

AGENDA
WILLIAMSTOWN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 26, 2011
7:00 P.M.

1. CHAIRMAN'S OPENING STATEMENT:

2. SELECTMEN'S MINUTES: September 12, 2011

3. PUBLIC HEARING:

A. 7:05 PM: Application from Mary Giannaris, d/b/a Olympic Pizza Family Restaurant, 460 Main Street, Mary Giannaris, Manager for a Wine and Malt Beverage Restaurant License

B. 7:10 PM: FY 2012 Tax Rate Classification Hearing

4. ITEMS FOR SELECTMEN'S CONSIDERATION:

A. Affordable Housing Committee Update (Yamamoto)

B. Selectmen Zoning Board of Appeals Appointment **5-Year Term** (Neathawk)

C. Dog Hearing – Adler v. Mason Dog(s)

D. Dog Hearing – Maddens v. Mason Dog(s)

E. Dog Hearing – Bayliss v. Mason Dog(s)

F. Dog Hearing – Menkel v. Mason Dog(s)

G. Dog Hearing – Craig v. Mason Dog(s)

5. LICENSES AND PERMITS:

A. Request from the President and Trustees of Williams College, 800 Main Street for two One-Day Wine and Malt Beverage Licenses at the '62 Center Stage Lobby on the following dates: Saturday, October 1, 2011 and Wednesday, February 15, 2012 from 6:30-7:30 pm for Cocktails and Context Events.

6. TOWN MANAGER'S REPORT:

7. PETITIONER'S REQUEST:

8. OTHER BUSINESS:

9. ADJOURN: Next Selectmen's meeting is Tuesday, October 11, 2011 – 7 p.m.

MINUTES
WILLIAMSTOWN BOARD OF SELECTMEN
MONDAY, SEPTEMBER 26, 2011
7:00 P.M.

Present: Thomas E. Sheldon, Chairman, Tom Costley, David A. Rempell, Jane B. Allen, Ronald Turbin

Others Present: Mary Giannaris, Charles St. John, Janet Saddler, Jason McNair, Bill Barkin, David Westall, Ryan Neathawk, Cathy Yamamoto, Charles Bonenti, Carolyn Henderson, Linda Bell, Jay Sabin, Donna Mason, Margaret Adler, Sarah Madden, Ellen Bayliss, Melvin Krantz, Robert McCarthy, Matthew Howard, Susan Adler, Tony Menkel, Peter Fohlin, Kathy Poirot

1. CHAIRMAN'S OPENING STATEMENT: Chairman Sheldon deferred to Ms. Allen who said that as a Board, we want to acknowledge the passing of former Selectman Henry Bratcher. Ms. Allen said she will fondly remember Henry for his love of his country. He was proud of his service and was a loyal member of the American Legion. She said he loved Williamstown and was a 5th generation resident and took great pride in the land along Cold Spring Road that belonged to his family. He loved his family; to his wife Alice and to his family, Ms. Allen extended the Board's deepest sympathy.

2. SELECTMEN'S MINUTES: September 12, 2011 – Mr. Rempell moved to approve the September 12, 2011 minutes. Mr. Turbin seconded and the motion carried unanimously.

3. PUBLIC HEARING:

A. 7:05 PM: Application from Mary Giannaris, d/b/a Olympic Pizza Family Restaurant, 460 Main Street, Mary Giannaris, manager, for a Wine and Malt Beverage Restaurant License - Chairman Sheldon opened the public hearing at 7:05. Ms. Giannaris said that Olympic Pizza Family Restaurant opened in the space previously occupied by Michael's Pizza. She would like to serve beer and wine with her meals. Ms. Allen acknowledged that Ms. Giannaris is a liquor license holder in North Adams and has not had any violations in those two years. Ms. Giannaris said most of her staff is TIPs trained and she plans on taking the training in November. Ms. Allen moved to close the public hearing. Mr. Rempell seconded and the motion carried unanimously. Mr. Costley moved to approve the application from Mary Giannaris, d/b/a Olympic Pizza Family Restaurant, 460 Main Street, Mary Giannaris, manager, for a Wine and Malt Beverage Restaurant License. Mr. Rempell seconded and the motion carried unanimously. (Liquor License Application is in the Town Manager's Liquor License files)

B. 7:10 PM: FY 2012 Tax Rate Classification Hearing – The Chairman opened the public hearing at 7:10 p.m. Mr. Fohlin reviewed a chart showing tax rate scenarios using different classifications and explained that the purpose of the hearing was to ask the selectmen to vote a single or a split tax rate. Mr. Fohlin said that historically the Board has voted a single tax rate. The Chairman closed the public hearing. Mr. Rempell moved to adopt a single tax rate for commercial and residential properties for fiscal year 2012. Mr. Turbin seconded and the motion carried unanimously. (chart is located in the selectmen packet file in the Town Manager's office).

4. ITEMS FOR SELECTMEN'S CONSIDERATION:

A. Affordable Housing Committee Update – Affordable Housing Chairman Cathy Yamamoto said the situation at the Spruces has brought new attention to the important issue of affordable housing in Williamstown in that 5% of the town's nonstudent population has been affected. She issued a plea to Williamstown residents to get involved by joining the Affordable Housing Committee or help in other ways to address this issue. She said the Committee will need help looking at complex areas of funding as well as design and development for the long term. Committee member Charles Bonenti said while the Committee has had experience with affordable housing projects the task before them is unlike anything they have dealt with before. He said they are trying to figure out the Committee's mission and how to go about it. Robin Lenz, Coordinator of the Interfaith Emergency Response Team, said we just lost 225 homes that were affordable and the town was already in short supply before this happened. She said while the organization's financing for people to stay in motels is decreasing, the burden is shifting as people apply to the Community Fund for The Spruces for assistance. Mr. Fohlin said that so far 20 homes in the park have been cleared for occupancy by the town. He said that one reason the process of getting people back into their homes has taken longer than anticipated is due to numerous gas test failures.

With respect to housing in the Spruces, Linda Bell of 125 Riverside Drive in the Spruces told the Board she is waiting for the electric to be turned on but due to water damaged meters Morgan Management will not restore the electric in the section of the park she lives in. She said she is going to Housing Court for a court order to have Morgan Management restore electric service. Mr. Fohlin said he will ask Health Agent Jeff Kennedy to attend.

B. Selectmen Zoning Board of Appeals Appointment - Mr. Turbin moved to appoint Ryan Neathawk to the Zoning Board of Appeals for a five-year term, expiring June 30, 2016. Mr. Rempell seconded and the motion carried unanimously. Mr. Neathawk was sworn in by Assistant Town Clerk Kathy Poirot.

C. Dog Hearing – Adler v. Mason Dog(s)

Chairman Sheldon requested that all complainants be sworn in by the Assistant Town Clerk Kathy Poirot. The following were sworn in at 7:50 p.m.:

Margaret Adler, 121 Chestnut Street
Sarah Madden, 207 Chestnut Street
Ellen Bayliss, 65 Birch Lane
Melvin Krant, 65 Birch Lane
Robert McCarthy, 45 Chestnut Street
Donna Mason, 22 Birch Lane
Matthew Howard, 403 Adrien Drive, North Carolina (full address unknown)
Susan Adler, 123 Chestnut Street
Tony Menkel, 180 Chestnut Street

Mr. Sabin, attorney for Margaret Adler, distributed a copy of the MGL Section 140, Chapter 157 and a flow chart and read the law aloud. (Attachment A)

Mr. Sheldon noted that Ms. Mason has five dogs – Chuckie (pit bull mix), Fooley (pug mix), Princess (Shepherd mix), Addy (bloodhound) and Egg Roll (Shar Pei)

Ms. Adler stated that on July 4, 2011, she left the side glass door open and locked the screen door to allow her cats to enjoy the fresh air when she went out for the evening. When she returned later that evening she went to her mother's home to spend the night. Upon arriving the next morning at about 10 a.m. July 5, 2011, she encountered a light tan pit bull type dog and then came upon her cat Stickley dead and lying in a pool of blood when she entered her home. Then she saw a second larger mixed breed dog emerge from her hallway. She said she ushered them out of her house and ran outside and called her mother and 911. Animal control arrived and her neighbor Ms. Mason arrived. Ms. Mason immediately asked if her dogs identified as Chuckie and Fooley killed her cats. Ms. Adler told her he killed one of them. Ms. Adler said: "The two dogs ripped through a locked screen door, killed my cat and urinated and defecated all over my carpets, couches, laundry, chairs, floors, and bed and chewed up medications, causing about \$12,000 worth of cleanup damage." Ms. Adler said her other cat was hiding in a high enough area to get out of the dogs' way. Ms. Adler said she didn't feel comfortable in her own home anymore

Susan Adler stated that she received an unintelligible call from her daughter Margaret on the morning of July 5, 2011, and immediately drove down to her daughter's home. Margaret told her that Stickley was dead on the floor with a bloodied head and told her about the two dogs she found in her house. Subsequently Ms. Mason drove into the driveway and asked Margaret if her dogs killed her cat. Ms. Adler said Ms. Mason told her that he usually picks them up and shakes them. Ms. Adler said when she heard Ms. Mason say "usually" it clearly indicated a pattern of aggression to her. Ms. Mason further stated that she had the dogs on a leash but could not control them and they broke away from her and she had been out looking for them. Ms. Adler described the damage in the house caused by the dogs and said Ms. Mason had no homeowner's insurance. Ms. Adler said that she and her daughter are heartbroken and devastated at the thought of the fear and pain Margaret's cat Stickley suffered due to the dogs' attack and she asked the Board to take every possible action to ensure that "none of Ms. Mason's dogs could ever wreak this kind of havoc on our neighborhood again."

Ms. Mason stated that she was sorry for the loss of Ms. Adler's cat and has never denied that her dogs killed Stickley. She said the animals took off when she was taking them out and admitted that her dogs that broke into Ms. Adler's house. Ms. Mason said when the dogs took off the night of July 4, 2011, she looked all over the neighborhood for them, told neighbors they were loose and notified the police and dog officer. Ms. Mason said she is not as strong as she used to be and she felt really bad that Chuckie, who was on a leash, got away from her. She also said it was an isolated incident and that Chuckie has never been loose or been a problem. Ms. Mason added that Fooley is not a vicious dog, just ugly.

D. Dog Hearing – Maddens v. Mason Dog(s)

Ms. Madden stated that her family is never sure if they are safe and has been concerned about the dogs for many years. Ms. Madden said contrary to Ms. Mason's comments that she is always with the dogs, the dogs regularly run off of the Mason property and Ms. Mason is not always with them. Ms. Madden said her family has been frightened of the dogs for years when the pit-bull mix and Shepherd mix have come onto her property. She said she has contacted the police to express her concerns about the dogs running loose.

Ms. Mason stated that Chuckie was never loose, none of her dogs have bitten anyone and she felt the problem had been exaggerated.

E. Dog Hearing – Bayliss v. Mason Dog(s)

Ms. Bayliss stated that on July 30, 2011, her son had a dog charge at him while he was riding his bike on Birch Lane but was able to get away. She further stated that on July 31, 2011, her daughter-in-law encountered one of the loose dogs that came up to her and kept on barking until Ms. Mason was able to pull him away. Ms. Bayliss said her motion detector light has gone on several times where she has seen Foey in her yard in the middle of the night.

Ms. Mason said the dog that had chased Ms. Bayliss' son and daughter-in-law was the Shepherd mix Princess who protects the Mason property. Mr. Krant stated he has to go by Ms. Mason's property to get to Chestnut St. He said a dog is always chained to a tree out front and Ms. Mason told him to carry a stick. He said that two of the Mason's dogs usually wander on his property and they have gone after his Newfoundland. He said there is no question that Ms. Mason's dogs bark a lot because he always hears Ms. Mason calling after them to try to quiet them.

F. Dog Hearing – Menkel v. Mason Dog(s)

Mr. Menkel said his children had also been chased by Ms. Mason's loose dogs. He said they weren't bitten but they were scared. He said he was on his front porch when he heard the screaming on July 4, 2011, and on July 31, 2011, he heard a lot of screaming which was enough for him to drive to the end of his driveway to see what was happening. Ms. Mason was screaming at Princess to leave a woman alone. Mr. Menkel said he understands how difficult it is for Ms. Mason but it is difficult for the neighbors, too. He said he is sorry it's at this point. Some of the residents are fearful. Mr. Menkel said he has only seen Foey and Princess running loose; not Chuckie.

G. Dog Hearing – Craig v. Mason Dog(s)

Although Mr. Craig and Ms. Rork were not present at the hearing, Ms. Susan Adler stated that the Craig/Rorks have encountered Ms. Mason's dogs running loose on their property and that they have frequently urinated on their cars.

Mr. McCarthy stated that this is a sad day for Chestnut St. He said that these issues started when Ms. Mason moved back to the property with ten dogs. He said he has asked Ms. Mason repeatedly to contain her dogs over the years but she continued to let them out to run loose in the neighborhood. Mr. McCarthy had suggested electronic collars and kennels to Ms. Mason but she said she could not afford them. He said Ms. Mason just doesn't have control of her dogs.

Ms. Mason said she doesn't remember having that conversation with Mr. McCarthy and she couldn't afford a kennel or a fence around her property. She said things are better now that she walks each dog separately. Ms. Mason admitted there had been a series of complaints recorded with the Town over the years but there haven't been any on Chuckie and she's had him for eleven years. She said she used to have another pit-bull mix Nikko but he is gone now.

Mr. Howard said he has known all of the dogs for nine months, and, yes, they get away from the owner, and if the homeowner had locked her door, this wouldn't have happened.

Ms. Susan Adler said she didn't think there was a town ordinance that homeowner had to keep their doors locked. She said there is a leash law that states the dog owner must keep the dog on a leash or within voice control. Ms. Mason allows the dogs to run in her field at night and yells for them.

Ms. Allen said she spoke with a local veterinarian who said if a dog has menacing behavior the dog will likely always behave that way. Mr. Turbin said he felt that people should be able to live in their neighborhood without fear and that this has gone on too long. Mr. Sheldon said it's not just the incidents that have been testified about tonight but also the fact that the Town has extensive written complaint records compiled over the past six years. Ms. Allen said Ms. Mason's neighbors have been incredibly patient. Mr. Costley said it's so far beyond reasonable that we have no choice but to take action.

Mr. Costley moved that three dogs, Fooley, a pug mix, Princess, a German shepherd mix, and Chuckie, a pit-bull mix are a nuisance based on vicious disposition and required they be removed from the Town of Williamstown into another's care within 30 days and that Ms. Mason will report to the Town of the dogs' disposition. Ms. Allen seconded and the motion carried unanimously. (Attachment B – Letter September 27, 2011)

Mr. Fohlin said once we've receive the names and addresses of individuals who have received the dogs, then copies of the police reports and documents with copies of the Selectmen's minutes will be forwarded to them.

5. LICENSES AND PERMITS:

A. Request from the President and Trustees of Williams College, 800 Main Street for two One-Day Wine and Malt Beverage Licenses at the '62 Center Stage Lobby on the following dates: Saturday, October 1, 2011, and Wednesday, February 15, 2012, from 6:30-7:30 pm for Cocktails and Context Events. Ms. Allen moved to approve the request from the President and Trustees of Williams College, 800 Main Street for two One-Day Wine and

Malt Beverage Licenses at the '62 Center Stage Lobby on the following dates: Saturday, October 1, 2011, and Wednesday, February 15, 2012, from 6:30-7:30 pm for Cocktails and Context Events. Mr. Costley seconded and the motion carried unanimously.

6. TOWN MANAGER'S REPORT: Mr. Fohlin reported that MassDoT sent the Town a map drawing and access document for his signature to allow the State to access Town property and trim to clear the site line for the truck ramp on Petersburg Pass (Route 2).

Mr. Fohlin reported that eleven homes in the Spruces qualified for re-occupancy two weeks ago and to date there are twenty approved for re-occupancy. Moving forward he expects the rate of approvals for re-occupancy to slow. He said the failure rate has been significant with five out of eight homes failing their gas tests the first time around. He said our department of Inspection Services has been working on the Spruces inspections 100% of their time so he has hired an additional gas inspector to help.

7. PETITIONER'S REQUEST: None

8. OTHER BUSINESS: None

9. ADJOURN: Mr. Costley moved to adjourn at 10:12 p.m. Ms. Allen seconded and the motion carried unanimously. The next Selectmen meeting is Tuesday, October 11, 2011.

Respectfully submitted,

Tom Costley, Secretary