

[NORTHFIELD SELECT BOARD MEETING MINUTES]

September 19, 2023

Northfield Town Hall
69 Main St

Select Board Present: Alexander Meisner, Chair; Bernard Boudreau, Vice Chair; Sarah Kerns, Clerk; Barbara “Bee” Jacque; Heath Cummings

Also Present: Andrea Llamas, Town Administrator; Sandra L. Wood, Town Secretary; Mandy Shute & Tyler Bourbeau, BNCTV

Others Present: Ann Petrain; Michele Turner, Treasurer/Collector; Ed Hofmeister; EMS Chief Mark Fortier; Rafael Kinsella; Animal Control Officer Kyle Dragon; Patricia Kinsella; Ariana Burk

- Meeting was called to order at 6:04 pm

- **Scheduled Appointments**

- **6:00 pm** – Assistant Treasurer/Collector Appointment -Ann Petrain
 - Treasurer/Collector Michele Turner introduced Ann Petrain. Has worked with Petrain in the Town of Erving
 - Petrain has 12 years experience as a Collector
 - Positions for Erving and Northfield are part-time at 10 hours each
 - Motion by Jacque, seconded by Cummings the Select Board voted to offer the position of Assistant Treasurer/Collector to Ann Petrain at \$24.15/hour, grade 6 step 6
- **6:10 pm** – Special Event Permit – Great River Challenge – Ed Hofmeister
 - This is the eighth year of the Great River Challenge which consists of paddle, run, and bike events, being held at Northfield Mountain Recreation Center
 - Review of department comments
 - Police detail requested for 4 hours
 - Board of Health requested portable toilets and wash stations. Hofmeister said they do provide portable toilets.
 - Motion by Cummings, seconded by Boudreau the Select Board voted to approve the special permit for the Great River Challenge for October 7, 2023 and waive the permit fee
- **6:20 pm** – Request from The Brewery at Four Star Farms for 2, temporary 1 day liquor licenses: Chris Sellers
 - September cyclocross event at Northfield Mountain Recreation serving beer to participants and attendees
 - Motion by Jacque, seconded by Cummings the Select Board voted to approve a one-day temporary liquor license from The Brewery at Four Star Farm to serve beer on September 23, 2023, from 10am to 3pm at 99 Millers Falls Rd, for the cyclocross race
 - Motion by Jacque, seconded by Kerns the Select Board voted to approve the one-day temporary liquor license for The Brewery at Four Star Farm, to serve beer on October 7, 2023, from 10am to 3pm at 99 Millers Falls Rd for the Great River Challenge
 - Discussion: no cash bar at this event for the participants. There is an entrance fee
- **6:30 pm** – Northfield Ambulance Efficiency and Regionalization Grant Presentation-presenter unable to attend, and will be rescheduled
 - Chief Fortier disclosed he was not in attendance to influence but to answer questions
 - Llamas will send an amended version of the presentation with adjusted numbers. Chief Fortier clarified the adjustments concerned insurance
 - Discussion on Comstar comparisons including Northampton and Boston. Fortier explained it was billable transport initiated.
 - Fortier referred to the four towns listed currently serviced by Northfield Ambulance as a regionalization but a more formal municipal agreement is needed for future sustainability
 - Llamas described how an agreement would work. Fortier explained the need for staffing and better assessment model for sustainability based on the organization built on the four towns. Jacque added the lack of options in the area and nationwide is built into the report
 - Capital planning needs to be factored in and the impacts on the communities involved

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- Cummings acknowledged the work Chief Fortier has done but had questions on how changing overall operations to regionalization would benefit Northfield by giving up control and allowing input from the other communities. Fortier countered with a scenario of the school system not allowing input on a bill. The regionalization would not allow other communities to have oversight on how the department operates but possibly create an oversight committee to create discussion. The benefit to Northfield is keeping the calls coming to create revenue to operate. Cummings followed up inquiring if the participating towns had indicated they would not want to continue. Fortier responded that they are happy with the current system but unknown if they would go to another service
- Cummings compared an oversight committee to the Emergency Services Committee as a seat at the table but decisions would be made elsewhere
- Llamas added there had to be town governance or create a fire district with state legislation which removes it as a department.
- Fortier has informally consulted with members before making changes as a partnership
- Kerns asked about assessments and fair price why it wouldn't be acceptable, what would look different, how it would be based. Fortier responded that would be a different model in the presentation and a conversation after the study is complete and could not answer for the participating towns if they would accept an increase or not. The presentation includes criteria used to base assessments
- Boudreau's concern included passing on costs of a new building to other towns as an assessment so Northfield did not have to absorb the whole cost. Fortier explained the building portion would be addressed when there is an actual building and they have been made aware, but the topic will not be in this presentation
- Jacques noted the current EMS staff is made up of employees with other jobs. People would buy in to ensure there was a service going forward but if the current staff isn't present the project would have to start from the ground up again. The model could bring stability in offering employment to sustain service
- Llamas explained the current model is unsustainable. All equipment will need to be replaced on a schedule
- Fortier commented a call is a two-hour process and the department is responding to one thousand calls per year, three calls a day on average and asking a volunteer to do this is unsustainable
- At 7:25pm the Select Board took a short break
 - **7:30 pm – Dangerous Dog Hearing**
 - **Motion by Jacques, seconded by Cummings the Select Board voted to open the dangerous dog hearing at 7:30 pm, September 19, 2023. Roll call vote Sarah Kerns yes, Heath Cummings yes, Bernie Boudreau yes, Alex Meisner yes and Bee Jacques yes**
 - Meisner statement that he is currently employed by the Franklin County Sheriff's Department as a correctional officer and has consulted with the Town Administrator and necessary parties that this does not create a conflict of interest to be involved with the hearing as he does not answer to or have direct dealings with the Franklin Animal Control officer, his position or organization.
 - Meisner asked all parties involved to stand, raise their right hand and administered the oath
 - "Do you solemnly swear that the testimony you are about to give is the truth, the whole truth and nothing but the truth?" Parties standing responded yes.
 - Complainant's Testimony
 - Patricia Kinsella, 164 Upper Farms Rd
 - Kinsella gave testimony that a week ago from Saturday (9/9/23) her son Rafael had left his dog Rio in her care from Saturday to Sunday. The dog and Rafael were staying in a studio building on the property. Kinsella took the dog out to use the yard and was treating the dog with bits of hotdog to bring the dog back into the studio. Kinsella described the location of the crate, food and water in the studio as being at the far end. She noticed a container of kibble at the front entrance on the left. She decided to treat the dog as he was doing well with his sitting and as she bent over to open the container the dog attacked latching on to her left forearm. Kinsella described grabbing the collar and was able to pull the dog off but the collar broke, losing her

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control of the dog. The dog then bit her breast, she described blood pouring out. Kinsella was able to control the dog by grabbing the flesh on the top of his head. Kinsella described it as a scary experience and was grateful she was able to think on her feet and maintain some sense of composure. Kinsella described her thoughts with the dog barking and trying to slow this down and get release, figuring out she could back towards the door using one foot to close the door behind her. Kinsella thinks when she got to the edge of the threshold she thrust the dog, grabbed the door and closed the door, grabbed her arm and went to her house to call 911. First responders and ambulance and police came and Kinsella had requested her neighbor Shane Duclose come explaining the family is a good friend and Shane is also a first responder who knows Kinsella's own dog who was enclosed in her home throughout this. Kinsella said she was put in the ambulance and got an I.V. and was taken to Baystate in Greenfield. Kinsella was started on the rabies series, antibiotics and was stitched up in multiple places, motioning to her left arm, and her right breast. She was sent home Saturday night but by the following Monday she said her arm had become infected so she returned to Baystate, she turned to thank members in the audience referred to Sam and Barbara. She was admitted from Monday morning until Thursday night where she was given IV antibiotics, CAT scan and seen by a surgical team multiple times. She was released Thursday night and said she is on antibiotics and has one rabies shot left. Kinsella is grateful for the skilled and experienced first responders in Northfield and the terrific emergency and health care received at the hospital.

- There was no supporting witness testimony. Kinsella said there was no one else there right when it happened. Meisner clarified Kinsella was the only individual there and confirmed Kinsella wished for her current testimony stated as the only person involved in the incident. Kinsella confirmed she was the only person there.
- **Questions/Cross examination by the Board of Selectmen/Select Board**
 - Jacque asked as a point of order if the Animal Control Officer (ACO) was a supporting witness
 - Meisner said they could consider it but was intending to put it under the Select Boards' cross examination. Llamas wanted to make sure the ACO had an opportunity
 - Kyle Dragon, Lead Animal Control Officer of the Franklin County Sheriff's office related that he received a phone call on 9/9 around 4:00pm from Shelburne Control Dispatch on behalf of the Northfield Police Department for a dog attack that occurred. Dragon was off duty at the time and his response was delayed. Upon his arrival at about 7:30pm on scene he was met by the same Northfield police officers, informing Dragon of the dog's demeanor when they were there earlier. Upon seeing the dog through the studio window previously described he found the dog still in a very heightened, volatile state. After very careful work he was able to remove the dog from the apartment on a control pole. Dragon described the pole as about 5 feet long metal pole used for everyone's safety involved and secured the dog into his cruiser. The dog was transferred to the shelter where it remains at this time undergoing a 10-day quarantine, tomorrow is day 10, so the dog can be released from that 10 day quarantine period.
 - Meisner asked Dragon's opinion on the level of seriousness in controlling this animal and was it a complicated endeavor
 - Dragon responded based on the dog's disposition it was acting very territorial and very protective of the apartment. The dog lunged, snapped and grabbed at the control pole multiple times during Dragon's attempt to utilize the pole to snare it through the door. Based on the dog's demeanor Dragon was only able to open the door approximately four inches, enough to allow Dragon to work a little bit but not allow the dog to exit the building for safety concerns of himself and officers on scene. Dragon said it took 10 minutes for them to get the dog secured. There were no non-lethal agents required.

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Dragon acknowledged he has access to non-lethal agents. Based on the circumstances present at the time Dragon said they were not required

- Cummings asked Dragon about the length of time from the time of the incident to Dragon's response
 - Dragon said he was called around 4:00 – 4:15pm and notified of the incident, spoke with Officer Miner of the Northfield police department at about that time and Dragon responded at the scene at about 6:30pm arriving at around 7:30pm where he was met by Officer Miner at the scene and verified it was over three hours explaining it was a lengthy de-escalation during that time and the dog was agitated upon Dragon's arrival
- Kerns noted in the report that Dragon inquired as to the vaccination status of the dog and was told by the owner that the dog had recently been vaccinated and asked Dragon if he had contacted the veterinarian.
 - Dragon stated this was correct. Dragon added he was informed by Officer Miner when he initially spoke with the owner, Raphael, he believed the dog was vaccinated and when Dragon spoke to Raphael the following week, it was determined the dog had been to the veterinarian, but vaccination status was unconfirmed and later confirmed to not be vaccinated when Dragon spoke to the vet clinic later that day. Kerns followed up with clarification that the dog had not been vaccinated for anything. Dragon responded the dog had been seen he believed for an infection, but he was not positive, but they had no vaccines on file at the vet clinic
- Jacque asked Deputy Dragon to describe the demeanor of the dog and how the dog is in the shelter
 - Dragon reported since the dog came to their care in the evening on 9/9, the dog has remained completely hands off, no employees or volunteers are having any contact with this dog. An airlock system is being used to maintain its care. The shelter has indoor/outdoor kennels and Dragon described the process used to bring the dog outside to clean the indoor kennel and then return the dog to the inside to clean the outside so there is no contact between employees or the dog. Observance of the dog's demeanor since the dog has been at the shelter is one second the dog will be very energetic, very happy, appear to have very docile outgoing demeanor, however that can immediately change to a more aggressive, territorial, volatile demeanor. Dragon explained an instance where one of the volunteers feeding a dog in an adjoining kennel and had not passed Rio's kennel when it was witnessed to be jumping up, aggressively barking at the volunteer, and attempting to grab the door of the kennel, trying to get through the kennel door at the volunteer with the food feeding the adjoining kennel. They also witnessed similar things when using a plastic watering can to fill the water bowls, so no one has to enter the kennel with it and experienced similar behavior when filling the water bowl as well.
- Meisner referred to Shelter Director Leslee Colucci's observations on routine work, Rio would approach his kennel door and be calm and happy to see staff and volunteers and on other incidents he will charge at the front of his door, leap up and bark and growl and asked Dragon if it was an accurate statement.
 - Dragon replied he would. Meisner asked if this is a wild dog having the behaviors of a wild animal. Dragon hesitated to use the term feral or wild animal with the dog. They see quick personality changes with this dog, very unpredictable and for the record Dragon has never seen this canine in the presence of his owner Rafael and does not

know how the dog would act in his presence, these are the behaviors we see outside of the owner's presence.

- Jacque asked Deputy Dragon and Patricia Kinsella if there are any warning behaviors prior to the escalation. Jaques conclusion from the facts Dragon and Director Colucci are that it seems to go from 0 to 100 with no other warning behaviors prior to going to full on escalation.
 - Dragon responded from the kennel statement he would agree with the statement. There was an observation by the team leader tonight Dragon noted Rio was, via the video camera that monitors that kennel, that Rio looked at the volunteer coming down checking which dogs are in and out and without audio Dragon could not attest to what noises Rio was making but based on body position there was a tail wag, barking, generally what a dog does when they see someone, as the volunteer got closer based on the body language the demeanor completely changed to jumping up on the table and the barking appeared to be a lot more aggressive. There were no preceding warning or factors witnessed on the recording. Jacque noted they saw that from the video attachments from Director Colucci and then a clarification from Patricia Kinsella that she was actually touching a food container, not the food bowls. Patricia replied that the bowls were 15 feet away. Jacque asked how high the container was and Patricia raised her arm to indicate the height and said there was no warning. Jacque asked if Patricia touched it and Patricia responded she did not remember if her hand got in, the attack came out of nowhere. Jacque wanted to clarify from factual standpoint that Patricia was touching the container, not the food bowl. Patricia confirmed the food bowls were on the other side of the room. Jacque clarified the injuries involved the left arm and the right chest and when the dog grabbed Patricia's arm he held on and bit. Patricia explained she had to exert force and in doing that thought it was going to rip. The attack happened very quickly and Patricia did not remember the bite on her breast and did it not know when it happened. Patricia added she did not fall during the attack
- Deputy Dragon was asked how heavy Rio was and Dragon estimated between 85 and 100lbs with significant strength and not neutered.
- Cummings asked how Dragon would classify Rio and if Dragon had seen this type of behavior.
 - Per shelter policy Dragon said Rio has been flagged as dangerous. He has come across dogs with similar behavior but have yet to meet a dog like Rio where the behavior changed so quickly. Usually, they can anticipate what they're going to get for a dog when walking up to the kennel. Rio exhibited behavior or as mentioned before one minute he can be happy then the next minute he can be a completely different dog.
- **Questions/Cross Examination by Dog Owner and/or Dog Owner's Counsel**
 - Meisner explained this is not Rafael Kinsella's testimony but his chance to cross examine the complainant.
 - Rafael explained he only asked Patricia to let the dog in and out and specifically told her not to touch the dog's food and asked Patricia why she did not listen after being told not to touch his food, feeding him was Rafael's job and he was left with enough food. Patricia responded she understood the instructions to be that she did not need to feed him, Rafael left food for two days and water for two days. She did not go near the crate or his food bowls. Patricia stated Rafael did not say to her that Rio had some sort of food or resource guarding reaction. Patricia added if Rafael had disclosed this to her she would not have allowed Rafael to leave the dog in her care and would not have put herself in danger by opening the lid to the kibble container.

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- Meisner asked if Rafael had any other questions. Rafael responded he would save it for his testimony

▪ **Dog Owner's Testimony**

- Rafael Kinsella said the dog was about 4 years old, and he has had the dog about two years, describing the dog as a rescue and a good dog, his best friend. Acknowledged what happened to his mother was terrible but being a rescue, the dog is really attached to Rafael and he is the only person that feeds the dog. Rafael left for a day for a job in Boston and came back the next day telling his mother he left enough food for the dog for two days. Rafael was pretty sure he told his mother not to touch the dog's food. The dog knows where his food comes from and has never had this reaction with Rafael and only likes it when Rafael feeds him. Rafael repeated that he told his mother not to touch the dog's food, he would be back in two days. Rafael said the dog is smart and can go out and come back in just by opening the door and Rafael told his mother to just open the door to let him out and back in. Rafael said it was an unfortunate accident, he is terribly saddened by it, he loves his mom and the dog, this was a bad accident. Rafael said Rio is a great dog and good with other dogs, never aggressive with other dogs even if other dogs show aggressiveness toward him. Rafael continued that Rio has been bit by other dogs before and does not bite back, he backs away, he is nice to small dogs and their owners and socializes with other owners and dogs with no problem. Rafael stated he lives in Boston and Rio is not aggressive with other people, taking him for long walks and to the park for hours a day and never had a problem with him.

▪ **Supporting Witness Testimony**

- Rafael gestured toward the audience and said his ex-girlfriend with whom he lived with for two years, explaining she used to take care of the dog and never had any problems with the dog.
- Meisner asked if the witness would like to speak or if Raphael was speaking for her, she replied she would speak. Meisner asked her to stand, raise her right hand and administered the oath that her testimony would be the truth, the whole truth and nothing but the truth. She responded yes.
- Ariana Burk stated her name for the record and when asked to give supporting testimony she replied she agreed with everything Rafael said. She stated she had been alone with Rio, fed and taken him out and Rio was not that way with her either. Ariana added Rio sleeps with her and is protective of them and his food. Ariana asked if there were any questions. Meisner told Ariana this was her testimony and not time for questions but if she finished giving testimony they would move on. Meisner asked Ariana again if she had anything to add. Ariana responded she has a dog of her own, who has been with Rio, her father has three dogs and Rio has been there and has not been aggressive to her family or the dogs. She has been with Rio at the dog park and basketball court and he has never been aggressive to people or dogs

▪ **Questions/Cross Examination by the Board of Selectmen**

- Meisner asked Rafael how responsible he was as a dog owner
 - Rafael responded he was pretty responsible, taking him out two to three hours at a time, feed him, take him out so he can socialize with people, other dogs. Rio always has adequate food, water. Raphael said he buys expensive food and snacks that are healthy for Rio. Monthly Raphael buys Rio new toys so he has things to do and in the winter takes Rio for long walks so he gets exercise, places where Rio can run, be off leash, run in the woods with other dogs.
- Meisner asked Rafael how important health care is to an animal
 - Rafael responded the same as a human, it was very important. Meisner brought up a point that Rafael stated that the dog should be up to date on vaccinations as it had

recently been to a veterinarian but there seemed to be contradicting testimony. Rafael stated the previous owners said all Rio's shots were up to date and Rafael has been trying to get records but it has been hard to get in touch with them because Rio is a rescue but when Rafael brought Rio to the vet last time because Rafael thought another dog at the park got Rio sick and had to get antibiotics and was not informed of any shots that were missing so if Rio is missing shots Rafael can take him back to the vet and get him shots. Meisner asked Rafael how his relationship with the dog was. Rafael responded he was closer than with any human. Meisner asked if the dog identified Rafael as his master. Rafael responded yes. Meisner added that Rafael had control and authority of the dog in his presence, Rafael said yes. Meisner asked Raphael about his length of time with the dog, Raphael responded two years. Meisner asked Rafael if he realized the severity of the situation, Rafael replied yes sir. Meisner verified Rio was approximately four years old. Rafael replied yes and explained when he got him the dog was one and a half, two, between one and a half and two and a half. Meisner asked if Rafael knew of prior history, prior to his ownership. Rafael thought it was a dog of a family who had him as a puppy who grew too big for their apartment so they were looking for someone to take care of him because they could not take care of him. Rafael thought they had a lot of kids in a small apartment. Meisner verified Rafael worked in Boston and asked the residence of the dog. Rafael said the dog lived with him in Alston. Meisner asked why the dog was at Rafael's mother's house. Rafael explained during those two weeks in September he was looking for a new apartment so he had to move his stuff back to his mother's house but there was one night he was called in to work and he had to go back to the city for one day and left Rio in her care. At this time Rafael has found a new apartment and moved his stuff back. The dog was supposed to be in his mother's care for twelve hours as he went to work and came back.

- Meisner referred to the Northfield Police Department Incident report it listed Rafael's current address as homeless and asked him if this was true.
 - Rafael said no he had a new apartment and has been there about a week and a half. The day after the incident Rafael signed a lease to a new apartment and got the keys to it.
- Meisner asked Rafael what type of training he has taken with this animal if any
 - Rafael said he took Rio to a couple sessions to dog places in Boston but after that he trained Rio at home and Rio is good with him. Meisner asked if Rafael was aware of any complaints from anyone else in regards to this animal. Rafael said not really like that, Meisner repeated not really like that and asked if that was a yes or no. Rafael said no.
- Meisner referred to the testimony of Deputy Dragon that there is a certain level of unpredictability with the behaviour of this animal and asked Rafael if he was aware of this unpredictability and has it happened around you or anybody you know of
 - Rafael's response was no. Meisner asked if Rafael thought this was an isolated incidence. Rafael said yes and added Rio has never bit anybody that severe, clarifying biting is serious. Jacques asked for clarification on Rafael's statement "as severe", Rafael clarified "biting is severe" adding if someone knocks on the door Rio will bark, once he sees them, he's friendly. Meisner asked Rafael if he found it surprising that the behaviour of this animal in the dog shelter going from happy and loving to sort of wild and in brute form. Rafael said yes. Meisner followed up with why Rafael found it surprising. Rafael said Rio was probably scared sometimes.
- Meisner asked why Rio was territorial over his food, why would you give specific instructions to your mother not to feed him and isn't the job of somebody taking care of him to feed him

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- Rafael said yes and that is why he left Rio with enough food so she would not have to feed him. Usually, Rafael is the only person that feeds Rio and doesn't allow anyone else to feed him except her, gesturing toward Ariana, and himself. Meisner clarified that Rafael properly communicated with his mother the care, custody and control of this animal. Rafael responded yes that he said he had left enough food
- Cummings referred to the "don't touch his food" instruction that Rafael gave his mother and asked why Rafael would give her those specific instructions.
 - Rafael said it was because he had left enough food for two days, he didn't want her to have to feed him. Cummings asked while Rafael was sitting next to his mother during testimony on feeding Rafael was almost blaming his mother for the bite because she fed Rio. Rafael said he told her not to feed him just let him in and out, he was in his own apartment, just let him in and out. Cummings asked what would be the harm in her feeding Rio. Rafael said Rio is a little protective of his food, but he has never bitten anyone. Cummings clarified that Rio has exhibited this behavior over his food before. Rafael responded not like that but that Rio has exhibited behavior over his food like this before. Cummings asked in what ways has Rio exhibited this behavior before. Rafael said he didn't know, just like bark, he didn't know. Cummings asked who the behavior was toward. Rafael explained if he had taken Rio out, came back and was feeding him, he'd make Rio sit, he'll just bark. Cummings said that was excitement, not defensiveness, what has he done that was defensive behavior towards food. Rafael said if you try to take Rio's food he'll bark, dog stuff. Cummings said taking his food was understandable but giving him food there was obviously an issue with those instructions as you gave her instructions not to feed him. Rafael repeated he feeds him and she's not his owner. Cummings asked Rafael that he had enough concern that Rio has exhibited behavior before that was defensive for his food is why Rafael gave instructions about Rio's food. Rafael said yes but not a serious concern, not to worry about doing it because he had left enough food, just let him in and out. Rafael stated he never would have expected it and a call saying Rio bit his mother, it would be his worst nightmare, beyond his wildest dreams, it has changed everyday from the past couple of weeks.
- Cummings referred to and read a quote from the Animal Control Officer's report that Rafael said in the ACO's presence, "Rafael Kinsella also informed me that Rio was okay with people I'm okay with", and asked if Rio is not okay with people Rafael is not okay with. Rafael said Rio is friendly with everyone, as soon as he gets to know somebody Rio is super friendly. Cummings asked if Rio has ever not been okay with people and if contacting someone who had previous care or a shelter that they would corroborate this kind of behavior, not only happening on this date but also at the animal shelter where Rio is being held. Rafael asked Cummings to repeat, Cummings repeated the question adding if there would be corroboration from the shelter he came from or police departments nearby or residents Rafael said he was his sole owner and didn't have Rio around any people like that. Rafael clarified Rio was not from a shelter, he came from a family that could not take care of him so they were looking for someone. Cummings asked what city that was from. Rafael responded Boston. Jacques, referring to the same area of the ACO report, read what Rafael had told Deputy Dragon "Rio had issues with people handling his food and it was something he had to work on, he again stated that he had told her not to touch the food bowls and that he had told her he had put down enough food for two days". Jacques's question, based on testimony given, as to how Rafael knows Rio has issues with food, needed clarification. Rafael said Rio does not like people interrupting him when he's eating. Jacques asked if Rafael had someone interrupt Rio other than Rafael and Ariana, while he was eating. Rafael said no, not like

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that. Both Ariana and Rafael spoke saying Rio was protective of his food, would bark. Jacque interrupted and said she was not talking about biting but what the behavior of dog that led them to believe that Rio has issues with food, any behavior around food they have observed prior to this. Ariana said it was protective behavior, Jacque asked what the protective behavior was. Rafael said Rio will bark one time, does not nip, might growl once or twice, but just a bark to leave him alone. Jacque asked if it was just to Rafael or others. Rafael explained it doesn't happen often, he could be hanging out in his house where's he's eating and they can speak to Rio and he does not appreciate being bothered while he's eating. Jacque asked for clarification on "bothered". Rafael said just like messing with him, touching, bothering him while he's eating. Jacque asked if anyone touched him or his food while eating. Rafael said no. Jacque asked how Rafael knew Rio has issues and explained her experience with rescue dogs and that she asks about issues. Rafael said when he first got Rio he was protective of his food and he's very mellow now, it's not an issue. Jacque asked if Rio has bit or nipped Rafael. Rafael said if they were playing but not serious where he would be bleeding. Jacque said she was talking behavior not biting, this was a very serious bite, but nipping, growling kinds of behavior. Rafael said growling a little bit but not nipping, growling and barking but not seriously. Jacque asked if there was a reason why Rio was not neutered. Rafael wasn't sure if there was an age limit to neuter but if that is the route that has to happen Rafael was not opposed to it. Jacque asked if Rafael had a regular veterinarian in the past or present. Rafael said there is a place in Brighton on Brighton Ave that he brings Rio. Jacque asked if he has brought Rio to the vet or clinic. Rafael said yes, recently this summer. Jacque asked if the previous owner or Rafael brought the dog to the vet at the time of transfer since that two years. Rafael thinks he brought the dog a couple of months after he got him to a different clinic.

- Kerns asked if Rio had ever been to the house where the attack happened before and was it a familiar location
 - Rafael said yes and it is pretty familiar. He wanted to go home because he kept trying to get into the car but he's pretty familiar. Kerns asked if Rio was familiar with Patricia. Rafael said so-so and that she doesn't really come around his dog much, she has her own dog. Kerns clarified on the food aggression that Rafael knew pretty much as soon as Rio came. Rafael said he was not sure to be honest. Kerns referred back to an earlier statement and Rafael said probably, as a rescue he assumed Rio did not come from a good situation. Kern's referred back to the statement that Rio was in a family situation and they ran out of room. Rafael said yes and thought it went a little deeper than that, he thought there was a domestic situation going on in the household and they were giving the dog up. Kern's noted the food aggression started early and asked if it has gotten worse. Rafael said no and that Rio in the past seven days had been happy. Kerns remarked the fact that Rio bit someone pretty severely, demonstratively has gotten worse at least recently. Kerns asked if Rio has bit anyone else. Rafael said not that he knew of
 - Meisner asked Rafael if he had ever abused this dog, smacked it, caused harm where it would be defensive toward anybody, ever laid a hand on the dog to coerce or show corporal punishment
 - Rafael responded no to each description. Meisner asked if Rafael was aware of any type of abuse before he owned him. Rafael did not know. Meisner asked Rafael to describe his relationship with the dog when he first chose to take him. Rafael said it was pretty good, first day was good, had a crate and toys, nice big apartment space and was happy there with a back yard for him to run around, go to the bathroom
 - Jacque asked if Rafael had Rio microchipped
 - Rafael didn't think so and he has not had Rio microchipped
- **Questions/Cross Examination by Complainant and /or Complainant's Counsel**

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- Patricia Kinsella returned to the table and was advised by Meisner for Patricia to only ask questions and not offer additional testimony
- Patricia asked Rafael if at some point during his ownership of Rio, did he remember times he said to Patricia, while Rio was leashed not to go near Rio, remember the times Rio would be straining at the leash and Rafael would pretty sharply say to leave him alone don't go near him.
 - Rafael said he did not remember saying it like that he has never strained at Patricia or aggressively barked. Patricia asked if Rafael remembered him telling her a couple times Rio had nipped at friends of his. Rafael said Rio has never bit them, just playing around. He would bite their shoe if they were stepping on his toy, not aggressively bite. Patricia asked Rafael if he brought Rio into another apartment with housemates he didn't know, did he think things were going to be safe. Rafael said yes and that one of them already has a dog, either way Rafael could get his own apartment or bring Rio to, gesturing to Ariana, her father's house where Rio would have his own space and plenty of land to run around in.
- Rafael asked to say for the record when he first told his mom he was getting, had a dog, and had been taking care of it for over half a year she immediately told me to get rid of the dog and she sent him links to animal shelters to send Rio to. He stated he loved his mom but that she never wanted him to have a dog in the first place.
- Meisner explained if no one else had anything else to say there would be a motion to close the hearing and no further testimony can be entertained.
 - Deputy Dragon had a question about residency of the dog, asking Rafael about information Dragon had been given inquiring where the dog would be going if released. Rafael said at that time the dog would be staying in Billerica but now he would be either staying with Rafael at his new apartment or with Ariana's father. Dragon asked for clarification that Rafael signed his lease on Sunday. Rafael said he confirmed his lease on Sunday and picked up the keys on Monday and was in between when they spoke. Meisner asked Deputy Dragon to repeat his request. Dragon said he was clarifying that when he spoke to Rafael on Monday he gave a different address in Billerica when the apartment is in Brighton. Rafael clarified he resides in Brighton and apologized as there was a lot going on. Jacque asked for further confirmation saying earlier Alston and Billerica were mentioned and now Brighton. Rafael confirmed he is now in Brighton. Kerns asked if Rafael had permission from the landlord to have a dog. Rafael said yes and had paperwork from him.
 - Boudreau asked how the Select Boards' ruling affect the dog's status in other towns or was it just Northfield they were ruling. Deputy Dragon explained any decision made tonight or deliberate to a following hearing is valid anywhere in the Commonwealth of Massachusetts
- Motion by Cummings, seconded by Jacque the Select Board voted to close the hearing at 8:22 pm. On a roll call vote, Kerns said yes, Cummings said yes, Boudreau said yes, Meisner said yes and Jacque said yes
- Meisner explained the Select Board would go into deliberations into finding of the facts
 - Meisner found the ACO's report, Rafael's responses of "I don't know", and the food issues disturbing. There is an inconsistency of the dog's behavior between violent and multiple wounds and bites and violent behavior on the removal of the animal, which he could sympathize with.
 - Other fact findings of violence included videos and a letter from the shelter Director, Patricia Kinsella's cross examination of the dog owner of other incidents that may have happened with the animal in the past that were not in Rafael's recollection. Cummings and Kerns listed straining, nips, and telling Patricia not to go near the dog, inquiring after the new roommates safety, and the violent attack recently
 - Cummings detailed the difference between a nip and bite with food as a start but continued to a bite to the arm then the body
 - Jacque explained in the last fifteen years she has had 30 dogs come through her group after working a year at a Humane Society, has dealt with, encountered, difficult situations. Jacque's biggest concern is

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there are several behaviors before a bite occurs. She notes with this case the severity of lack of warning and severity of injury. She explained there are a number of behaviors indicating when an animal is not happy but to go from touching a food container to a full-on bite and hold, twice, is very unusual with respect to food issues and is extreme and severe with no warning. This is repeated in the videos. Jacques is concerned with the unpredictability, inconsistent behavior and lack of warning along with the evidence of two bites being highly unusual and atypical.

- Kerns brought up another piece of evidence, the infection. With anaerobic bacteria meant the bite had to go deep enough into the flesh and the person attacked was taken to the hospital and treated. The bite was deep enough to cause an infection after it was cleaned by professionals.
- Meisner asked for clarification from Llamas on the list for the fact finding. She explained they would bring forward the facts to support a conclusion and order
- Boudreau's concerned if the dog has never been this unpredictable before given the severity of the bites that this could start a pattern. The unpredictability and severity of wounds are of concern.
- Cummings said there seems to be a pattern of behavior prior to the bite. Kerns added the owner had previous knowledge. Meisner added a concern that the owner had previous knowledge and the dog was left with someone
- Llamas reviewed notes the Select Board agrees there were severe bites, treated and requiring continued repeated treatment. There was unpredictable behavior and or a pattern of unpredictable behavior. Issues with food, protective of food, food aggression. Kerns added Cummings input that it was a repeated attack, and Jacques commented that they were unusually severe in her experience. Jacques added it was a bite and grab twice, and further explained the difference between bite and release and bite and hold. The two bites are bite and hold twice with stitches.
- Cummings asked if he could ask Deputy Dragon a question on a bite scale for frame of reference and if they were familiar with it. The consensus was no. Jacques repeated the relevance was that this was a bite and hold to the flesh. Cummings referenced the list called a Dunbar's Dog Bite Scale from the Association of Professional Dog Trainers level 1-6. His opinion was this would be a level 5. Jacques commented what pattern may have been in the past may have been underestimated but now there is a new pattern established of a severe immediate reaction factually witnessed by the shelter including the reaction of this dog on the delivery of food to other dogs. This pattern is extreme, disturbing, atypical and can't be predicted
- Kerns added personal knowledge of a dog that bites, even if put in expensive residential training by professionals, it almost never works and the record is it will rarely change
- Meisner talked about the motion and votes for each finding needing to be concise. Llamas read and amended the following notes:
 - Through this incident demonstrated finding of facts severe bites treated with repeated treatment for ongoing infection through hospitalization
 - Through this incident, video at the shelter and testimony from multiple parties that there is a demonstratable pattern of violent unpredictable behavior
 - Through testimony and previous knowledge by the owner, the dog is protective of food, has issues with food and food aggression
- Meisner read: The Select Board held a hearing on Tuesday, September 19, 2023, at 69 Main Street, Northfield, MA at 7:30pm with respect to a complaint brought against you, who as the owner or keeper of a white and tan/solid pitbull terrier mix named Rio at 164 Upper Farms Rd, Northfield, MA. The Board heard testimony from the Complainant, Patricia Kinsella, Kyle Dragon, Animal Control Officer, as well as testimony from the Defendant Rafael Kinsella and his co-defendant Ariana Burk. Following the close of all the presentation of facts and information of the Complainant and Defendant, the Select Board will vote the findings of the fact

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- 1. Motion by Cummings, seconded by Boudreau the Select Board voted unanimously on fact finding 1- That this incident demonstrates severe bites treated, with repeated treatment for ongoing infection through hospitalization
- 2. Motion by Cummings, seconded by Boudreau the Select Board voted unanimously on fact finding 2-Through this incident, video at the shelter and testimony from multiple parties that there is a demonstratable pattern of violent unpredictable behavior
- 3. Motion by Kerns, seconded by Cummings the Select Board voted unanimously on fact finding 3 -Through testimony and previous knowledge by the owner, the dog is protective of food, has issues with food and food aggression
- 4. Motion by Cummings, seconded by Jacque the Select Board voted unanimously on fact finding 4-Demonstrated through this issue severe bite and hold with punctured skin on appendage and core of body on a standing person because food container was touched, with repeated attack of (2) bites
- 5. Motion by Jacque, seconded by Kerns the Select Board voted unanimously on fact finding 5. - Based on the testimony this attack was unprovoked
- 6. Motion by Jacque, seconded by Kerns the Select Board voted unanimously on fact finding 6 - The Shelter's classification is based on the testimony of the Animal Control Officer and the written report by Shelter Director Colucci, observing the dog's shelter behavior as unpredictable by his leaping, barking and growling.
- 7. Motion by Jacque, seconded by Cummings the Select Board voted unanimously on fact finding 7- In the Animal Control Officer and Police Reports, the Animal Control Officer was unable to enter the premises to restrain the dog due to his behavior, in order to gain control of the dog at the scene required the use of a catch pole by the Animal Control Officer and with the assistance of two Police Officers for approximately 10 minutes. This was approximately three hours after the incident
- Meisner referred to and summarized a list of options including humanely restraining, confined to a certain property, insurance or infrastructure enhancements where the dog is being confined, muzzle restraint, identification through photos, videos, examinations, tattoos, microchip implant, altered and humanely euthanizing
- Meisner felt they had enough to determine a humane euthanasia. The facts found were of a disturbing nature and no reasonable alternative moving forward
- Boudreau stated he found it very disturbing and in good conscience would have the dog euthanized. If something happened to somebody else, he would feel responsible and would err on the side of caution. He felt bad but also felt it was the right thing to do
- Cummings referred back to the bite recommendations and based on what they saw the information on the level of the bite recommends euthanasia but at this time he could not make a decision to take the life of an animal.
- Kerns does not see any way around euthanasia due to the unpredictability and severity. She felt it was reasonable to do for people making this decision
- Jacque re-iterated her experience with over 30 dogs and working at the Humane Society having to sign euthanasia orders. She has never seen this level of dog behavior before for food and is concerned about the severity, the unpredictability, and rapid escalation of the dog behavior not only at present time but going forward. She feels the real concern is danger and liability going forward and the Select Board has a responsibility to carry out a euthanasia order regretfully
 - Motion by Boudreau, seconded by Jacque the Select Board voted that It is hereby ordered that the dog Rio remain in the custody and control of the Franklin County Regional Animal Control-

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Franklin County Sheriff's Office to be euthanized. 4 ayes, 1 abstain, vote passed in favor of euthanasia

- Meisner advised Rafael Kinsella he had the right within ten (10) days of the Select Boards' order to bring a petition in the District Court within the judicial district of which the dog is kept, Franklin County, addressed to the justice of the court praying that the order may be reviewed by the court or magistrate thereof and after such notice to the officer or officers involved as the magistrate deems necessary. The magistrate shall review such action, hear the witnesses, and affirm such order unless it shall appear that it was made without proper cause or in bad faith, in which case such order shall be reversed. You or any party shall have the right to request a de novo hearing on the petition before a justice of the court. The decision of the court shall be final and conclusive upon the parties
- Meisner asked Rafael if he understood the rights he had been given. Rafael asked for a copy in writing. Meisner said Rafael would be prescribed all necessary paperwork
- This concluded this agenda item
- **Citizens' Concerns (limit 3 minutes per speaker)**
 - Bernard Boudreau, Old Wendell Rd; Statement regarding Sewer department as a town department supported by an elected Sewer Commission and should be listed on the town website as a department. Mentioned the consent order from the Department of Environmental Protection is against the town, not the commission, chief operator or treatment plant directly per statute 314 CMR 12. Wants people to get straight honest answer about consent order, the Asset Management Plan and impact on Northfield, consent order is on the website, will need to be on Select Board agenda to determine who is responsible for what and details when plan is available.
 - - Meisner cautioned the importance of not speaking as a Select Board member when presenting as a citizen concern
- **Review and Approval of Warrants**
 - Motion by Jacque, seconded by Cummings the Select Board voted to approve the 9/20/23 Payroll warrant of \$81,455.77
 - Motion by Jacque, seconded by Boudreau the Select Board voted to approve the 9/20/23 Vendor warrant of \$188,311.98. Kerns abstained
- **Review and Approval of Minutes-**
 - Motion by Boudreau, seconded by Jacque on 9/5/23 minutes
 - Discussion on list of changes submitted by Kerns
 - Kerns listed citizen concern change and section on warrant review and request to put on the minutes on the agenda
 - Discussion on getting multiple changes to the minutes for earlier review
 - Motion and second withdrawn to review and approve the minutes of 9/5/23
 - Minutes tabled for further review of proposed changes
 - Request from Kerns to amend 5/16/23 minutes
 - Kerns corrected the date of minutes to 6/13/23, previously approved, and had not said the minutes from 5/16/23, to replace minutes that had been removed. Llamas clarified that nothing had been removed, just not included. Kerns explained that she was told the Select Board could not do citizen concerns. Jacque explained process for suggestions to amend minutes.
 - Item to be addressed at next regular meeting
- **Interim Selectboard Meetings**
- **Meetings/Events attended by Selectboard members**
- **Town Administrator's update**
 - Fire Chief extension – Received phone call from Rep. Whipps office
 - The public safety committee changed the time frame to 1 year

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- Emerging from the 3rd reading of the bill in the House, they have determined that the 1 year request was a “substantial change” and it has to go back to the Select Board for approval. Will be on the 10/3/23 agenda
- 350th Parade -
 - The parade has close to 90 different entries and need to stop taking new ones – very hard to keep lining up the entries as measured spots are assigned for each type of entry.
 - Post Cards going out tomorrow to almost 70 addresses on and off Highland Ave
 - Volunteers first meeting is this weekend to work on setup, duties, etc.
 - Vendor show now has some 18 entities ,located in front of the old diner
- American Rescue Plan Advisory (ARPA) Update
 - Most projects are either done or underway.
 - A few still waiting for various things to happen to be finished.
- **Business**
 - Highway Maintenance Resignation
 - Resignation letter from Austin Jenkins read
 - Llamas has discussed the difficulty filling the position with Superintendent Walker and options of restructuring the position. Current job description being reviewed by Walker to submit edits and revisions for discussion with the Select Board
 - Motion by Boudreau, seconded by Cummings the Select Board voted to accept the resignation of Austin Jenkins effective 9/23/23
 - Alex Pirozhkov Resignation
 - Letter read
 - Motion by Jacque, seconded by Boudreau the Select Board voted to accept the resignation of Alex Pirozhkov and offer congratulations in his career and thanks for his service
 - Request from Building Inspector Jim Hawkins to update building permit fee schedule - tabled
 - Candidates for the Emergency Services Facility Committee- tabled
- **Proposed Agenda Items**-tabled
- Motion by Kerns, seconded by Jacque the Select Board voted to adjourn at 9:15 pm

Recorded by Sandra L. Wood, Secretary

Select Board Clerk

10/3/23
Date Approved