



**BOARD OF SELECTMEN
MINUTES
REMOTE SPECIAL MEETING**

Monday, June 10, 2021

Members Present: Shana M. Shufelt, Chair
 Steven J. Ouellette, Vice Chair
 Richard W. Brewer, Clerk
 Ann E. Boxler
Also Present: Timothy King, Town Administrator

The Chair called the meeting to order at 6:00 p.m. The meeting commenced with the Pledge of Allegiance.

Chair's Announcement – Under MGL Chapter 30A, section 20(f) – Meeting being recorded. The Chair also read the Governor's March 12, 2020 order allowing for remote participation at public meetings.

1. Dog Complaint Hearing: Steven & Diane Bird v. James & Laura Mullin

Participating via ZOOM connections were complainants Stephen and Diane Bird and their legal counsel, Atty. Michael O'Shea; James and Laura Mullin and their legal counsel, Atty. Brian Corey Jr.; Animal Control Officer Donna Lambert, and other interested parties. The Chair referenced MGL 143, Section 157 giving the board authority to conduct public hearings to determine if dogs are dangerous, or a public nuisance; and advised all participants that they will be giving sworn testimony. The Chair described the hearing process and protocols for questioning of witnesses, and noted the Board would not be ruling on the matter this evening after closing the public hearing. She indicated the Board would make a decision at its June 21 meeting after consideration of all the evidence and testimony presented. She then asked Mr. Bird to start the proceedings by describing the incident of April 12, 2021 in which his dog Molly was attacked by two other dogs at a local trailhead parking lot. Atty. Corey objected to the Chair's intention to allow Atty. O'Shea to question the Birds about their testimony; he also asked that the "dog officer" be excluded from hearing Mr. Bird's testimony as it might influence the officer's later report.

Mr. King put Mr. Bird under oath, and asked for his full name and address, being told it was Stephen Bird, of 1 Quail Trail, Westport. He said he was returning from a trail walk with Molly, an 11 year-old Goldendoodle, a therapy dog trained to voice commands which has never shown signs of aggression to other dogs. The dog was off the leash and sitting beside him when they noticed Mrs. Mullin loading her two Golden Retrievers into her car in the parking lot; one unleashed retriever ran over to Molly, and he said the woman called out a warning to be careful; after a few moments, it attacked the Goldendoodle "without any provocation, without any warning." The second retriever jumped out of the car and joined the altercation, with Mrs. Mullin quickly following to try to break up the fight. Mr. Bird indicated he kicked one retriever repeatedly to try to stop the fight; after 30 seconds or so, the altercation was stopped. He said Mrs. Mullin removed her dogs to the car, and he or his wife brought Molly to an emergency hospital for treatment of serious injuries including lacerations to the neck and back, and bites to her hindquarters. Mr. King received confirmation that the Birds, the Mullins, and their dogs had never had any previous interactions before the April 12 incident.

Atty. Corey had nearly two dozen questions for Mr. Bird, with Mr. Bird's responses in parentheses. He asked for confirmation that Molly was off the leash (yes); one retriever was on the leash, and one off leash (yes); did Mrs. Mullin attempt to stop the fight (yes); was she knocked to the ground during the melee (yes); did she try to pull retriever off Molly (yes); was she bitten by her own dog (yes, "100% sure"); which retriever attacked first (unknown); was incident "exciting and distressing" (not exciting, only distressing); was Mrs. Bird present (no); was he cited for having Molly off leash (no); was he asked for rabies vaccination records (no); did the dog officer examine the dog's wounds (no, not at scene, ACO sent photos of injuries); how many times did he kick the retriever (four or five times before Mrs. Mullin interceded); was Molly licensed, and what date (unknown, sometime after March 10); licensed before or after incident (unsure); cited for unlicensed dog (no).

Mr. King called on Animal Control Officer Donna Lambert, and put her under oath. She noted that she was a state certified ACO, and related the April 12 incident as reported via telephone by Mrs. Bird. The ACO said she was told the couple was walking their dog on trails when it was attacked by two other dogs, which she identified as belonging to Laura Mullin of 6 Stonybrook Court. The ACO said she contacted the Mullins and advised them of the 10-day quarantine order for both dogs that would be issued; she could not speak to Mrs. Mullin, who was too upset to talk, but husband James Mullin told her Bella was the first attacker, and Grizzly joined in. Later, she spoke to Mr. Bird, who told her of Molly's considerable injuries. The ACO said she was told that Mrs. Mullin had been bitten, and would seek medical attention for the injuries. In response to questioning, the ACO said the licensing of all three dogs was checked, and none were licensed. She asked for proof of rabies vaccinations for the Golden Retrievers, and was referred to their veterinarian, who reported the last vaccinations had expired April 1, 2021; a vaccination appointment was scheduled for April 20, but did not take place because the dogs were under quarantine until April 23. Mr. King asked if any citations were issued as a result of the incident; the ACO indicated the Mullins were cited for failure to maintain rabies vaccinations and failure to restrain the dogs per the local leash law.

Atty. O'Shea had no questions for the ACO; Atty. Corey posed more than two dozen questions to Ms. Lambert, with her replies in parentheses. He asked if the ACO report was from a complete and accurate investigation (yes); questioned references in the report to conversations with both parties after the April 12 incident; why report said Mrs. Bird was present (what ACO was told by telephone); why Bird was not cited for unleashed animal (therapy dog trained to be responsive to voice commands, at owner's feet, is deemed under control); requested proof of vaccination for Molly (not requested, no evidence of biting anyone, vet's records show current vaccination); asked if Molly was properly licensed (unsure); asked about Mullins dogs' injuries (told there were none); sure which dog bit Mrs. Mullin (Mr. Mullen said it was one of their dogs); why Mrs. Mullin's injuries were not mentioned in the ACO investigation report (no official bite was reported by doctor or hospital, so no proof of injury).

James Mullin was asked by Atty. Corey to clarify information provided to the ACO after the incident. Asked if he knew which dog first approached Molly, he said he was not at the scene, but was told it was Bella. Grizzly was on leash, in the car, he was told. Other questions from Atty. Corey: did ACO ever examine any of the dogs for injuries (no, not to his knowledge); asked about injuries to Bella and Grizzly (yes, said there were none); numerous questions about phone interview with ACO, and what questions she asked; questions about rabies transmission factors. Atty. Corey suggested the lack of licenses for Mullin dogs was because Town Hall was closed to the public when they visited prior to April incident; after April 12, could not get vaccination required for licensing because the dogs were under quarantine order. The attorney also asked why Mr. Bird was not cited for leash law violation, or if he will be; the ACO indicated

that Molly was considered “under control” of a responsible person at her master’s feet, and would not be considered in violation. She indicated she would investigate whether Molly was properly licensed at this time.

Atty. Corey asked for a brief recess to speak privately with his clients, and was granted a two minute interval to do so by the Chair. Mr. King asked if Mrs. Mullin would speak about the incident, and was told she would not provide testimony. The Town Administrator then asked the ACO for information on prior incidents involving Bella and Grizzly, suggesting that history of past issues might indicate to the Board whether the dogs are dangerous or nuisance animals. Atty. Corey objected to that information being introduced at the hearing, as other complaints were not mentioned in the public hearing notice; Mr. King said the history data was provided to Atty. Corey with the intention it would be raised at the hearing. Ms. Shufelt confirmed the Board already had seen all the information in the meeting package, and the further testimony by the ACO would be allowed; she declined to allow the attorney to continue arguing that the dogs’ history was irrelevant to this case.

Ms. Lambert detailed an incident on Dec. 8, 2018, when two retrievers running loose on Horseneck Beach were found to be the Mullins’ dogs; Alyssa Johnson had reported one had tag #0662, registered to 171 Cherry & Webb Lane; the result was a Jan. 6, 2019 citation for failure to restrain the dogs by an Assistant ACO. On Sept. 18, 2018, a notice of a possible animal bite was delivered to the Mullin residence on Cherry & Webb Lane, but the department could not ID an animal or confirm a bite. On Sept. 19, 2018 a resident reported four Golden Retrievers running loose and causing a nuisance, attacking her dog and a friend’s dog on that date, including a dog with tag #0606; a previous attack by the same dogs was also reported by same person. The report indicated the four dogs had been traced to 171-173 Cherry & Webb Lane, the Mullin residence; no citation was issued. On July 3, 2019, a dog attack by Golden Retrievers on Cherry & Webb Lane was reported by Blair Tatman; the owners (the Mullins family) denied the possibility that their dogs had been loose at the time. On Sept. 26, 2019, Tracy Champlin reported her dog attacked by three Golden Retrievers coming from 171 Cherry & Webb Lane property; she spoke to the owners about the dogs being loose and aggressive. The department issued a 10-day quarantine order, and a citation was issued for failure to restrain three dogs. The ACO indicated the family moved from Cherry & Webb Lane in the fall of 2019, and there had been no other complaints to Animal Control about the Mullin dogs since that time, until the April 12, 2021 incident.

Mr. Mullin was granted permission to address the Board, expressing his apologies to town officials for the complaint process, and to the Bird family for the pain and suffering by dog and owners. He said the previous incidents in 2018 and 2019 were caused by the new puppies (Bella and Grizzly) not being properly trained to respect the electric fence that restrained their parents; remedial action was attempted, and at the new residence, electric fences are successfully deployed by him and his neighbors, all dog owners. He indicated some lax supervision by family members resulted in other incidents, and in cases like the Champlin incident, he paid veterinary bills for injuries caused by his animals. He suggested the family has been attentive and responsible owners since the move, and had paid for a dog trainer to work with the two animals. He identified Grizzly as the dog that made the initial attack, and said the aggressive behavior was surprising; Bella was the animal on leash in the car that joined in the attack.

Mr. Brewer asked for a clarification of facts – was Mrs. Mullin bitten, since there is no report of treatment for a dog bite? And was she sure which dog had bitten her? Laura Mullin, 6 Stonybrook Court, Westport, was sworn by Mr. King and asked to relate her version of the April 12 incident. Mrs. Mullin indicated

Grizzly ran off to visit Molly while she was loading Bella into the car at the trailhead; after a few moments, the dogs began fighting. She said she yelled at Mr. Bird to “put him on a leash,” not a warning to be careful; then rushed to the scene to try to break up the fight. She secured Bella’s leash, but could not get Grizzly off Molly’s back; she was bitten and knocked to the ground; after 30 seconds or so, the fight ended. She said she secured her dogs in the car, and returned to the scene with a first aid kit to assist Molly. She said she does not believe one of her own dogs bit her, and denied making that statement to anyone; she also denied ever saying that Molly bit her. She said she walks two dogs almost daily, always on a leash, and she is capable of keeping them under control at all times with this rare exception. In response to questioning, she indicated the dogs weigh about 60 and 90 pounds, and can be a handful to control on a leash. Since the incident, she walks the dogs one at a time to keep better control. She also detailed the injuries to her hand and arm, described as clearly dog bites, and said she never sought medical attention for those injuries.

MOTION by XXXXXXXXX to close the public hearing. Seconded by XXXXXXXXX. The motion passed on a 4-0 roll call vote.

2. Other Business

Adjournment

MOTION by XXXXXXXXXXXX at 8:34 p.m. to adjourn the meeting. Seconded by XXXXXXXX. The vote was 4-0 in favor by roll call. Brewer, aye. Ouellette, aye. Shufelt, aye. Boxler, aye.

Respectfully submitted,

Robert Barboza
Recording Clerk

APPROVED:

Richard Brewer, Clerk, Select Board Member