
BOARD OF SELECTMEN
Executive Session Minutes, Session I
Via Zoom
April 21, 2020

The Town of Lunenburg, in response to the COVID-19 (Corona Virus) is currently following the guidance from the Lunenburg Board of Health, Massachusetts Department of Public Health and the CDC regarding the virus and steps communities can take to prevent the spread and all town facilities are currently closed to the public. In accordance with the Governor's Order Suspending Certain Provisions of the Open Meeting Law, G. L. c. 30A, § 20, all public meetings are being conducted remotely.

Board of Selectmen present: Tom Alonzo, Chairman; Phyllis Luck, Vice Chairman; Katey Adams and Michael-Ray Jeffreys

Not present: Damon McQuaid, Clerk

Also present: Town Manager Heather Lemieux; Adam Costa, Town Counsel

The meeting commenced at 8:48 p.m.

Mr. Alonzo asked everyone if they had read Attorney Kennefick's opinion regarding the impoundment of the two dangerous dogs owned by Ms. Guglietti during the appeal proceedings. The appeal court had upheld the Town's decision and the Guglietti's lawyer, Jeremy Cohen, stated he was going to file another appeal. Then the coronavirus closed everything down. Now Mrs. Terhune, the victim, does not feel safe because the dogs are still across the street from where she lives.

Attorney Costa confirmed that Jeremy Cohen had filed an appeal for a de novo trial before a district judge but the courts are closed until May 4th. There are still more opportunities to appeal, but it typically it gets more involved for the appealing party to overturn the previous judges' decisions. As far as impoundment, we can go to the district court while the appeal process is underway and request intermediate relief; a restraint order or impoundment with specific conditions. There is cost involved and it would only be for the interim.

Ms. Adams asked about the denied kennel license; don't they have to downsize the number of dogs now? Costa stated he was told there are now five dogs on the premises. At least two would have to be relocated due to the kennel license being denied. If they relocate the dangerous dogs then it removes the need for impoundment and a kennel license denial appeal becomes a non-issue. But we don't know if Attorney Cohen is going to appeal the license denial. He noted Kennefick was frustrated with the poorly worded dog laws. There is no defined appellate process/timeline for appealing a kennel license. When there is no process for appeal, you would defer to the statute allowing 60 days. The town would have to enforce the zoning ordinance with some form of cease and desist order and assess fines if the dogs are not downsized.

Ms. Adams asked if the kennel licensing was under the BOS jurisdiction, the Police Dept. or the ACO. Costa stated the dangerous dog determination falls under the BOS and the kennel license falls under the ACO. She would have to issue a cease and desist order if it comes down to enforcement. Any litigation would come back to the BOS.

Mr. Jeffreys stated the Gugliettis have been raising money for legal assistance on social media. They have tapped into their savings to pay for the new fence. Ms. Luck stated she thought the dangerous dogs could not be relocated. Costa stated you are partially correct, the statute says nothing about the owners relocating the dogs. But the "dangerous" determination follows the dogs. One side conversation between Cohen and Kennefick was to relocate the dogs to a rescue facility in New Hampshire. It would reduce the need for a kennel license and the Town would not have to seek impoundment.

Mr. Alonzo believed the dangerous dog determination and the email from Mrs. Terhune was of a more critical nature to him. We determined that and the court upheld our decision and the dogs are still there. This situation

is unfair for the Terhunes. I want to get the dogs out of that area. As far as the kennel license that is up to the ACO.

Attorney Costa stated that Mike Kennefick from MTC reported to me that his conversations with Mr. Cohen have been challenging. Kennefick has made many attempts to resolve this but has not gotten feedback or calls returned by Mr. Cohen. We are not allowed to communicate directly with his clients. A town representative would have to reach out to them. Attorney Costa said an approach might be relocating the dogs to a rescue facility.

Mr. Jeffreys liked that approach. He asked what the cost of impoundment would be. Costa did not know but estimated \$50-\$100 daily. Ms. Adams asked how we are communicating that is failing. Costa replied formally and informally. He added in terms of the rescue facility option, it only remains a possibility during the appeal process. If they discontinue the appeal, the dangerous dog order stands. We would also have to request permission from a NH court to place the dogs there.

Motion: K. Adams

2nd: P. Luck

Through Town Counsel we communicate formally with Attorney Cohen about the BOS intent to impound the dogs and seek to enforce the kennel license issue

Discussion: Mr. Alonzo stated it makes sense to try to resolve this in the interim outside of court. Attorney Costa stated they will send correspondence to Attorney Cohen that they will attempt to impound the dogs during the dangerous dog decision appeal process and also intend to enforce the non-compliance of the kennel license, as a settlement but want to find a reasonable solution for all and ask him to contact us.

Vote: Ms. Adams-aye, Mr. Jeffreys- aye, Ms. Luck –aye, Mr. Alonzo- aye

Attorney Costa exited the meeting. The Board moved on to Executive Session II. Those minutes are separate. The session concluded at 9:29 p.m.

Respectfully submitted,



Elaine M. Peterson

Executive Assistant to the Town Manager