Kelly feels that putting SPS Administration in the new Fairbank Community Center or buying a building is the way to go; however, negatives would be that it would take the building off the tax levy and it would add another building to the 19 buildings the Town already has to manage.

The current Fairbank Building is failing (i.e., pool roof, locker rooms, roof over school administration leaks). Jim Kelly feels that the roof is not a safety issue; it's a work environment issue.

Whether we add SPS to the Fairbank Community Center (and therefore make the Fairbank Community Center larger) or build separately, there will need to be a separate Town Meeting article if that was the case. We have to do both articles.

The School Committee feels that putting the School Administration into a commercial space sends a message. They are also concerned that something could happen to the Fairbank building due to weather conditions that could force SPS out of there. If that happened, where would they go?

Old Police Station

Another option that was discussed was the old Police Station (6900 square feet). Is there anywhere else in Town where we own a building, such as the White House at LS?

Jim Kelly said the Police Station is a tear-down and out of the question. He also added that Town has no space now. We have employees who need offices and we have nowhere to put them. He suggested we could de-link from the new Fairbanks Community Building and buy a building for office space.

A member of the School Committee said that we should take Nixon off the table or build with the option of turning the addition into classrooms, but at \$5.5 million it doesn't make sense to do that.

Even if everything went well at the Special Town Meeting (STM), how long would it be before everyone moves in and will the roof hold out that long? This is a real problem and we may need a short term plan as well. Could we get a short term rental place until we have a final solution, such as rent with an option to buy?

The general consensus was not to go with the Nixon plan. We're leaning towards asking the task force to include SPS administration in Fairbank Community Center. (Dr. Wilson said it works with them staying in the Fairbank Community Center, but they are flexible.) We could also look at leasing/buying a building.

Jim feels we need to ask for design and construction costs together at the Special Town Meeting in October. This would give a more accurate cost.

It was suggested that the School Committee should discuss more about leasing/buying along with being in the new Fairbank Community Center.

Both the Board of Selectmen and School Committee members felt this was a very helpful joint discussion.

At 7:35 p.m., Chairman Iuliano concluded the joint meeting, and she stated the Board would take a short recess.

At 7:42 p.m., Chairman Iuliano resumed the Board of Selectmen meeting.

Reports from the Assistant Town Manager

Assistant Town Manager Maryanne Bilodeau announced there will be a Community Meeting regarding the Bruce Freeman Rail Trail on June 21, 2016 at Town Hall from 7:00 -9:00 p.m. She also announced the results of last night's Special Town Meeting are posted on the Town website.

Reports from the Board of Selectmen

Selectman Simon commended the Planning Director and her Office, the Planning Board and the Sudbury Water District on the exemplary job done in anticipation of, and at, the Special Town Meeting.

Citizen's Comments

At 7:44 p.m., Chairman Iuliano announced no citizens have requested comment time tonight.

Public Hearing: Dog Hearing – 53 Highland Avenue

Present: Attorney Evans J. Carter, Sudbury resident Beverly Whitcomb and her attorney Jeremy Cohen, and Sudbury Town Counsel Barbara Saint Andre

At 7:45 p.m., Chairman Iuliano opened a Public Hearing pursuant to M.G.L. c. 140, s.157 to determine whether the dog owned and/or kept by Beverly Whitcomb at 53 Highland Avenue, Sudbury, is a Nuisance Dog or Dangerous Dog as those terms are defined in the statute, which was continued from June 7, 2016. The Board was previously in receipt of copies of a letter from Attorney Evans J. Carter dated March 25, 2016, a letter from Attorney Carter to Sudbury's Dog Officer Jennifer Condon dated March 9, 2016, a letter from the Springhouse Pond Condominium Trust President David Egan dated March 1, 2016, the relevant section of M.G.L. Chapter 140, Section 157, and Chapter 140, Section 155, the Notice of Dangerous or Nuisance Dog Hearing dated May 18, 2016, a copy of the Easement between Deborah A. Ciolfi Trustee of Sudbury Plaza Trust under Declaration of Trust and Sudbury Green, LLC, the Footpath Access Easement between Sudbury Green, LLC and the Town of Sudbury and proposed sketches, the Sudbury Animal Control Logs for January 20, 2014 and July 22, 2014, the Sudbury Police Department Incident Report for July 21, 2014, Agreement between Beverly Whitcomb and Jennifer A. Condon dated March 29, 2016, the Sudbury Police Department Incident Report for February 19, 2016, the Sudbury Animal Control Log for February 19, 2016 and February 29, 2016, a letter from Beverly Whitcomb to Nancy Grellier dated March 22, 2016, two photographs of Ms. Grellier's wounds, a photograph of the dog named "Sophie," a photograph of a dog outside on a leash, a photograph of a brick walkway and surrounding area, a letter from Tufts University Cummings School of Veterinary Medicine Clinical D.V.M. Stephanie Borns-Weil dated June 5, 2016, a letter from dog trainer Lisa Rockland dated May 10, 2016, a receipt from Dog Watch Systems, Inc. dated February 22, 2016, an appointment confirmation letter from Tufts University Cummings School of Veterinary Medicine, a receipt from Freedom Pet Supply.com, and letters of support for Ms. Whitcomb received from Bob Cataldo (dated May 30, 2016), Kelly Curran (dated May 2, 2016), Mish Michaels (dated May 2016), Amie Pettengill (dated June 1, 2016), and Meaghan Wood (dated May 19, 2016). In addition, copies of a Commonwealth of Massachusetts' Petitioner's Hearing Memorandum for Nancy Grellier v. Beverly Whitcomb, a handout detailing possible Remedies, and a handout detailing Section 136A Definitions and Section 157 were distributed to the Board tonight.

Chairman Iuliano stated the Board would continue its evidentiary hearing, focusing on whether the dog in question is a nuisance or dangerous dog.

Attorney Jeremy Cohen asked if he would have time to respond to the Commonwealth of Massachusetts' Petitioner's Hearing Memorandum which he just received tonight. Mr. Cohen also suggested that witnesses should be sequestered.

Chairman Iuliano stated the previous witnesses were not sequestered, and the discussion would proceed in an open Public Hearing.

Mr. Cohen recalled dog owner Beverly Whitcomb, 53 Highland Avenue. Ms. Whitcomb read a prepared statement, noting she adopted Sophie (the dog in question) on August 31, 2009, and brought her into her home, which already had several other animals. She stated Sophie has gotten along with all the other animals, and, particularly, with the Whitcomb's other dog Willie. Ms. Whitcomb stated that Willie will occasionally chase tennis balls, but Willie has never crossed the electrical fence. During the past ten years, she emphasized she has had contractors in her home, and she has hosted large family gatherings, with 40-50

visitors of all ages on Christmas Eve and Easter, and there has never been an issue with Sophie. She stated Sophie did appear to get more protective of her home about six years ago, when the electrical fence was installed. Ms. Whitcomb stated she has learned from the animal behaviorist she worked with that Sophie needs to know she is safe, and she has learned techniques to calm Sophie when she starts barking. Ms. Whitcomb stated a woman walking along the path tried to take pictures of her home today and she asked the woman to give her the pictures, but the woman refused and the woman refused to identify herself. She stated Sophie's electrical collar is on at all times, and she has noticed Sophie barking less. Ms. Whitcomb stated that in recent times, people will yell at her from the path, and now they are taking pictures, which makes Ms. Whitcomb and her daughters very uncomfortable.

Attorney Cohen asked if the woman who took the pictures today was present tonight, and, if so, he asked for Ms. Whitcomb to identify her. Ms. Whitcomb stated the woman was present, and she pointed to a woman later identified as Evelyn Gordon.

Attorney Evans Carter asked Ms. Whitcomb if she had read the Town Bylaws regarding the regulations for dogs. Mr. Cohen objected, stating this is the second cross-examination of his witness.

Mr. Carter asked if Ms. Whitcomb had restrained Sophie for the last two and one half years to be completely under her control. Mr. Cohen objected. Mr. Carter asked if, prior to 2016, Ms. Whitcomb had taken Sophie to any behaviorists. Ms. Whitcomb stated she had not. Mr. Carter asked if, prior to 2016, Ms. Whitcomb was aware of Sophie's mental condition. Chairman Iuliano stated this question was not appropriate for the Board's objectives.

Mr. Carter asked Ms. Whitcomb if she knew why the person was taking pictures today, and she stated she did not. He asked if there is any basis for the public not being able to take a picture of Ms. Whitcomb's dog. Chairman Iuliano stated she thought this question was far afield.

Mr. Carter asked if Sophie had been quarantined as per the Bylaws, and Ms. Whitcomb asked for clarification of the question. Chairman Iuliano asked if the Dog Officer had required a quarantine. Ms. Whitcomb stated Sophie was quarantined from February 19, 2016 to February 29, 2016.

Chairman Iuliano asked Mr. Carter to try to limit his questions to tonight's testimony.

Mr. Carter asked if Sophie has shown her teeth aggressively to those who pass by in the past two and one half years. Ms. Whitcomb stated Sophie barks at those who pass by. Mr. Carter asked if Ms. Whitcomb was aware in the past few years that people from Springhouse Pond were fearful. Ms. Whitcomb stated that in that time, one or two people have yelled at her from the path, but she never received a complaint from the Springhouse Pond Board. Mr. Carter asked if she knew of at least 12 Springhouse residents who were concerned for their safety and screamed to her when she was home. Ms. Whitcomb stated she was not aware of this type of reaction until after the February 19, 2016 incident.

Mr. Carter asked if Sophie has roamed free outside since March 2016. Ms. Whitcomb stated Sophie has always been on a lead line or on the aerial run since she was released from quarantine on February 29, 2016. Mr. Carter stated that Ms. Whitcomb is friendly with the Dog Officer. Chairman Iuliano stated the Board would not entertain comments or questions about the Dog Officer.

Mr. Carter asked Ms. Whitcomb if she has had problems with social interactions with her neighbors. When asked to clarify the relevance of this question, he stated Ms. Borghani had testified she and her children are fearful every day. Chairman Iuliano stated the Board would make its own finding about that incident.

Selectman Simon asked if Ms. Whitcomb recalls the Tufts veterinary doctor stating in a letter that Ms. Whitcomb had told her Sophie was an anxious dog, and she said she did. Selectman Simon stated the Tufts letter references Ms. Grellier's bite, but not the other situations. He asked if Ms. Whitcomb had told the doctor about the other incidents, and why the doctor did not mention them in the letter. Ms. Whitcomb stated she discussed with the doctor any situations she knew about at the time, but because her visit was as a result of Ms. Grellier's incident, it is possible that is the case the doctor decided to mention.

Selectman Simon referred to letters from Tufts and the dog trainer Lisa Rockland, wherein Sophie is noted to exhibit signs of fear-based aggression, and, as noted by Ms. Rockland, that Sophie is like other aggressive, fearful and reactive dogs. He asked if Ms. Whitcomb agreed with Ms. Rockland's assumptions, and she stated she did not.

Mr. Cohen encouraged the Board to assess the facts presented and not necessarily what Mr. Carter has stated. Selectman Simon stated the Board wants to hear all the facts from the witnesses.

Mr. Cohen called Lilah Whitcomb to testify and Lilah read aloud a statement. Lilah stated she was nine years old when the family got Sophie seven years ago. Lilah tearfully told the Board that Sophie is a sweet member of their family and not just a dog. She stated Sophie is best friends with their other dog Willie, and the entire family, including their other pets, would be greatly upset for the rest of their lives if any action were taken which would cause them to lose Sophie. Lilah stated Sophie sleeps in her room with a night light because the dog is petrified of the dark, thunder and cameras. She emphasized Sophie is not a mean dog, but she can be afraid of strangers.

Mr. Cohen called Kristen Fam to testify. Ms. Fam stated she came tonight to support Sophie. She stated she has visited the Whitcomb home with her small children over the past ten years, and she has had Sophie to her house. Ms. Fam stated Sophie is a beautiful dog. She emphasized she would not put her own small children knowingly in harm's way. Ms. Fam stated Sophie barks, as many dogs do, and this can be intimidating.

Mr. Cohen stated the issue tonight is whether the dog should be killed, and he asked if Ms. Fam considers Sophie to be a danger, and Ms. Fam stated she does not.

Mr. Carter submitted copies of color photographs of the pathway, which he stated were professionally taken, as Exhibit #22. He also distributed copies of a letter as Exhibit #23 from Vincent Messina, 175 Nobscot Road, who was unable to attend tonight's meeting to provide testimony that he is scared of Sophie and regards her as "ferocious."

Chairman Iuliano asked the attorneys to try to avoid providing repetitious testimony when calling their witnesses tonight.

Mr. Carter called Evelyn Gordon, 209 Nobscot Road, to testify. Mr. Cohen objected, stating Ms. Gordon should not be allowed to testify about events that happened today. Selectman Simon stated the Board will investigate the facts, and he believes Ms. Whitcomb "opened the door" for this testimony earlier tonight, when she mentioned that a woman was taking pictures of her home today.

Mr. Carter asked Ms. Gordon if she uses the walking path to go to Shaws, and she stated she does. He asked Ms. Gordon to describe her observations of Sophie. Ms. Gordon stated the dog rushes over to wherever the electrical fence is and barks, snarls, and then stops short. She believes one time Willie came through the fence, but she was not afraid of Willie because he seems to be a nice dog. On that occasion, she stated Ms. Whitcomb had told her his electric collar was not working properly. Ms. Gordon stated she told

Ms. Whitcomb that the Springhouse residents are frightened by Sophie, and Ms. Whitcomb told her to try to get to know Sophie because she would not hurt her and that she just did not like men. She stated Sophie was brought out and Ms. Gordon tried to be friendly with her, but it did not work, because the next time she walked on the path, Sophie still barked at her.

Mr. Cohen objected, stating it is extremely prejudicial for the Board to hear this testimony. Chairman Iuliano stated she would allow Ms. Gordon to continue. Selectman Simon stated this testimony relates to measures taken to ensure safety.

Ms. Gordon stated she was walking on the path today and she heard the dog barking. She stated Sophie looked like she was tethered to a tree, but she could not be sure. Ms. Gordon stated the dog was on a leash but snarling, and she used her phone to take a picture. She stated Ms. Whitcomb came running out to her asking to get the camera and pictures and telling her it was illegal to take pictures of her home. Ms. Gordon stated the incident was upsetting and that Ms. Whitcomb continued to follow her down the path to Shaws while yelling at her.

Chairman Iuliano asked for comments to focus on the observations of the dog.

Mr. Cohen asked Ms. Gordon if she were bitten today or ever by Sophie, and Ms. Gordon answered no to both questions. He also asked if Ms. Gordon had gone to the Police about today's occurrence, and she stated she had not. Mr. Cohen asked if Ms. Gordon had ever had a dog or dog trauma before. Ms. Gordon stated she had not, and she emphasized that she is not afraid of dogs.

Selectman Simon asked Ms. Gordon if she lives at Springhouse Pond, and she stated she does. He asked if the dog was on a run today. Ms. Gordon stated it looked to her like it was tied to a tree. Selectman Simon asked Ms. Gordon to estimate how far she was from the dog today, and she estimated approximately 50 feet, while noting she really has no idea about the distance.

Mr. Carter called Marcia Lukatch, 171 Nobscot Road, to testify. Ms. Lukatch stated she has lived at Springhouse Pond for 14 years. Mr. Carter asked Ms. Lukatch to share her observations of Sophie over the past two and one half years. Ms. Lukatch stated Sophie terrifies her and the dog is ferocious with strangers. She stated if she is walking on the path to Shaws, Sophie is terrifying because she dashed towards her while barking in a frightening attack mode. Ms. Lukatch stated she knows the dog is protecting her property, but it is still frightening.

Mr. Cohen asked if Ms. Lukatch knows whether she is actually scaring Sophie when she passes by. Ms. Lukatch stated that is not the problem – Sophie is the problem. Mr. Cohen asked how often Ms. Lukatch uses the path and did Sophie ever attack her. She stated she uses the path often, and she has not been attacked, explaining Ms. Whitcomb came out once and called the dog back. Mr. Cohen asked if there is another way other than the walking path to get to Shaws. Chairman Iuliano stated she believes everyone can agree one can drive to Shaws. Mr. Cohen asked Ms. Lukatch if she has been bitten by a dog, and she stated she has not, and added that she loves dogs.

Selectman Simon asked if Ms. Lukatch has seen Sophie off leash in the past few months, and she stated she has seen this, and the only time she felt safe walking was when she knew the dog was quarantined.

Mr. Carter called Chris Hagger, 233 Nobscot Road, as a witness. Mr. Hagger stated he has been a dog owner most of his life and has volunteered for Save a Dog. However, Mr. Hagger stated this dog is extremely aggressive, stating it charges and snarls. He further stated that, on the ten or so times he has walked on the

path, he has been petrified that the electrical fence might fail. Mr. Hagger stated he has never seen a dog like this, which exhibits such wild and crazy behavior even when tethered.

Mr. Cohen asked if Mr. Hagger has walked on the path since remedies were put in place. Mr. Hagger stated he has, but even with the dog tethered a good distance away (which he approximated to be about 50 feet away), the dog went crazy as he passed. He stated he is concerned about what could happen if the electric fence does not work. Mr. Hagger stated he does not believe the residents should have to avoid the path because of this dog.

Selectman Simon asked if the dog has growled at Mr. Hagger, and he stated it had. He also asked if the dog barked. Mr. Hagger stated the dog does bark, shows his teeth and is like a crazed animal.

Mr. Carter called Eli Margolin, 159 Nobscot Road, as a witness, and he asked him if he saw Sophie running on the path on April 1, 2016. Mr. Margolin stated he is not certain it was on April 1st, but he estimates it was after March 20, 2016, when he wrote a letter to the appropriate condominium association person. Mr. Margolin stated he saw the dog running free, and he thought it strange because he had heard the dog was supposed to be restrained. He stated he told someone on the property that the dog should be restrained. Mr. Margolin stated his issue with the dog is the two bites because he is very concerned that, if he were bitten, he might contract a debilitating infection. He stated he does not want the dog euthanized, but he also does not want his own health to be jeopardized. Mr. Margolin stated he would like to see the dog totally restrained.

Mr. Cohen asked when he saw the dog off leash. Mr. Margolin stated he estimates it was around March 20, 2016, when he sent a letter by email to a condominium representative stating he thought the dog was supposed to be restrained.

Selectman Simon asked if Mr. Margolin has walked on the path and if the dog has charged at him. Mr. Margolin stated he has been on the path, and the dog charges at him and then stops. Selectman Simon asked if the dog growled or snarled. Mr. Margolin stated he did not pay particular attention to this, but he would suspect that it did. Selectman Simon asked if Mr. Margolin was in fear of a physical attack by the dog, and he stated he was.

Mr. Cohen asked if Mr. Margolin was bitten by Sophie, and he stated he was not.

Mr. Carter called Fred Pryor, 221 Nobscot Road, as a witness, noting he was a former past President of the Springhouse Pond Condominium Association, and he currently serves on its Board of Directors. Mr. Carter asked if Mr. Pryor was aware of the Association signing any agreement with Ms. Whitcomb and the Dog Officer. Mr. Pryor stated he does not believe the Association signed such a document. Mr. Pryor stated he has lived at Springhouse Pond for 15 years, and he has observed Sophie growling and showing her teeth when he walks by. He stated it is scary when it happens, and he will not take his grandchildren on the walking path due to this dog.

Mr. Cohen stated David Egan wrote a letter on behalf of the Condominium Association to the Dog Officer on March 1, 2016, wherein he only cited two incidents involving Mr. Lesser and Ms. Grellier. He asked why Mr. Egan would not have used the opportunity of his letter to share all of the fear which existed in the residents at Springhouse Pond.

Mr. Cohen asked if Mr. Pryor is aware of any letter sent to an officer of the Town expressing that the Association's residents walk on this path in fear. Mr. Pryor stated he has no knowledge of such correspondence.

Selectman Brown referenced the photographs of the path distributed tonight, and she asked where the wooden fence in the photo is and if someone could help her relate this photograph back to a map and show her where the incidents have occurred, and where the electrical fence is.

Town Counsel Barbara Saint Andre stated a map is already attached as page 2 of Exhibit #1.

Mr. Carter called upon Alan Gordon, 209 Nobscot Road, to help explain the map, and he stated Ms. Whitcomb's property is noted as "formerly Mary Harrington" on the map.

Town Counsel Saint Andre also asked for clarification regarding whether the stockade fence in the photo is on Ms. Whitcomb's property, but Mr. Gordon stated he was not sure. Mr. Gordon described how the electrical fence weaves along Ms. Whitcomb's property. Ms. Whitcomb asked to see the map to try to clarify a few items. However, upon review of the map, Ms. Whitcomb stated the exhibit she was given was of a Proposed Footpath Access attached to an Easement and she could not relate it to her property and the current surrounding area. Mr. Cohen stated Exhibits #10 and #11, which he submitted at the last meeting (agenda packet pages 61 and 62), were more representative of the area in question.

A woman in the audience, who had not previously been sworn in, raised her hand to speak, and she approached Mr. Carter to privately explain what she wished to share. Mr. Cohen objected, noting this person was not listed on the witness list he was provided. Chairman Iuliano stated the Board would hear from this person, and Assistant Town Manager Bilodeau swore in Phyllis Kaufman, 165 Nobscot Road, to testify.

Ms. Kaufman stated she has lived at Springhouse Pond for 15 ½ years, and she likes dogs. However, she stated the issue is that a community of 39 housing units are intimidated by this dog, which has not been properly controlled at all times. Ms. Kaufman stated the residents are fearful, noting the walkway to Shaws is named after her husband, who is now too frail to walk the path and given the circumstances with the dog. She emphasized the residents do not have safe access to this path, and she believes the Selectman have a responsibility to ensure the safety of the Town's residents.

Mr. Cohen asked if Ms. Kaufman has seen the remedial measures that are already in place. Ms. Kaufman stated she has read of them in writing, but she cannot feel safe, even if the dog is restrained. Mr. Cohen reiterated that there are measures in place for safety, but Ms. Kaufman informed him this is a very emotional issue.

Mr. Cohen asked to call one more witness, Victoria Whitcomb, 53 Highland Avenue, who was an eyewitness to today's events. Selectman Simon asked if the testimony would be for rebuttal purposes, and Mr. Cohen said "yes." Victoria described today's events, stating she was at home on the porch with her mother, and she was holding Sophie's leash. She stated she noticed a woman walk by and Sophie tried to charge, but her mother went to the dog and soothed it rubbing its neck. Victoria stated Sophie has always been supervised since the February 2016 incident. She stated she next noticed the woman turn around and take pictures, and she told her mother what she saw. Victoria stated her mother tried to ask the woman for the pictures and to identify herself, but the woman refused both requests.

Selectman Simon asked if the pictures taken today were taken from the walking path, and Victoria answered "yes." Selectman Simon asked whether Sophie tried to charge when she was holding the leash, and she stated "yes."

Chairman Iuliano stated hearing testimony was now to be concluded, and she thanked all the witnesses for helping the Board do its work. In response to a comment from Mr. Carter regarding his filed Petitioner's

Hearing Memorandum, Chairman Iuliano stated the Board would rely on Town Counsel's interpretation of the law.

Mr. Cohen submitted into evidence previous Sudbury Board of Selectmen Meeting Minutes and they were numbered as follows: Exhibit # 24 - January 22, 1996 Meeting Minutes, Exhibit # 25 - May 18, 1998 Meeting Minutes, and Exhibit #26 - September 6, 2005.

Prior to a motion to close the Public Hearing, Selectman Simon suggested, and the Board concurred, that the attorneys be given a minute or less for a summation statement.

Mr. Carter stated that the Town's bylaws apply to this case, and he believes the sole issue is to consider Sophie as dangerous and to put the dog down. He stated that he believes the evidence mandates the dog being put down.

Mr. Cohen stated there is an engaged dog owner, who has taken all measures suggested by Town officials, which he briefly summarized, noting they are also listed in the signed March 29, 2016 Agreement. He stated the situation is much safer with the remedies which have been put in place, and the owner does not take the situation lightly.

At 9:15 p.m., Chairman Iuliano explained the Board would hear no more evidence, she would entertain a motion to close the Hearing, and the Board would move on to determine findings regarding the dog.

It was on motion unanimously

VOTED: To close the Public Hearing pursuant to M.G.L. c. 140, s.157 to determine whether the dog owned and/or kept by Beverly Whitcomb at 53 Highland Avenue, Sudbury, is a Nuisance Dog or Dangerous Dog as those terms are defined in the statute.

At 9:16 p.m., Chairman Iuliano stated the Board would deliberate its options for findings, and she distributed copies of a draft she prepared for review and discussion tonight of some findings of facts the Board might want to vote on and add to, and options for the eventual finding vote to be taken and the determination of remedies to be required. Chairman Iuliano proceeded to read each proposed finding aloud, and they were then discussed, amended as needed and new findings were added and they were each voted as follows:

"Pursuant to Massachusetts General Laws chapter 40, section 157 and Sudbury Bylaw Art. 5, section 3, the Board of Selectmen held a Public Hearing on a complaint filed by Nancy Grellier to determine if Beverly Whitcomb's dog "Sophie" is a nuisance or dangerous dog.

It was on motion unanimously

VOTED: That the Board held a Public Hearing on June 7, 2016 and June 14, 2016, which included examination under oath of the Complainant and other witnesses. Based on credible evidence and testimony presented at the Public Hearing, as well as documentary evidence, the Board of Selectmen finds as follows:

1) Beverly Whitcomb, who resides at 53 Highland Avenue, in Sudbury, owns the dog "Sophie," the dog that is the subject of the Complaint.

- 2) A walking path that connects the Springhouse Pond residences to the Sudbury Plaza (Shaws) shopping area runs adjacent to Ms. Whitcomb's property. A public access easement exists allowing the public to walk on this footpath. See Exhibit 1. Residents of Springhouse Pond frequently walk on this path.
- 3) On January 20, 2014, Sheldon Lesser was attacked by the dog as he was walking on the footpath. The dog ripped Mr. Lesser's pants, but Mr. Lesser was not physically injured. There is no indication that Mr. Lesser did anything to provoke the dog's actions. Ms. Whitman was not present when this incident occurred.
- 4) On July 21, 2014, the Sudbury Police received a complaint from Gisele Borghani, claiming the dog came onto her property and bit her upper right leg. The police did not see any bite mark or broken skin, but did see moisture, upon examination of the complainant. There is no indication that Ms. Borghani did anything to provoke the dog's actions. Sudbury Dog and Animal Control Officer Jennifer Condon followed up with Ms. Whitcomb to warn her that the dog cannot be allowed off of the property loose at any time. Ms. Whitcomb was not present when this incident occurred.
- 5) There was no evidence presented to the Board of any change in the manner in which the dog was managed between the time of the two incidents in 2014 and the February 19, 2016 incident.
- 6) On February 19, 2016, Complainant Nancy Grellier was bitten by the dog as she was walking on the footpath. The bite resulted in serious injury to her calf, which took several months to heal. She reported the incident to the Sudbury Police Department. The investigating police officer observed the bloody bandage on Ms. Grellier's calf. Ms. Whitcomb testified that the dog had escaped her yard due to a malfunction of the electric dog fence. There is no indication that Ms. Grellier did anything to provoke the dog's actions.
- 7) Complainant's counsel and others alleged that a young boy had been bitten by the dog while riding his bicycle across the Whitcomb yard. Ms. Whitcomb acknowledged that it was reported to her that the boy was bitten on the leg. This incident was not reported to the police. The Board makes no findings as to this allegation.
- 8) Ms. Whitcomb's use of an electric fence and dog collar system has not been effective in keeping the dog in her yard at all times, due to malfunction of the electric fence system and due to inconsistent use of the dog collar. Ms. Whitcomb repaired the electric fence system subsequent to the malfunction in February, 2016.
- 9) Animal Control Officer Jennifer Condon has worked with Ms. Whitcomb in an effort to prevent any further problems. Accordingly, on March 29, 2016, Ms. Whitcomb agreed to confine the dog to a dog run constructed with coated wire and to work with a dog trainer and follow any instructions from the trainer. See Exhibit 4. **NOTE:** This finding was not voted unanimously, but it was voted by 3-1, with Selectman Simon as the opposing vote.
- 10) Residents who live in the vicinity of Ms. Whitcomb's property and who use the path have testified that they are fearful of the dog and that the dog frequently charges, snarls, bares its teeth, barks, and otherwise acts in an aggressive manner.
- 11) Although the owner was put on notice that residents using the path had been in fear of an attack by the dog, the measures taken by the owner have not been sufficient to allay the stated fears. **NOTE:** This finding was not voted unanimously, but it was voted by 3-1, with Selectman Brown as the opposing vote.
- 12) There was testimony from people familiar with the dog that the dog did not act in an aggressive manner and that they were not fearful of the dog.

13) The dog owner has taken “Sophie” for behavior training; however, the dog continues to exhibit aggressive behaviors.

14) The dog “Sophie” has exhibited aggressive behavior towards strangers and continues to do so.

At 10:10 p.m., Town Counsel Saint Andre advised the Board needed to now make its determination of the dog being a nuisance, dangerous, or neither. Chairman Iuliano read aloud the definitions according to the State statute.

Selectman Simon stated that based on the statute definitions, he has concluded Sophie to be a nuisance dog and he believes she is a dangerous dog.

Selectman Brown stated that, based on the bites reported, she believes Sophie is a dangerous dog.

Vice-Chairman Woodard stated he believes Ms. Grellier’s incident with the dog meets the first criterion stated for a dangerous dog, and Mr. Lesser’s and Ms. Borghani’s incidents meet the second criterion stated for a dangerous dog.

Upon conclusion of the Public Hearing, an examination of the Complainant under oath, and based on the credible evidence and testimony presented, the Board of Selectmen, on motion, unanimously

VOTED: That Beverly Whitcomb’s dog “Sophie”, owned and/or kept at 53 Highland Avenue, Sudbury, Massachusetts, is a dangerous dog as defined by Massachusetts General Laws chapter 140, section 157, because (i) the dog, without justification, attacked and bit Ms. Grellier, causing physical injury, on February 19, 2016, and (ii) the dog behaved in a manner that a reasonable person would believe poses an unjustified imminent threat of physical injury in attacking Mr. Lessier on January 20, 2014, and in attacking Ms. Borghani on July 21, 2014.

Chairman Iuliano asked the Board to then turn their attention to the options for remedies to be imposed according to State statute. She stated she would not recommend that the dog be euthanized, and Vice-Chairman Woodard and Selectman Brown concurred.

Selectman Simon stated public safety is a paramount concern, and if another tragic incident were to happen, the Board would be asked if everything had been done that could have been done to avoid it. He believes euthanizing the dog is the only guarantee to assure a future incident does not occur. Thus, he does not believe this option should be dismissed.

A discussion next ensued regarding possible remedies to be imposed.

Accordingly, the Board of Selectmen, on motion unanimously

VOTED: 1) That the dog “Sophie” be humanely restrained. Such restraint shall consist of a securely enclosed and locked pen, positioned such that the dog Sophie will remain as far as feasible under the circumstances, but at least 50 feet, from the walking path adjacent to the Whitcomb residence. The pen must be secure such that the dog cannot escape. The Animal Control Officer or a Police Officer shall inspect the pen to ensure that it complies with this order. The dog will be remain inside the pen whenever the dog is outside the home structure.

2) That while the dog will remain inside the pen, the electric fence system also will be in use whenever the dog is outside the home structure.

- 3) That when removed from the premises of the owner, the dog shall be securely and humanely restrained with a chain or other tethering device not exceeding 4 feet in length.
- 4) That the owner of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner shall produce proof of efforts to obtain such insurance.

It was further on motion unanimously

VOTED: To approve the order of findings, determination and remedies as voted tonight regarding Beverly Whitcomb's dog "Sophie," owned and/or kept at 53 Highland Avenue, Sudbury, Massachusetts, and to authorize the Chairman of the Board of Selectmen to sign all necessary and required paperwork.

Board of Selectman – 2016-2017 Liaison Assignments

Chairman Iuliano announced this agenda item would be postponed to include Selectman Haarde in the discussion.

Inter-Municipal Agreement for the Regional Housing Services Office for FY17 – Vote and Sign Amendment

Present: Regional Housing Services Office Coordinator Elizabeth Rust

At 10:58 p.m., Chairman Iuliano took this agenda item out of order, and she welcomed Regional Housing Services Office Coordinator Elizabeth Rust to the meeting to provide an update regarding the amended Inter-Municipal Agreement for the Regional Housing Services Office (RHSO) for FY17. The Board was previously in receipt of copies of the draft Amendment. In addition, Ms. Rust distributed copies of the PowerPoint slides for her presentation and the FY2016 Q3 RHSO Status Report to the Board tonight.

Ms. Rust referenced her slides, noting they summarize the service model of the RHSO and how it works, and the activities the program does. She stated the member towns receive administrative housing services for an annual fee as per the Inter-Municipal Agreement. In response to a question from Chairman Iuliano, Ms. Rust stated the RHSO would be moving to Acton in the future. She also highlighted some of the FY17 plans for the Board. Ms. Rust stated the RHSO has completed five successful years of operation and it will be expanding staffing to provide backup for current staff. She thanked the Board for its continued support.

Selectman Brown asked how drafting marketing plans for Holliston aids Sudbury. Ms. Rust stated the RHSO performs lottery work for the Sudbury Housing Trust, which generates fees for the Trust. Selectman Brown asked if the Quarterly Reports could be put on the RHSO website. Ms. Rust stated she would need to check with the members, because some may be hesitant to post confidential information.

It was on motion unanimously

VOTED: To sign the amended Inter-Municipal Agreement for the Regional Housing Services Office for FY17.

Citizens' Comments – Continuation

Chairman Iuliano announced no citizens had requested time for comments tonight.

Future Board of Selectmen Agenda Items - Discussion

At 11:04 p.m., Chairman Iuliano opened a discussion regarding future agenda items, and she asked Board members to forward any requested items to her at a later time.

Special Permit Request – Sudbury Education Association – “Wally ‘Bells on’ 5K & Kids 1K”

It was on motion unanimously

VOTED: To grant a Special Permit to the Sudbury Education Association, to hold the “Wally ‘Bells On’ 5K & Kids 1K” on Sunday September 11, 2016, from 10:00 a.m. through approximately 12:00 p.m., subject to Police Department safety requirements, proof of insurance coverage and the assurance that any litter will be removed at the race’s conclusion.

Strategic Financial Planning for Capital Funding Committee – Appointment

It was on motion unanimously

VOTED: To appoint Mark Howrey, 55 Old Coach Road, as the Capital Improvement Advisory Committee (CIAC) representative to the Strategic Financial Planning for Capital Funding Committee, for a term ending May 31, 2017, as recommended by Mark Howrey, CIAC Chair.

Town Center – Textured Brick Crosswalks – Award Contract

It was on motion unanimously

VOTED: To approve the award of a contract by the Town Manager for construction of textured (brick) crosswalks at the Town Center, as requested by Bill Place, DPW Director.

There being no further business, the meeting adjourned at 11:07 p.m.

Attest: _____
Melissa Murphy-Rodrigues
Town Manager-Clerk

Documents & Exhibits

1. Joint meeting with Sudbury School Committee: Discussion and possible vote on whether the Fairbank Community Center Study Task Force should plan for the future office needs of the Sudbury Public Schools in its recommendations for building options and design. Jim Kelly to attend.

Attachments:

- 1.a 2015-09-22 SUDBURY SCHOOL ADMINISTRATION PROGRAM
- 1.b 2015-10-19 Town of Sudbury School Administration Addition Drawings
- 1.c School Admin space needs 2015

2. Public Hearing pursuant to M.G.L. c.140, s.157 to determine whether the dog owned and/or kept by Beverly Whitcomb at 53 Highland Ave., Sudbury, is a Nuisance Dog or Dangerous Dog as those terms are defined in the statute (continued from June 7).

Attachments:

- 2.a Evans J. Carter Letter- Mrs. Whitcomb's Dog Sophie
- 2.b DogHearingNotice
- 2.c DogHearingExhibits_June7
- 2.d Exhibits 22 - 26

3. Discussion and possible vote to update Selectmen's Liaison Assignments for 2016-2017

Attachments:

- 3.a LIAISON LIST 2015-16_final_signed

4. Vote whether to sign the amended Inter-Municipal Agreement for the Regional Housing Services Office for FY17. Liz Rust, RHSO, to attend.

Attachments:

- 4.a RHSO IMA Amendment - FY17 FINAL 6.2
- 4.b RHSO Update

5. Citizen's Comments (Cont)

6. Discuss Future Agenda Items

7. Vote to Grant a Special Permit to the Sudbury Education Association, to Hold the "Wally 'Bells On' 5K & Kids 1K" on Sunday September 11, 2016, from 10:00 A.M. through approximately 12:00 P.M., subject to Police Department safety requirements, Proof of Insurance Coverage and the assurance that any litter will be removed at the race's conclusion.

Attachments:

- 7.a Wally Bells on 5K_BOS
- 7.b Wally Bells on 5K Approvals

8. Vote to appoint Mark Howrey, 55 Old Coach Rd, as the Capital Improvement Advisory Committee (CIAC) representative to the Strategic Financial Planning for Capital Funding Committee, for a term ending 5/31/17, as recommended by Mark Howrey, CIAC Chair.

Attachments:

- 8.a CIAC Appointments to SFPCFC

9. Vote to approve award of contract by the Town Manager for construction of textured (brick) crosswalks at the Town Center, as requested by Bill Place, DPW Director.