

August 11, 2015

Present was James Lehan, Jeffrey Palumbo, Scott Bugbee, Jack Hathaway, Town Administrator, and Marian Harrington, Executive Assistant.

The meeting was held in Room 124, Town Hall. Jim Lehan opened the meeting at 7:30 p.m. Jim announced that the meeting was video and audio taped. Jack read the agenda contents.

**DANGEROUS DOG HEARING – STEPHANIE POWER, 47 BARNSTABLE ROAD**

Present was Animal Control Officer Hilary Cohen and Stephanie Power, owner of the dog Groovy.

Scott Bugbee, Clerk, swore in Hilary Cohen.

Hilary requested a dangerous dog hearing under Chapter 140, Section 156A. She gave a copy of the law to the Board. Hilary reminded the Board that the Powers' were issued a Permanent Restraining Order on their dogs on March 7, 2013. This Restraining Order has not been followed. She also handed out a worksheet for the Board, which they reviewed. Hilary had previously presented the Board with a packet of incidents involving the dog.

Hilary paraphrased the first two incidents – On 8/10/2012, a duck that was a pet, not livestock was attacked and injured. The second incident was on 2/18/2013, which prompted the Board to issue a permanent restraining order. Hilary said the dog's aggression needs had not been met. She mentioned another incident at 8 Chatham Road, the Ruggiero family. Hilary said the Ruggieros are very concerned about their safety and that of their dog and children. Hilary read off citations.

Hilary said on July 22<sup>nd</sup>, she was called to 8 Chatham Road for a dogfight in progress. She said the Powers dog was the aggressor and was on another dog, a Puggle, and could not get the dog off of the Puggle. Ms. Powers could not get her own dog off of the Puggle. Children were witnessing the dogfight. Hilary said the owner of the Puggle and Ms. Powers were bitten during this attack. She also said the Puggle was bleeding and shaking. She suggested the dog be taken to the vet. The victim dog owner submitted photos of injuries received by their dog. One of the injuries Hilary classified as a Level 5. Reason for Level 5 is depth of puncture wound, and multiple bites on the body.

Stephanie Power, 47 Barnstable Road, presented information to the Board.

Stephanie said that she did want to address the 3 incidents, as she didn't think it was accurate. She never really spoke with Hilary. It was never proved that it was Groovy that attacked the ducks. She said the ducks were running freely and not always restrained.

The second incident, she said is very concerning. Stephanie said she was in the woods walking her dog, and the dog was a Dalmatian and they got into a fight. Her dog had an injury, and in the middle of the fight, the gentleman put his hand in the middle of the fight, and was bitten. She didn't call Hilary because the other family said they were calling the ACO. She never had a hearing, and just received citations about her dog. She met with Chief Stone to say that her dog bit and she did what was asked. His dog was off leash, unlicensed and did not receive any citations. She said Hilary doesn't know what happened because she never asked her. Stephanie said her 3 year old, unbeknownst to her, opened the gate and the dog got out. She did put a fence in around the house and it is completely gated. She never said she didn't want her dog. She was upset and crushed. She doesn't feel her dog bit a human. The gentleman said in front of the other officers that he didn't know which dog bit him. He did not seek medical attention.

Stephanie took this very seriously, and spoke with 3 professionals who work with these animals. One was Andrea Nelson from Pet Smart. She talked to Hilary who said it was up to her what she did. Hilary and Chief Stone knew what she did. Stephanie said Andrea said the dog is not a dangerous dog. Also Chris Wider agreed, and the vet said that the dog didn't show aggression. She offered to pay the neighbors vet bills.

Scott Bugbee said that he didn't feel a beginner education class at Pet Smart was behavior aggression. He mentioned the Permanent Restraining Order. Scott said that the Order is still in place, but it doesn't appear she is following it.

Jim said that usually one dog starts the aggression. This is a shelter dog and it is assumed that her dog was the aggressor. She didn't witness the duck incident, as she wasn't there, so she doesn't know. But the second incident with the dog, she doesn't feel it was her dog that was the aggressor. She said it was never decided which dog it was. She has had people, children and workers in her home and has never had a problem. Stephanie said her dog is free in her home when other children are there.

Jeff said he understands there is a difference in the training. It doesn't appear it was effective enough. He liked the idea of a physical barricade where you have already had the gate opened. Jeff is losing confidence that all has been done. He wants to know where dangerous dog would apply. He thinks we

may be there already. Seems Groovy is the common denominator. Jeff is very concerned that the next incident will be more serious.

Jim asked if anyone in the audience wished to speak. No one did.

Hilary rebutted some comments made. Hilary said in the first event, some landscapers identified her dog through photos. Hilary said there is no control law concerning ducks. She said look at Myrtle St. with all the ducks there.

The second incident – professional animal people – he wrote a statement as to which dog bit him and it is in her report. There is a recommendation in her report. No one approached her to Pet Smart it was after the fact. Hilary did leave a rec on SP's voicemail. Andrea did ask H if the dog should be removed from the course. Hilary said no, it would benefit the dog and owner and dog, but would not alleviate the situation. Hilary did not say the dog growled at her. She said it missed triggers when Hilary went there. Hilary teaches at the Animal Control Academy. Hilary asked the Board if they read emails sent last night. They replied yes, and others received as well.

Stephanie is upset that neighbors may not speak to her because of these problems. She said she feels Norfolk has more hearings of this kind than other towns. Jeff said that he is very proud of this town and he doesn't feel that this is a valid comment because Norfolk was named one of the safest communities in the state. She feels that there are other dogs that are dangerous, and is upset that no one has come to her for her side of the story.

Hilary said there is one other dog that is on a restraining order and abiding by it, but she does feel that in the future, it may come to this point too. Jack said this is only the third hearing in the 10 years he's been Town Administrator. Jim agreed saying it is his third hearing in 12 years.

Jim asked about the dog's socialization, as she has no control retrieving her dog or ability to get the dog under control. Stephanie said that is prior to the dog training class, which is why she did it.

Under Section 157, Hilary's recommendation is that this neighborhood does not support a dangerous dog. It is a closely-knit neighborhood. Stephanie already has a fence, which has failed. Groovy has bitten 2 people and 3 animals. The restraining order failed. Hilary said the dog was not leashed on its own property. Stephanie did not keep it muzzled and leashed off property. Groovy has behavior aggression, but she did another training instead. 2015 was different – the bites have escalated on the Dunbar chart. She saw the aggression triggers. The dog does not differentiate between another dog and human hand. She said in reading the report from the dog bite victim in incident

2, he said the dog bounced off the other dog to him. The dog doesn't stop on attacks. It has to be manually removed. Hilary said the owner said the dog was submissive, but Groovy didn't release.

Hilary recommends Euthanasia, or physically encloses their whole property where the door cannot be open and the dog has access to the outside people. Almost double gating. There is so much public safety concern. Hilary said she is a pet lover, and it is hard to make this recommendation. Jeff asked about other options such as a farm. Hilary said that a neighboring community could choose to accept the dog or not. Triggers and sensors will always be there. You have to consider - would you put the dog back in a situation that will be a public safety issue somewhere else.

Stephanie said why didn't Hilary tell her the Pet Smart course wasn't good enough. Also, it was never said it was their dog definitely.

Jack cited a clause in the Permanent Restraining Order. Stephanie said that because she did the course at Pet Smart, she didn't think she had to follow the Order anymore. Jim said that the Board never lifted the Order; it is permanent. Scott said that the dog has gone on to still be dangerous. Stephanie said she would do another course, if that is what she needs to do. Jim said the dog has clearly shown it is aggressive. Jim said he doesn't want to see this dog loose, and she has neighbors that are fearful of this dog. Neighbors should not have to worry that if the dog gets loose, residents are fearful of their children, animals, etc. They do not have to live that way. Jim asked Stephanie - what if that had been a child. We would be in a horrible, horrible situation. You would too. We have to manage and restrain this animal. These neighbors are trying to tell you in their own way that they are scared.

Jim asked her if she is willing to do what it takes to restrain this dog. Jeff said we couldn't try. It's not an experiment. That's not enough.

Hilary suggested the pen and dog run area and shall have a secure roof and sides thereof and imbedded into the ground and further proper shelter shall be provided. It would be a stand-alone fenced in area. They have a great backyard fence but the problem is doors getting left open, or the gate left open. People run in and out all the time. There is less chance if the perimeter is enclosed. The dog cannot have access to the public.

A gentleman identifying himself as Stephanie's husband asked about electric fences inside the home. Can you do that? Hilary said that inside electric fences trigger more sensors. Hilary said that an electric fence wouldn't help aggressive dogs. Jeff asked if she was concerned about strangers. She said no.

Jim told her to be careful of her 3 year old because the dog could attack her own child or another child if they took the toy or bone away from the dog.

Scott said that if a child went to break the dogfight up, it worries him that a child may try to protect his or her dog and that's what scares him. Someone little could get hurt badly.

Jim said to turn this around and try to find some level of security that will help her with the dog if she decides to keep it. Hilary will help. Hilary said that other dogs trigger this dog. She would want vinyl fencing that would not allow the dog to see other dogs as they walk by. Hilary would be asking for a liability policy for this dog. If it happens again, this could be an issue as well. This is different than homeowners insurance. She would like behavior modification that someone specializes in. She doesn't know many that will say I can fix your dog. Jim asked her to provide Stephanie with a list of people that will provide this training.

Hilary said the Permanent Restraining Order stays in effect. She would insist they put up a fence; good time of year to do this. Thirty days to carry out liability policy for dog. Thirty days to seek a certain behaviorist and six months to enclose the property. They can have the dog boarded with all expenses born by the owner until this all done, but that won't help the dog. We need to revise the restraining order to say when the dog is on its property; it is leashed, and off property leashed and muzzled. It was asked if the dog could have liberty in the back yard? Jack and Hilary said Hilary couldn't say that with comfort and certainty. She would prefer a leash, although they could get away from a leash.

Jeff supports boarding the dog until they are fully satisfied the constraints are in place. Err in the side of safety. Jim suggests a secured run in the yard. He would be fully secure and provides the dog some exercise. Jim doesn't agree with boarding, as it doesn't help the dog.

Jeff supports the cable run inside the enclosed back yard.

It was agreed to have the fence in, behavior modification, and a zip run in backyard. It cannot be tied to an inanimate object. Stephanie wants this revisited after a time. Hilary said doesn't want to get rid of these safeguards on a hope. Scott said the only thing we would get rid of is – she wants to be able to let the dog run free; maybe remove the muzzle. The Board isn't comfortable with that.

Jeff asked what the 6-month process is. Do we get updates during this time from Hilary? Hilary said yes. She will start calling around to see if she can get

some modification behavioral people. She will provide an insurance list and they will need to contact fence companies for estimates.

Hilary said you need to determine if this is a dangerous dog or nuisance dog. Jack asked if the fence is enclosing the garage and driveway area? Hilary said she is looking at full enclosure.

Jeff Palumbo moved to declare the dog a dangerous dog as outlined in MGL Chapter 140, subject to the conditions as outlined in the discussion. Scott Bugbee seconded, and it was **so voted**.

### **KEVIN ROCHE, HIGHLAND LAKE DAM**

Kevin Roche, Barbara Bartholomew and Robert McGhee were present to discuss the possibility of the Town purchasing the Highland Lake Dam from Kevin Roche, who presently owns it.

Kevin owns the Highland Lake Dam. Kevin is looking to see if the Town is interested in purchasing it from him for \$150,000. He feels that since we own Highland Lake, we should have the rights to the dam.

Barbara has made some detailed recommendations based on the historical significance of the area. She presented information to the Board. Barbara said the Town has half a million dollars invested in this property. If the dam isn't operating properly, the lake can basically become a mud puddle. The dam that Kevin is offering has much historic value. It goes back to the 1600's.

In 2009, Kevin had an inspection done on the dam. Inspection showed that there is nothing wrong with the dam. It is 100 years old, and has the wear of a 100-year-old dam. There is nothing wrong with the dam, but with the area around the dam. We are able to do repairs. CPC has this on hold until we know what we're doing.

Barbara gave a visual diagram of what is happening to the area and shows the contaminated areas. She showed the Board the property that Kevin owns on a plan. She said there would be a restoration, and there is a parcel that hasn't been decided whether Kevin owns it or not.

Jim said we are being asked to purchase a liability. The State will require that if we purchase the dam, we have to maintain and repair all the waterways. Plus we have to purchase the dam. We can't rehabilitate the dam and keep up the maintenance. We do not have the money source to take care of this. Jim said the dam isn't the problem. Jim is concerned about getting into a financial consideration. He doesn't know how this is a win for the town. There was

discussion about Kevin owning the dam and operating the dam, yet the town owns the lake.

Bob questioned the responsibility of the train. Barbara said the railroad came in 1849 and hasn't really maintained it. There is a culvert. Bob said the train is metal on metal and needs a lot of work. Bob feels that there are a lot of repairs that need to be done.

The Board feels that the Town doesn't have the finances to take care of this dam. Our resources are stretched very, very thin right now. The tax base cannot pay for this right now. Jeff agrees, but would like to see some type of agreement or something where we can work together with Kevin and come to a resolution. Kevin purchased this in 2000; he's had it for 15 years.

Jack said that Kevin purchased the dam for \$1 according to the Assessors records. Kevin admitted that were true, and it was purchased along with land and a building.

Jim asked if there is any negotiating. You paid \$1 plus probably \$30,000 in taxes. Kevin said he would have to think about it. Jim suggested that Kevin could give the Town the dam, or sell it at a much more reasonable cost.

Jim said he would support working something else, because he agrees to the logic, but we cannot afford \$150,000. He is looking to have the Board support ownership of the dam. It is a buildable lot, but we wouldn't be interested in it as a buildable lot, plus it is a liability for us. We are acquiring something that will cost us money.

Scott Bugbee moved to have CPC get an appraisal of the dam property and update the report so that we have an idea of what the actual costs are. The dam report is to include repair and ongoing maintenance. Jeff Palumbo seconded, and it was **so voted**.

## **TOWN ADMINISTRATOR REPORT**

### **Action Items**

Scott Bugbee moved to approve the request of Dawn Krupwich to hold their annual block party at the intersection of Day Street and Noon Hill Avenue for September 19, 2015 from 1:00 to 8:00 p.m. Jeff Palumbo seconded, and it was **so voted**.

Scott Bugbee moved to approve the application for parking at the Old Town Hall, keeping the fee at \$75 per year. Jeff Palumbo seconded, and it was **so voted**.

## **Discussion Items**

### **Year End Financial Report**

Jack gave a quick review of the year-end Financial Report.

### **Seekonk Street Activity Discussion-**

Jack had a chat with Town Counsel. There were lots of discussions with Police, Fire, and Building as to how this property should and could be regulated. There is a lot of leeway under zoning laws – local or state according to farming laws. Since last Friday evening and today, Jack talked to Town Counsel who suggested that entertainment laws may apply here, and we need to look into an entertainment license. Jack said that was unknown to us. Jack needs to sit down with the Chiefs – Police and Fire, Building Commissioner, Town Counsel and the property owner. Under MGL Ch. 140, Sec. 183, if we come to an agreement that that applies, then we would have a public hearing and we would talk about yes or no, and if the Board felt it was appropriate, then we would discuss types of conditions to put in place; such as the number of events, noise, etc. Some complaints from residents were gunshots, noise, sound equipment, traffic and dust.

Jim told the residents present that the Board couldn't debate about this if they are going into the public hearing. There is protection around farming regulations. It would be difficult for the Selectmen to say no, you cannot hold these events. The sound of ammunition, sound equipment, dust control, etc. can be discussed.

Jack has not had discussions with the property owner yet. This is new to us.

Jim allowed residents in the audience to speak. He did stress that this is a new matter for us that we are looking into with Town Counsel. He said that we do not have answers tonight, but are willing to listen to what they have to say. He also said because this is not a public hearing, we will only listen to their concerns.

Karen and Larry Clarke, 130 Seekonk Street. Karen said she did not create a presentation for tonight. She gave the Board a manual just for information purposes from research she has done. These sporting events do not come under agricultural. This has nothing to do as an agricultural event. This is not the same as Jane & Paul's Farm, or the Axberg's farm. Larry said there is a short video attached with the information for the Board to view what it was like on Saturday. He said a sporting event would be considered entertainment.

Bill Archibald, 127 Seekonk Street questioned entertainment provisions made in residential areas.

Kathy Kubit, 88 Cleveland Street inquired about traffic concerns.

Jeff asked if the owner knows the situation to be a problem. Is he aware that there is an impact on the neighbors? Jack said he knows that the owner has been confronted by some of the neighbors, and is aware there are complaints.

Bill Ferellec, 88 Cleveland Street said that when this started he went down and had a conversation with the owner and he was a little aggressive. His response was it's only two days a year and we would have to live with it. Bill could see where it was going, so he dropped it.

The Clarkes said it has already been three times this year, and several more are scheduled. You never know when this will happen. There are teaching classes going on outside the entertainment; and barrel racing with horses, as well.

Kathy Clarke said their fear as neighbors is that they are going to have a rodeo situation in the area. They came here because it was a quiet, residential community. Larry said they couldn't enjoy their home. They have to leave their home, as well as other neighbors. They cannot hold weddings, parties, etc., outside in their yards because of the noise. If they had an open house and the potential buyers wanted to know what going on, they may back away. One couple lost a buyer because of it. They don't want to have to move. Their concern is that this is being held in a residential area. They are 2.5 houses away and they can hear it with their windows shut.

Tristan Carpenter, 120 Seekonk Street is concerned that 50 people are running around with guns strapped to their hips, not controlled, some are out of state – do they have licenses? Running around with six guns. There is an accumulation of firearms and they are real firearms. They do not want anyone hurt.

At this point, the residents left. Mike Brogan, 126 Seekonk Street came forward and asked to speak. He is the owner of the property in question. Mike said his family owned this property since 1958. He runs it as a small horse farm. He said the next events are barrel races. No noise, and a timed event.

Mike said the property is commercial agricultural – 61A. He raises horses for these events and people see them on display and purchase them. Mike said the firearms are safe. They never had lead put through them. It is a 45-caliber shotgun and black powder ammunition. There is a Sgt-at-Arms that stands at a table and there are five blanks in each tray. They have to load and unload their weapon in front of the Arms. They raise and train these horses to do this. This is their business. He spoke to Town Counsel before he did all this, and had Town Counsel's guidance and from a zoning standpoint with Bob Bullock.

Mike said Chapter 140, Sec. 3 regulates this. There are 37 participants. There is not a car in the road – they put all vehicles on their front lawn. Trailers are used to barricade and block sound. Mike said they travel and as long as you have a license to carry from the state you live in, if required, then it's valid. Mike said he is near Walpole Sportsmen's and hears gunshot sounds 24/7 with much bigger guns than he's using. He does this to promote his business as he sells the horses.

### **Roads Update**

Bob McGhee was present and reviewed Chapter 90 funding.

Bob listed the work he has done. He did construction on Main Street, he did sections of Main Street, plus Lake Street, and he did a roadscape on the sides of the road. They are now finishing King Street. They are excavating sidewalks and doing Ridgefield to the school. He is not sure he will have this all done before school starts. He will do work on Ridgefield and Longmeadow. That whole subdivision will have sidewalks exposed all the way to King Street to Union Street.

Bob talked with the Board about town center and cobblestones and the detour schedule. The center has to be maintained yearly so that it doesn't fall apart again. He has a notice going to residents.

### **Review of Committee Appointments**

The Board reviewed vacancies on boards and committees and will post on the website, cable, and newspapers to try to get interest.

### **Southwood Update**

Town Counsel will get back to us on the Agreement for the Southwood development.

Jack reviewed a list of open items with the Board and discussed their status.

Before closing, Jim expressed condolences from the Board to Cheryl Kelley, Town Treasurer in the passing of her mother, Marjorie Cribby, and to Charlotte Giovanella, a full time firefighter/paramedic who lost her husband this week.

At 10:50 p.m., Scott Bugbee moved to adjourn the meeting. Jeff Palumbo seconded, and it was **so voted**.

This is a true and accurate report of the Selectmen's Meeting of August 11, 2015.

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Scott Bugbee, Clerk

