

BOARD OF SELECTMEN
SELECTMEN MEETING
TUESDAY, FEBRUARY 12, 2013 - 7:30 P.M.
GREAT HALL

Meeting came to order at 7:30 p.m. with Selectmen Troy E. Garron, Kim R. Roy and Michael J. Schleiff present.

The following business was discussed:

PLEDGE OF ALLEGIANCE

The Board as well as those attending tonight's meeting stood to recite the Pledge of Allegiance.

First most the Board wanted to extend their thanks to the CERT team, fire, police, public safety, public works, Gerry Elliot, Water Department, custodians at the elementary school, and all the volunteers who help out at the shelter for their help during the storm.

AGENDA

The Agenda for Tuesday, February 12th, was unanimously approved without revision.

SCHEDULED APPOINTMENTS

Patrol Officer Daniel Fitzgerald

Selectmen Roy wanted to formally invite Mr. Fitzgerald in to congratulate him on graduating from the police academy as well introduce him to the community. He started at the police department last week working the midnight to eight shift. Garron wanted to also congratulate him on completing the academy as it is a very tough thing to do. In closing Schleiff stated that the town will be happy to have him here keeping the community safe and stated that he is confident that he'll make us all proud.

MINUTES

Moved by Schleiff and seconded by Garron, the Board unanimously approved the following Selectmen Minutes:

- Regular Session – November 13, 2012
- Regular Session – January 8, 2013
- Executive Session – January 8, 2013
- Executive Session – January 22, 2013

AFFIRMED COMMITMENTS / WARRANTS / BILL

Moved by Schleiff and seconded by Garron, the Board unanimously affirmed approval for the payment of the following commitments, warrants and bill with the exception of Schleiff abstaining from the Police Department payroll in warrant #60:

Payroll Warrant	# 60	\$ 327,100.17
Vendor Warrant	# 61	\$ 29,384.85
Withholding Warrant	# 62	\$ 111,291.33
Vendor Warrant	# 63	\$ 355,643.78
Ambulance Commitment	# 12C	\$ 908.61
Ambulance Commitment	# 1B	\$ 18,489.56
Payable to : The Hartford		\$ 9,516.10

APPROVED COMMITMENTS AND WARRANTS

Moved by Schleiff and seconded by Garron, the Board unanimously approved payment of the following commitments and warrants with the exception of Schleiff abstaining from the Police Department payroll in warrant #64:

Payroll Warrant	# 64	\$ 324,530.43
Vendor Warrant	# 65	\$ 140,594.16
Withholding Warrant	# 66	\$ 126,409.50
Mobile Home Park Fee	# 02	\$ 5,160.00

Moved by Schleiff and seconded by Garron, the Board unanimously approved payment of the following Selectmen bills:

National Grid (service for concession stand).....	\$ 17.41
National Grid (service for Town Hall)	\$ 1,028.18
Brockton Hospital (111F claim/Bryant)	\$ 250.00
Attorney Lawrence P. Mayo (legal services/January)	\$ 2,100.00
RDC Comm., Inc. (2 mobile 2-way radios & adapters)	\$ 1,291.67
Gatehouse Media (legal ad/trailer permit/Dwyer)	\$ 176.64
Gatehouse Media (legal ad/Housing Rehab.)	\$ 41.25
Gatehouse Media (legal ad/surplus vehicles bids)	\$ 50.00
Michael Gilman (legal services/January)	\$ 832.50
Deutsch Williams Brooks (legal services/January)	\$ 286.20
Mass. Chiefs of Police Assoc. (ad/police chief job posting)	\$ 50.00
Jordan on the Job (exam/Schindler)	\$ 600.00

The Board acknowledged payment of the Selectmen Office Payroll for the periods ending:

January 26, 2013	FOR	\$ 5,988.02
February 9, 2013	FOR	\$ 5,988.02

GENERAL MAIL / DISCUSSIONSMonponstt Pond

Member from the Halifax Beach Association, Faith Paternak, had numerous questions regarding the alum treatment that is going to taking place on Monponsett Pond. Seelig has invited her to the meeting next Tuesday that we are having with Lycott Engineering and Brian Creedon as she can get information straight from them and the Board of Health and ask any questions she may have. Roy had asked if Seelig heard back from the Brockton Water Commissioners and he said he invited them but has not received confirmation back from them as to whether or not they will be coming.

Future Odie Situations

Seelig is suggesting that the board approve a policy for the rare times the town is in property possession of a dog. The ACO did send some comments and her feeling is that there is already a policy in place which is that dogs are to be adopted out through her business. Seelig was not aware that the board had adopted a policy and Roy stated that they did not. Roy explained that in the case of Odie our ACO, as an individual, took possession of Odie and adopted him out. She was working to get him into a husky rescue league and while waiting to do that another opportunity to have him adopted came about and therefore he was adopted. The policy should be that we are not in the adoption business but that the animal should go to adoption agency right away because Roy's concern is the liability even though she is our ACO she is still acting on a personal level as an adopter as a private individual.

A policy was given to the board a month ago for them to review. Roy has looked at it and thought that it was fine. In addition the ACO sent in her remarks, which have been given to the board also.

Garron did review it and stated if they were going to use any agency, as in the past, a contract was signed and if the ACO was going to do that as a private individual it should be looked at but he does not remember signing any agreement allowing any particular individual to adopt out dogs.

Roy is aware that she provides that service for other towns but does not know what the liability is for our town where she is the ACO and said that in this particular case it worked out fine. Seelig added that the dog is not hers but it is the property of the town through the Board of Selectmen and it cannot be her making the decision of transferring town ownership to her agency unless the board designates it in the policy that they are going to transfer ownership from the town to a particular agency.

Roy stated that in this case the dog found a home but it because the ACO had taken ownership of Odie but asked in the future how they want to handle this if it was to happen again. Schleiff felt that she should not be making that decision and that it should be made by the board. He suggested having the ACO come to Seelig and say that they have a place to put the dog and he in turn can ask the board.

Seelig's intention is to avoid waiting wait a week or two and said that there are a number of agencies in the area that you can call to see which one is open to accepting dogs from us and have an agreement in place stating that when we are in possession of a dog that we are transferring the dog to business X. This has not occur in a long time he just wants something in place so that they are not holding a dog for a period of time incurring expenses and the liability that comes with it. Schleiff would go along with that as long as the facility does not euthanize the dogs and finds homes for them.

Sgt. Broderick said that in the past the dogs have been transferred to a shelter in Plympton that they use for longer than overnight which is about 10 days then from there the dogs go to the MSPCA for adoption. This has been done a couple of times and has worked out pretty well, so there is a mechanism in place to handle this if it was to happen again. With that being said Schleiff suggested why not make that the policy.

Moved by Garron and seconded by Schleiff, the board unanimously voted to adopt the policy that has been written to establish a procedure that is already in place as a policy.

Carol Page – Resignation as COA Driver

The board acknowledged Ms. Page's resignation as a driver for the COA. Ms. Page has been a driver for nine years and the board expressed how thankful they were to have her for so many years and realize that this is an important job driving residents to and from places both physically and emotionally as well as a lot of caring involved.

Moved by Garron and seconded by Schleiff, the board unanimously voted to send a letter to Ms. Page thanking her for her dedication in serving the residents of Halifax.

Duffy Property – Plymouth Street

Seelig wanted to update the board on the Nessralla farm stand property. He has been told by the building inspector that the boundaries are have been redone on the property and approved by the Planning Board. The number of lots has not change it is more the lines. At this time Seelig does not know what the intention is but it may relate to the issue on the Duffy property. Seelig has outlined a couple of scenarios to the board of what might happen and asked if they wanted him to relay any issues that he has noted to conservation or anyone else. The board had no problem with Seelig giving them the heads up.

Peter Beals & Paul Weckbacher – Resignations from the Finance Committee

At this time Mr. Beals does not have the time to devote to the committee therefore needing to resign. Mr. Weckbacher is in the same position as work, over the past year, is consuming much of his time. Roy wanted to say that she has served with both of them when she was on the Finance Committee and appreciated working with them and that the town was lucky to have them both for as long as they did. It was mentioned that Mr. Beals may come back and serve on the Town

Government Study Committee. Schleiff mentioned that it is amazing what they cover and what you learn and asked the audience if anyone was interested on serving on committee or board to come forward.

Feral Cats

Resident Dawn Archibald wrote a letter to the board regarding the problem of feral cats in town asking the board to get more involved. Seelig asked for comments from the ACO, Board of Health and police and received one comment from Sgt. Broderick which stated he did not see a significant problem. Garron stated that there is a problem and at one time there was neutering available to the animals but does not know if this still going on because of lack of funds. Sgt. Broderick stated that they have traps available and if someone would like to do some trapping they can stop by the station and get one and added that first you would have to find the pockets of feral cats. Seelig provided the board a list of agencies throughout Massachusetts that provide spaying and neutering services at a low cost and Roy told the home audience to contact the office or check the town website for the list.

Roy wanted to acknowledge the town's head custodian, Gerry Elliot and thank him for all he does for the town. She stated that he was a great help this past weekend during the blizzard as he was over at the school at four in the morning helping with the heat along with running to various other buildings that required maintenance.

SCHEDULED APPOINTMENTS

Public Forum – Medical Marijuana Dispensaries

The following is a synopsis of what Seelig explained to the public. He began by saying ... There is a referendum required that the Massachusetts Department of Public Health approve regulations no later than May 1, 2013, this may or may not occur and if not done by May 1st he does not know what will happen as the law never stated how they would handle that situation. Another thing that is questionable is whether the state legislature will extend the deadline. He continued to say that the other part of the law is that there has to be at least one dispensary in every single county and no more than five and a maximum of thirty five across the state. Once regulations are in place the applicants will have to get a license from the Department of Public Health but then will have to go through each city or town. Therefore it will be up to each city or town as to whether they will allow them and if so where they will be allowed. Lots of town's by-laws have been written some time ago not knowing that marijuana dispensaries will be allowed later on in time. Our town's by-laws are very general therefore there is a much broader range of where a dispensary could be located. Under our present zoning by-law a dispensary would be considered to be a *retail store* and allowed in the commercial/business district without a special permit through the ZBA but a site plan may be required through the Planning Board. They also will be allowed in the industrial zone but a special permit would be required and may or may not need a site plan approval. If the regulations go into effect there will be a *window of opportunity* for an applicant to apply for the necessary permit between May 1st and the town's annual town meeting on May 13th. If this was to happen

they would be grandfathered in the window and a business could be established. The town has a few options:

- hold a special town meeting by May 1st.
- do not make any changes to the by-law
- have a temporary moratorium on dispensaries. That will allow the town to make any changes once the regulations are approved but not allow an applicant to start one before the town has sufficient time to decide whether to allow them.
- enact a permanent moratorium and not allow them in any district
- Allow the dispensaries in certain districts with certain stipulations. However an applicant can ask for a variance for that stipulation. Not saying that the variance will be granted but they can come in and request it.

Seelig explained that a by-law change would need a two thirds vote and this would be done by paper ballot to ensure confidentiality. If there is only one by-law change on the warrant and it does not pass then it reverts back to the current by-law. Therefore Seelig suggests having a couple of articles on the warrant to revert back to or we could wait until May 13th at our ATM and do it all then but reminded the public that we have that window of between May 1st and May 13th where someone can come in and apply for a permit.

If a STM is scheduled it will cost several thousand dollars to hold it. Having one is doable and we have about six weeks to schedule it hence a decision will need to be made by the board sometime this month as to whether one will be held. So the idea of this public forum was to have any residents come forward with any comments or questions to determine whether a STM is necessary and if they want the by-laws changed.

Roy then wanted to let the audience know that she attend a Mass Municipal workshop on the subject of marijuana dispensaries. She said that Massachusetts Public Health is going to hold three hearings and their charge is to develop a framework for (a) cultivation storage of marijuana treatment centers; (b) application forms and registration cards application fees; (c) quantity of marijuana that could be reasonably presumed to be a sixty day supply and (d) Inspection approach for treatment centers and denial procedures. She is concerned about the quantity of marijuana that could be presumed as a sixty day supply and said that they don't know what that amount could be. She continued to say that they have found that people who actually have the prescriptions only two percent actually have cancer and of those people about seventy five percent are between the ages of twenty one and thirty so there is some concern of the actual need. She added that because this is still illegal on the federal level this can only be a cash business and would be a non profit business. At this meeting there was a presentation with a police officer and his concerns were store being robbed and what is actually a dosage. Again she stated we go back to what does a sixty day supply look like, is it a pound; can someone can get pulled over and have marijuana on them without having the prescription on them and can say this is medical marijuana? There is a lot of things that he Department of Health needs to work out and stated that there are concerns about that using this at a younger age then one would normally use it for medical reasons. So there are a host of issues besides the legal ones that they

need to think about. Schleiff brought up the point when oxy came out places were getting robbed left and right.

Roy stated more concerns:

- promotes loitering
- people may be smoking it on the way out of the store after purchasing it
- having a prescription and having so much pot then feeding it to the dealers
- smoking pot while driving
- the strain on our police officers.

Schleiff questioned if there was detection of ones impairment while under the influence of marijuana. Sgt. Broderick was in the audience and stated that he is not aware of anything that is accepted by the court system. Schleiff wants to remain open until we get more information as there is not enough to make an educated decision whether to have or not have or located in one location and not another. Roy stated that it was passed and now they have to go back and work on the regulations.

Garron thinks that it still will be on the street and agrees that if an officer stops someone it is going to be hard to detect. At this time some can be caught with less than an ounce and not be arrested. He personally thinks that at this point in time we should not allow it in Halifax and if you open it here you may bring elements to town that you may not want. Roy stated the problem that we have is at least with alcohol there is legal age to drink and there is not that with this marijuana this concerns her as a mother stating that it is okay to walk down the street with marijuana because it is legal but having alcohol under age you can get arrested. Garron could not disagree with her but if it is on the ballot he thinks it will pass because it was put on the November ballot and the majority of the people voted for it. In response to this Schleiff said that if the residents were informed of the pros and cons and what can happen to a community there might have been different result in November as they supported the law but did not know the ramifications and Roy agreed.

At this time the board opened it up to the public.

Susan Basile

Ms. Basile asked Sgt. Broderick his view and wanted to know if it was going to impact the police. His answer to that was yes as it will change the ways they do things in the department as new regulations will need to be put in place. There will be confliction in the law between the new marijuana dispensaries and what is in place now. There are a lot of things that need to be discussed and figured out in general. There definitely will be in impact for the department and the town. He said that they can wait and see what the departments come out with regarding regulations and then figure out how they will deal with those regulations and what further impact it is going to have. At this time they do not know what they are capable of doing. For example if someone is caught with marijuana do they let them walk because they might have a prescription or issue a citation? Garron asked what doctors will be able to prescribe this and Broderick said he is presuming that this is going to be written by licensed medical doctor then that bring up another question what kind of licensing do you need for juvenile prescription and the at what age can one have a prescription. Roy asked even if there isn't a

dispensary in the town the police department will have to deal with it and Sgt. Broderick said that is correct. This will be another business in town that they will need to keep an eye on and deal with any problems and issues that may come with it. Garron stated that he would have felt better if the law stated only drug store or pharmaceutical people could dispense it and it bothers him that any person can open a business and sell this. Roy brought up the point that a place like CVS cannot sell it because it is for profit organization and this is not legalized through the federal government. Again Broderick stated that there is difficulty in enforcement of operating under the drugs law as this has always been an issue for them. Basile wanted to say personally she would like to see a permanent moratorium in Halifax and stated that if there are going to be thirty five dispensaries in the Commonwealth and Plymouth County can have up to five let another town open one we do not need one here. She added that we need to get as much information out to the residents so that they know the pros and cons.

Paul Delaney

Mr. Delaney asked if they would need a Special town Meeting for a temporary moratorium and Seelig said yes because any change in the by-law requires a STM. Delaney said that we should look into that until we get guidance as to what the regulations are going to be because if someone comes in and fills out a permit and if the location they are looking at meets the states laws then we are up the creek with out a paddle. Another question he asked was would any of these moratoriums stand up under the law. Seelig said that town council believes that the moratorium will stand the test because there is nothing that says in terms of zoning that a business is a legal use you have to allow it in the community. Previously we have had to allow adult paraphernalia shops here in Halifax as it is a first amendment right but smoking marijuana is not a first amendment right therefore we do not have to allow the sale of it here in Halifax.

Barbara Gaynor (speaking as a private citizen and not as the Town Clerk)

Ms. Gaynor said that that even though it was overwhelmingly voted for by the residents of Halifax she thinks that they did not realize that a dispensary could be down the center at one of the strip shops. They may have thought that it is great thing for people who need it and she is not questioning that there are people that do need this for medical reasons but it really could be "in our backyard." Roy added that yes they probably did not realize that it is a cash transaction, that it is grown on sight and not shipped in and it could be located in the center of town.

Garron stated that having been a former police officer marijuana in the communities where he used to work was worse than alcohol as it was cheap to get so a lot of people were involved in it and said that there is no certain way of testing an individual who in under the influence of it. At this time need to change the by-laws so that we can have some control of what is going on and he personally does not want it in town. Parents don't need this added issue while raising their kids and agreed that it will put a strain on our law enforcement.

Tom Millias

Mr. Millias started by saying that his first thought was that Plymouth County is a very big county and that it would be relatively remote that someone would want a dispensary here in Halifax but after giving it some thought seeing as we are the "Heart of Plymouth County" it may be a central location. He continued to say that seeing as there are so many unanswered questions the town should at least be looking at a temporary moratorium until the state comes back with some kind of guidelines and added that he was never in favor of having it to begin with.

Garron wanted to clarify that make they are not saying that they are banning marijuana for those needing it for medical use but we do not know if someone is stopped on the road or if someone has it in their possession that it in fact for medical purpose.

Tom Millias

He said that he found the concept of non profit was hard to grasp because who would do this without making a profit and not get paid for doing this as there will be expense that will incurred.

Roy stated that there are a lot of arguments that can be made another one being that using this at a young age you brain is still developing. She also suggested putting an age requirements on it so that if a youth is caught with it they have the same or somewhat the same punishment if they were caught with alcohol. She does not think they can do that within our town but it is something people need to think about.

Schleiff thought a temporary moratorium (1 year) would be the fair thing to do as it will give us a year to get information and the voters can get all the facts then follow up at the following town meeting.

Carol Elliot

Ms. Elliot began by saying that whether we agree with it or not there are a certain percentage of people here in town who have degenerative diseases and cancers who are in pain and are prescribed to take marijuana for medical use. She is a nurse and has been in homes where there is marijuana and has not seen it being abused and was a help for them and feels if these people are using it under doctors orders there is a reason for it. Instead of taking oxy, which may be mind changing for these people, they are using marijuana which is lessening the pain for them. These are the people we should be concerned about. She does agree that the younger crowd could get hooked but the people she is for are the people who actually benefit from it because as we get older people suffer from pain that just won't go away and this helps relieve it for those individuals and they are not the ones going out driving they just want to live day to day without the pain. No she does not want to a dispensary next to Subway but she thinks that this is a way to make it happen for those who really need it.

Paul Delaney

Stated that he thinks they should look into having a temporary moratorium until they get guidance from the Department of Public Health and look at it at a regular town meeting.

Susan Basile

Asked do we have to have dispensary here in Halifax? If there are people already using marijuana for medical purposes they must be getting it from somewhere so let them get it somewhere else. She agreed that they need to get the information out to the people and asked why aren't all those people who voted for it in November here tonight.

Carol Elliot

Said that it is delivered by the mailman.

Schleiff stated that if the marijuana was a prescription then people would not be paying as much for it seeing as health insurance will be paying for it. Mr. Delaney did not think insurance companies will cover it because it is a controlled substance. Roy thinks that he is right because it is a cash transaction and Mr. Delaney said that he does not think any bank would be will to deal with this.

Roy asked if anyone else had any other comments. There were none.

Seelig said if the board wanted to have a special town meeting the next step would be to:

- draft possible amendments and submit to the to Planning Board for them to review and make any recommendation and then
- decided when they would hold the STM. Need to talk with the town Clerk in term of coordinating registration sessions and check to see if the school is available.

He said this is doable and mentioned that this can take place within four to six weeks as long as things are lined up, which would be late March early April.

Paul Delaney

He stated that this needs to be done before our Annual Town Meeting because coming from a business man point he would have the permit application in right on May 1st as he then would be grandfathered in.

Tom Millias

Stated that he was stuck by talk of STM in late April and seeing as ATM is May 13th and said seeing as they are only talking about a couple of weeks take a chance and wait till the ATM. Roy did not know if that was a good idea because if they took that chance and someone comes in we have no control of where the dispensary would be. He understood that but today is February 12th by April 30th if anyone was going to come in they would have done so already. Roy thinks that for someone that wants it this will be a window for them to pursue it. Millias then stated that the window is now and the board clarified that the window starts on May 1st and that our ATM is on May 13th this is a two week window where someone can come in uncontested and without any real stipulations.

Bert Gaynor

Mr. Gaynor thought that it was part of the by-laws or the zoning laws act for the State of Massachusetts that if a dispensary, as far as the window goes, would be a separate and specific definition of a dispensaries as a use under. So under our by-laws he believes it says if the use is not specifically numerated its deemed prohibited.

Seelig asked what stores that are retail store are not retail stores. For example pharmacy, grocery, hardware bookstores etc all are not on the list but they are allowed because they are a retail store and when they wrote the by-laws in the sixties it was not specified. Roy stated that there is nothing in place in our current by-laws that will regulate where it would be.

Schleiff said he first was thinking more along the lines of Millias and hold our breath that no one comes forward within those three weeks we could save on the expense part of it but after giving it some thought and felt that they should act on it now. Mr. Delaney thought the same because they do have that window of opportunity. Millias stated that he was under the impression that they were able to come in now and submit an application for a permit not that it was May 1st.

In closing Seelig asked the home audience to come forward with any questions or suggestions they may have.

GENERAL MAIL / DISCUSSIONS (CONTINUED)

Community Signs

The community sign located at Rt. 106 & 58 is not usable as the plexiglass is totally broken. In addition, because Gerry is shot of staff, the M&SBC will only be changing the signs on Mondays. Roy wanted to update the board and the audience on the new community sign stating that it arrived on this past Friday but it is not up to the ramifications the town wanted therefore it has been sent back to be changed.

Legal Ad – Dwyer

Tamara Dwyer has been sent a letter requesting for payment of the legal ad in conjunction with her trailer permit. As of today the office has not received payment. Seelig asked the board what would they like to do and Roy suggested sending a reminder letter.

Dispatch Regionalization

A letter has been sent form the Town of Plympton stating that they will work with the Town of Halifax to study the possibility of a regional PSAP or regional emergency communications center. Also there will be a presentation of numbers from Plympton at the Communications Committee meeting tomorrow.

Chapter 90 Project Request – Walnut, Cherry & Pine Street

Moved by Garron and seconded by Schleiff, the board voted for the Chair, Kim Roy, to sign on behalf of the board the Chapter 90 Project Request for repairs on Walnut, Cherry and Pine Street.

Veterans' Benefits

The town has been notified by the MA Department of Veterans' Services that we are in arrears in certification of benefits. This matter has been resolved by the Treasurer-Collector.

MMA Breakfast Meeting

Seelig wanted to let the board know that there will be two MMA meetings, one on March 1st in Hingham and the other on March 15th in Westport. If any of the board members would like to attend they will need to RSVP.

Lunch Truck – Carver St. – Brian & Irene Alden

Brian and Irene Alden would like to have a lunch truck on their property for about six months. Their property is located on Carver St. across from the Mobil Station. Garron asked if the Highway Department has been notified as he is concerned with the traffic because there is two gas stations and their property all located on the same corner. Seelig said that they have gotten the necessary approvals and Tom Millias, who was in the audience, stated that it has already been cleared through the Planning Board. Seelig will send a letter to ZBA asking them to outline the traffic at the location and have them check with public safety and public works for their input.

Damage to Fire Vehicles from Storm

Chief Carrico wanted to inform the board that there has been light damage to the chief's vehicle and Ambulance 1 related to the storm. Also for manning the station and response to one hundred twenty calls they are over \$10,000 in payroll for the storm and stated that this figure will go as they need to still shovel out hydrants.

COA Building

Seelig is recommending that the board invite all interested parties (COA, M&SBC, Building Inspector, Finance Committee, Housing Authority) to come in to review all the possibilities that have been mentioned for a new COA building (Armands, pre-fab on property on Thompson St., fix existing building, Waterman property). Schleiff stated that last time this was on the table they were working on it so the board never asked them to come in. Roy's thoughts were that we should have a discussion with them whether they are ready or not seeing as it is a large project and asked Schleiff and Garron if they should wait and have M&SBC take the initiative and ask to meet with the board or should they ask them to come in. Garron said that he would like them to come in to explain what they want to do and that we (BOS) are just trying to get information. Roy went on to say that at one of the Capital Planning meetings John Campbell did say that they were looking into something and she would like them to come in just to have an idea what they are looking at because typically they would have come to us and talk about it. Garron added that there is nothing wrong with being informed. Schleiff said that if they are not ready to come in he does not want to force them. Seelig is going to see if M&SBC is available to come in on February 26th.

SCHEDULED APPOINTMENTS (CONTINUED)

Jennifer (Bobbi) Harmon - Choate - Dog Hearing

At 9:00 p.m., in accordance with MGL Chapter 140, Section 157, Roy opened a hearing to address a complaint that dogs owned by Jennifer (Bobbi) Harmon - Choate and housed at 7 Plymouth Street are creating a nuisance by excessive barking. The hearing was held at the request of the complainant, Scott Clawson.

The following individuals were present and sworn in by Notary Public, Pamela McSherry:

Jennifer Choate	7 Plymouth Street
Scott Clawson	21 Plymouth Street
Annie Brown	Animal Control Officer

Roy: Thank you for both being here today and Annie for being here.

Clawson: Thank you for having us.

Roy:

I would like to start with Mr. Clawson could you please give us a statement of why you are here today.

Clawson:

Well it is a continuation of the time I met with you before, maybe several years ago. The dog barking is continuous it is every day seven days a week. Sometimes it starts at five in the morning and going till ten o'clock at night. It's not all the time they may bark for a half hour, stop for a half hour an hour start up again. A lot of the times in the middle of the day they're quiet for maybe an hour at the very most. It's very, very loud. It's been horrendous to live there.

Roy: I

Clawson: I've lived there for thirty years now.

Roy: Um hum.

Clawson:

And the last three years have been its just been horrendous. I don't enjoy the property anymore. I have a hundred acres sit there I go out back I can hear them all the way out back. Going back of my house you can hear them in the back of the house and it's quite a ways away. The boarders in the barn um they come there to enjoy their horses to ride on a farm and they no longer do that anymore. They don't, it's just the dog barking is just continuous it's its non stop its not just one it sometimes screeching, howling of dogs. I brought some DVDs of a months worth of video taping with a decibel meter and I thought we'd have a DVD player. I thought we were going to be downstairs.

Roy:

I don't know if we can have that as evidence if it was not um previously agreed upon to be video taped. I think that may be a law I'm not quite certain, the officers just left so.

Schleiff: At least neutral, you know neutral party I'm thinking, it's certainly.

Clawson: Video taping on my land okay of sounds with a decibel meter.

Roy: Okay

Clawson: I don't think there is any law against it. I've checked with the lawyers.

Roy: Okay your copy okay.

Clawson: It's on my land.

Schleiff: Because as evidence I'm saying as you know certified evidence.

Clawson:

Well theres a month worth of recording. We put a short ten minute clip of different days that you can watch and then there's another forty one minutes on top of that and I have another twenty six hours on top of that.

Roy: Okay

Clawson:

Um I can give you these and you review them at your at your time. I actually have two copies here (attached hereto as Exhibit A and made an official part of these Minutes).

Roy: Oh you have okay thank you.

Clawson:

Um if you want to review them. I'm hoping you'll review them just to get an idea.

Roy: Yes

Clawson:

What the sound is. It continues if it was a short time in December right after Christmas I think when Bobbi got the letter from the Selectmen and myself um and the dog officer. There was short time they were quiet for almost two weeks. It was pleasant. But then it started up just recently again. It just up until even today. I have on my cell phone yesterday the day before, um if you'd like to hear that I can play it for you from my cell phone.

Roy: Is that appropriate?

Garron: Your call.

Roy: That's fine.

Schleiff: (shaked his head no)

Roy: No

Schleiff: Not my self.

Mr. Clawson then played the recording from his cell phone.

Roy: Okay

Schleiff: Does that sound familiar?

Choate: Thats cuz he's in their space

Roy: I was just gonna say ...

Choate:

He's at their at their kennel behind the barn that's what they do they are protecting us.

Clawson:

Ah this is the day before a little further away (played barking on his cell phone).

Schleiff: What hour was that?

Choate: I'll agree that they're gonna they are gonna bark

Clawson: Um

Roy: That's a little further away.

Choate: Yup

Clawson:

It doesn't give me the time on this. On the on the video tape they have times and dates on all of them.

Schleiff: I mean that's daylight hours whatever daylight hours are.

Choate:

I mean that's ah somebodies here they'll do that if you walk out there without me yeah sure and then when they screech it's cuz their bark collars that they wear zap them they electrically shock them.

Roy: Okay

Clawson:

And when that happens it sounds like someone is killing the dogs over there.

Choate: They screech. When that when someone is in their space.

Clawson:

It's horrendous. The boarders my boarders at the barn are horrified by those sounds.

Choate: It is horrible I agree.

Clawson:

Little kids are horrified it sounds like someone is killing dogs over there.

Roy: Okay

Choate:

This is my means to try and make things easier between us. I'll I can't (in audible).

Roy:

I'll ask for your testimony in a minute I am not fished with Mr. Clawson if you don't mind.

Roy: So Mr. Clawson you came before the board about two and half years ago.

Clawson: Uh hum.

Roy:

I believe was the last time you came before us to talk to us about the excessive barking of the dogs and I noticed in the police report that you stated that it had not stopped that the behavior continued that the barking continued and that you just stopped calling because you didn't want to bother the dispatchers.

Clawson:

Well that's a double harassment from me you want me to call and I did call if you look back at that time almost daily and ya know the dispatcher actually told me we just we can't do anything about it and so I did stop calling yes.

Roy: Okay

Clawson:

I mean I'm being harassed by the dogs, now I'm supposed to call and nothings getting done.

Schleiff:

Some of their reports from the officers is they weren't hearing any at some of their calls so I mean that's what I got out of the last meeting. Certainly there were times when there was barking and certainly there were times when they got there I don't know how quickly they got there they had subsided or not.

Clawson: It's very difficult unless your there for like an hour.

Schleiff:

But it wasn't wasn't all the time then. My thought, my indication was am I, am I interrupting.

Roy: No

Schleiff:

Was that it sounded like from what we started hearing in the past month that it was a little better. It had been a little better.

Clawson: It had when ah ...

Schleiff: The hours weren't as ... you know, they were ...

Clawson:

There was a two week period there right after Christmas that they were dead quiet. Just two weeks.

Schleiff:

But I mean the hours weren't as much as four or five in the morning they were more closer to six seven and they weren't as late nine ten eleven at night they were probably not as late up to you know the area of, the time of sound from the barking had lessened from the over all day from a twenty four hour day to a sixteen hour day or a eighteen hour day or ...

Clawson:

I think as it gets darker, there's more darkness, that they're probably not as prevalent to bark late night although there has been times in the summer that they're barking ten o'clock eleven o'clock at night sometimes all night.

Schleiff:

Um would you agree that in the winter time with all the foliage down its more apparent noise?

Clawson: No not at all.

Schleiff: I mean

Clawson: Foliage does not help out.

Schleiff: I hear the train more in the winter time then I hear it in summer time.

Clawson: Ya

Schleiff: Cuz of the ...

Clawson:

The foliage I wouldn't believe doesn't no I mean putting up the berm when I put the berm up I don't believe that helped. I thought it would. It didn't help at all. I'm actually planting pine trees on top of there to try and create more foliage. It still hasn't helped. I can hear that noise through my house in the back of my yard with all kinds of foliage there and it still it's just very very loud. There's no sound proofing what so ever in those kennels.

Roy: Charlie

Clawson:

And there's two sets of kennels on both sides in one corner of my property and the other corner of my property. There's two sets of kennels with ya know thirty dogs in it.

Roy: Charlie, Mr. Clawson has video taped from his property

Seelig: Ah hum.

Roy:

The noise and at different times. Is this something that can be submitted as evidence?

Seelig: Yeah

Roy:

Okay okay I just wanted to make sure. Um I think at this time I'm gonna before I get to you Mrs. Harmon.

Choate: Ah hum sure.

Roy: I'm going to go to our animal control officer for her statement please.

Brown:

Okay. I submitted a letter to you guys that I updated a couple of weeks ago I haven't been out to either property in the past two weeks. Um but prior to that I had visited on a couple of different occasions and you can definitely hear the barking. Um and and Bobbi I'm sorry.

Choate: That's all right.

Brown:

Bobbi and I have discussed especially when it comes to spring time to creating more soundproofing, natural soundproofing and things like that but you can hear it travel through his property. I have been on different sections of the property and you can definitely hear it travel through the property. It's a dis... German Shepards have a distinct bark that's meant to travel so unfortunately I think that that's the problem. Um Bobbi has been great about ya know discussing things and being very open to making this a better situation um so I think that um that's why we're here just to put something ya know a little bit firm so we ah can make things better between the two properties.

Roy: Bobbi would you like to have your statement now.

Choate:

I'm doing the best I can. I mean I will tell you dogs will bark if you infringe on their space. Um I'm an open business they come out and meet and greet they're friendly they're happy if they're not being visible, if someone is making a noise behind the berm which is right at their kennels absolutely without a doubt they're gonna bark without a doubt. That's dog nature I would expect them to do that what then happens they do get an electric shock from the collar they yelp it hurts. They're pretty loyal they'll keep barking telling me theres an intruder. Um I disagree that its non-stop, completely disagree with that. Um I can tell you that over the summer I don't know when the DVDs are, I can tell you that I had a death in the family I spent a lot time in New Hampshire. I have a house I had a funeral three generations of things. May in fact did the girls and everybody chip in to try and help not have the collars tight enough did they get left out on occasion that could be and Mr. Clawson might be absolutely right. I don't want to impose anything on you (directed at M. Clawson) I really truly I've got fencing I've got stockade I'm trying the best I can. Um as far as being out at night I've been putting them in as early as four thirty, five o'clock. I'm cleaning up poop in crates cuz they can't hold it till eight o'clock the next morning even nine. And I'll swear on it there is no video tape in the world that can tell you that those dogs aren't in by four thirty or five o'clock at night and out late in the morning and me with my bags cleaning up poopy newspapers cuz they can't physically hold long enough to try to make things better between us as ... I don't want to hear barking I live there I certainly don't want to impose it on anyone around me.

Roy:

Oh absolutely, I would not want to have to listen to that myself to be honest with you.

Choate:

Absolutely not. I'll own everything that do. You can come anyone, any individual.

Roy: I don't need to.

Choate:

Anytime. I got nothing to hide. If you walk out there without me they'll bark I come behind you I say hey they're going to go (made a gesture with hands like that's it). Do they can they run loose with me and not make a peek absolutely but when theres noises they can't see who what where they're gonna bark.

Choate:

I'd be willing to agree to have them guaranteed in by a certain time, not out before a certain time anything that I can do.

Brown: I have a couple of suggestions.

Choate:

I did um put a radio out which Annie suggested, that kind of keep their mind but ..

Roy:

Do you suspect that's why they've been good for two weeks? What have what have you done different?

Choate:

I mean don't have anyone that comes and does the dogs, I'm home so I have personally been doing them.

Roy: For the last two weeks so for the last.

Choate:

Oh no no now its been months far longer than two weeks. All collars are tight as I said in early out late its been far longer than two weeks though.

Schleiff:

Now ACO went, had mentioned last time I think about some soundproofing you were thinking of doing. What were planning on doing in addition to what you've done?

Choate:

Annie has had some suggestions none of which I really feel that I should have to do. Mr. Clawson has cut down trees that were barriers.

Roy: Okay, lets ask Annie again what are your suggestions Annie.

Annie:

Um for sound barrier um there's, from the first time I went out there to this last time it's definitely less foliage out there and theres less of an natural barrier between the two, um so my suggestion was probably arborvitaes or something leafy and heavy um cedar like for dogs that are allergic to it um you know something leafy and heavy thats gonna um help to trap that um as a natural barrier um she's moved her dogs around.

Choate: Yup, there is.

Brown:

And um and I think that was part of the original issue that dogs dogs get bored very easily um so I think that played a part into what was going on with things. Um soundproofing as far as her kennel itself, the outside kennels I'm not sure what unless you do a professional soundproofing type of situation I'm not sure that something can soundproof one hundred percent the outdoor kennels but putting up some natural some natural separation between the two properties is definitely something I would, I would suggest for sure.

Roy: Troy have you, do you have any questions?

Garron:

I've, I've mulled over this first time you came before the board I think everybody has a right to have a peace of mind and privacy if it comes to that but I can't as an individual think of any way short of (inaudible) for dogs to stop barking. I'm not saying that it's not a nuisance to you I'm just saying I'm trying to figure in my mind what this board can do to give you relief. That where I am right now I mean its obviously there is a problem it may, maybe intense as you say not quite as intense but there is a problem its bothering you and that why you are here so and honestly believe she has done everything that she can at least I hope she has I don't know a fact cuz I haven't been down there of late so I don't know what's been going on for the last two years, the barking but I mean theres not a question I can ask but what do you feel you can do other than what you've already done if there was a period of quiet time what were you doing to have the dogs that they weren't barking as much.

Choate:

I, I don't believe there was a period that ever that they've incessantly barked so.

Garron: No I'm not saying.

Choate: Oh

Garron: That excess, I'm not admitting to the fact I don't know exactly

Choate: Well I have.

Garron:

What I'm saying, he had said there was a period of time the dogs were quiet weren't as noisy as, as they had been. I'm just curious to is there anything different that you did.

Choate: Ya

Garron: That may have affected that.

Choate:

Other than sometimes in the summer that I wasn't there so may absolutely I fact I don't know I wasn't I don't know but I do know that um they have come at this various people that have helped me while I was out of town um could have not put the collars on tight enough they also could have been left out at night so I'm not, that could be.

Roy: When were you back in town?

Choate: I just been sporadically in and out um from the end of June.

Roy: And then okay so you have been back for how long?

Choate:

Oh I've been I mean I've been here the whole entire time although I had to go for arrangements and back and forth during ...

Roy: Right so when did that happen when was the arrangements?

Choate: Oh that was the end of June.

Roy: Okay

Choate:

There was a passing, but it's been an ongoing project of three generations of things.

Roy: Okay

Choate:

Auctions and auctioneers and personal stuff there. Weekends during the week.

Roy: Okay

Choate: A night here random.

Roy: So your still ...

Choate: I'm still

Roy: Okay

Choate:

Going through it all. Although I have someone who will put them in at four thirty, five o'clock to insure that we're trying to keep, I can guarantee that there's peace.

Roy: I've noticed.

Choate: I know there's not from, it's been four thirty five o'clock six at the latest.

Roy: Okay we've already talked about.

Choate: Until eight nine ten even in the morning.

Roy:

Okay. Now according to your Zoning Board of Appeals permit you are allowed to have three litters allowed per year per breed. How many breeds do you have there?

Choate:

I have two breeds. I have the German Shepherds and then I have Pomeranians.

Roy: So you just do six litters a year.

Choate:

Or maybe more with the Shepherds less with the Pomeranians depending on their...

Schleiff: Supply and demand

Choate: The little ones aren't as easy to ah ...

Schleiff: Supply and demand maybe.

Choate: What's that?

Schleiff: Supply and demand maybe.

Choate: Right

Roy: So in addition to those you have twenty three adult dogs on ...

Choate: That is correct.

Roy: Okay. That's a lot of dogs

Brown: It is a lot of dogs but her permit allows those dogs so ...

Roy: Ya

Brown:

Um I I will speak to her conditions are impeccable. Her dogs are well mannered well tempered um she handles her dogs extremely well. Um I'm very confident in stating that the quality of care is completely there. So this isn't to me a management of, of care of the dogs so twenty three dogs in that respect the number it does to the average person that's a scary number.

Choate: Scary

Brown: But in kennel word that is not a scary number.

Choate: Ya

Brown:

In kennel world that is not a scary number. Um but she's not considered a commercial, like a like a boarding facility when you go for your permit they put hours on you. Um she doesn't have that listed in her permit. Um some permits go as far to say Monday through Friday the dogs are allowed out eight in the morning till five at night Saturday the hours are restricted Sunday no dogs go out other than to be, urinate defecate then they come back in. So the permitting the permitting um doesn't hold that she has a very loose permit um as far as that stuff goes.

Roy:

Is that something that we could ask the Board of Appeals to put in their, the next time.

Brown:

My suggestion would be whatever you guys come up with that those suggestions be sent to um the Zoning Board and discuss with the Zoning Board because that's a more permanent, this is just to discuss the barking that would be something and and Bobbi's amenable to it, so it not coming as a shock to her.

Roy: Um hum.

Brown: Um so I think that would be a suggestion.

Schleiff:

One thing I think that we should work on is more soundproofing some how to soundproof. I mean if you drive down the highways some of the neighborhoods you'll see sound barriers up to deflect sounds from the highway traffic. I think really we need to try look into doing something to try and minimize this a little more. Certainly is sounds like you're trying but it's not enough so what is the next step. I think what ACO had said maybe as we, maybe have zoning look at some ya know further usage of time, um come up with sort of sounding barrier there whether it be natural or otherwise certainly um that something we'd like to hear.

Choate:

And I'm certainly willing to entertain that. I do have a couple of reservations. In that um I tried to accommodate Mr. Clawson by moving all of my kennels from one side of the property to the other. I came over this would be perfect this would be better. I moved everything. That's obviously not working.

Schleiff: Well we I, we know that you're trying.

Choate: Right

Schleiff: Trying to do it apparently.

Choate:

And then I agreed that trees foliage we don't have it, it is what it is I agree um we can't do anything about that now but I don't know where does the responsibility lie at Mr. Clawson cut down um trees full grown mature trees to plant saplings. Like I, I don't ...

Schleiff: I mean it's within his property he's ya ya he can do that

Choate:

Oh sure but I'm just saying where's the financial responsibility fall that's all I'm saying can we ... again I don't want to disrupt the neighborhood but I do also have a problem with, that no one else on the other part of me is having the same complaint.

Schleiff: Well, there's some people more sensitive to certain sounds and noises and stuff.

Choate: Ah hum sure.

Schleiff:

Um and ya know and the same event when there's shows next door you might be some sensitive to some of those

Choate:

Well I didn't want to get into that part of it but I try to just he has a business and he needs to do business. I have a business and I need to do business.

Schleiff: Sensitive to those I mean some ya.

Schleiff:

I mean there's some days things bother me and other days I don't even notice them. I mean I got two dogs across the street they see a squirrel they yap yap yap for twenty minutes.

Choate: Right um hum.

Roy: But we're ...

Schleiff:

But sometimes ya know sometimes it bothers ya and sometimes it don't. Sometimes you can tolerate it and sometimes you just wanna go and ...ya know you can't say that anymore.

Choate: I respect and understand that I don't was to listen to it either.

Roy:

And what we have now is we have an Animal control officer that has been to the property and has heard the barking.

Choate: Um hum.

Roy: And so I ...

Choate:

Ironically actually Annie showed up the day that the dogs had sores on their necks from their collars because of the excessive amount of trucks bringing dirt in and I said yup and not one single one has their collar on because their necks are all sore.

Schleiff: But certainly um.

Choate: So

Schleiff: My point of view is if ...

Choate:

Come back again again and again that day was bad. They didn't have collars they did have collars they didn't have collars. They did bark when Annie pulled in and heard her car but they also cease and desisted their barking after alarming me that someone was on the property so.

Schleiff:

I look at it too as it is a business and and try to accommodate your surrounding's as best as you can.

Choate: Right sure absolutely.

Schleiff: If it was your personal it would be a little different but ...

Choate: Correct right.

Schleiff: Um if if it takes more.

Choate:

I, I don't know if you know this I stay home I'm a stay home mom I'm a stay home business do my dogs like I'm home. This isn't like I leave to go to work I don't hear what's going on I don't know what's going on I don't ...

Roy:

But you haven't been home since really June back and forth you haven't been consistently home.

Choate: Um

Roy: Since June.

Choate: Various times.

Roy: Right

Choate: I mean I've still had to maintain my business my customers.

Roy: Right

Choate: Son

Schleiff: Are you ...

Roy:

But in your owe testimony you have not been here permanently because that was part of what you had talked about that maybe they were a little louder because you weren't home.

Choate: It could have been sure.

Roy: Exactly so I just ...

Choate:

A lot of day trips overnight um maybe once since June was I gone more than one night.

Roy: Okay but back.

Choate: I might ...

Roy: Lets go back then.

Choate: Um hum.

Roy:

Your testimony before was that you felt they were out of control cause you had other people taking care of them and now you're saying that you were only away maybe one night since June.

Choate: No

Roy: What is it?

Choate: No. One night at a time since June.

Roy: At a time. Okay.

Choate:

No, no, no and I'm not saying they were out of control but they could... I wasn't there. Could they have been do I know if they were left they could have been left out and not put inside ... yes.

Roy: Okay

Choate: No. No more than one night at a time ...

Roy: Okay

Choate: Have I been off my property.

Roy: Okay

Choate: Except for once. I actually took the kids skiing.

Roy: Okay

Choate: So

Roy: No, but I had to question that because it was ...

Choate: Sure

Roy: Contrary to what you said.

Choate: Yup yup.

Roy: I do have somebody from the Zoning Board.

Choate: Um hum.

Roy:

I'll have to swear you in because you'll be having testimony at the hearing um Deb.

Tinkhem: Deb Tinkham

Roy: Could you please stand up.

Tinkhem: Sure

Roy: And raise your right hand.

The following individual was present and sworn in by Notary Public, Pamela McSherry:

Debra Tinkham

Tinkham:

I'm Deb Tinkham and I'm Chairman of the Zoning Board and this has been before us more than once and we had a couple board members that went down to Scott's property, never heard the dogs. We talked to the police officers involved I think most of them was Officer Briggs went down he never heard the dogs um we had the neighbors that are in front of Bobbi come down for this hearing they never heard the dogs. One neighbor didn't even know Bobbi had dogs back there. She knew she had the horses but not the dogs. So I'm not sure exactly what is going on here but when we went down yes they barked when we first arrived, um like Bobbi said when they came when she came out and greeted us the dogs stopped. Dogs are friendly they're well behaved place is immaculate I have pictures of the kennel if you want to see it but we um, ya know I don't know if it's the show horse the show trailers that go in or trailers that go in and out all the time removing the door and that kind of stuff. But I will say I think Bobbi has done everything that she's expected to and I don't know where the dogs are coming from because when, when couple of our members went down they were they were up close to the house they never heard anything.

Roy:

Okay and for the record I don't think any of us are questioning the conditions of your kennels we know you take good care of you dogs so I wanted to make that point.

Choate: I know I understand.

Brown:

If it makes a difference I've been both places on I've actually been in three places I've been on Scott's property on Bobbi's property and out in front. Out in front you don't hear significant amounts of barking that's totally absolutely right, um and but I've been also when Scott wasn't there I had to go to the back of the property and that's in direct line where there's no foliage I could hear the dogs back there the alert bark. So I'm not saying that, um I just I'm always in favor of the dogs. I don't want to but there is there is barking so ...

Schleiff:

Can I ask Debbie when was your board members out there? When were these you had asked talked to these patrol men?

Tinkham: The last permit um ...

Roy: February 12th.

Tinkham: Issued

Roy: I think

Roy: I have it here February 15th 2012.

Tinkham: Ya

Roy: And I think the next one is due ...

Tinkham: March

Roy: March 11th 2013.

Tinkham: Yup

Brown:

Um, the uh there are one two three four five complaints past this year um from Mr. Clawson um one was ah confirmed by a police officer so. I think, I think that if we can agree on times that the dogs should be let in and out. I think if we can agree on perhaps less dogs out during specific times of day um and I think if we can make a quiet day or make an attempt at a quiet day one day a week. I think that's, would be beneficial to both. Um ...

Roy: I feel terrible about these dogs being zapped I mean that's ...

Clawson: Do you mind if I speak?

Roy: Sure

Clawson:

Now, I've been there for thirty years almost thirty-two years at that farm and I've always enjoyed the property the last three years, to be candid, it's been nothing but holy you know what.

Roy:

Is that the beginning of you opening your kennel was that three years ago Bobbi or have you been a breeder longer than that?

Choate: No, I've been had dogs breeding some ...

Roy: You had Jack Russells.

Choate: Some twenty years since I've been there twenty years.

Clawson:

The dog barking unlike what Bobbi says has been on going and it's been and you'll listen to these tapes you listen to these video tapes you just listened to my cell phone. Its everyday, it's not what Bobbi tries to tell you that its not. It is every single day. I live there, I work there, I drive equipment. We're dealing with horses sounds we're very aware of and we're always ya know when your on a piece of equipment you have to listen to sounds and you have dogs barking its

very aggravating because you're always trying to listen to your equipment to find out to make sure it is running properly. Um, this for the last three years has really disrupted my mental health. I've hired two private investigators on this. I've spent a lot of money. I didn't do this because the dogs aren't barking, the dogs are barking. There's and I understand Bobbi tries to say that she has tried to do everything and I believe sometimes she does try but she makes a lot of money on these dogs they sell for fifteen hundred to two thousand dollars.

Bobbi: That's not true.

Clawson:

These dogs do. The German Shepherds are very very expensive. There's more than six litters of puppies a year. She has done zero for soundproofing, zero. There's no foliage out there and I'll tell you right now no foliage. I'll bet my farm on it that will stop the noise from coming through. The only thing that will stop the noise is if she puts a four or six inch foam barrier on top of these kennels all surrounding them. It's not a money expense it she ... it's probably a lot of money to do this but that's the only thing that's going to stop it. If she wants to continue to have these dog there that are gonna bark. She can have all the dogs she wants there it's the barking that matters to me. Its every day. I have people that come into that property and its embarrassing because of that ... the dogs next door. It's very embarrassing. I have a lot of important people that come there, its embarrassing to listen to that dog barking.

Garron:

Mr. Clawson have you have you got statements or anything from those people coming saying they had a problem ...

Clawson: I haven't asked for any.

Garron: On your property.

Clawson:

I can, I can get many statements yes. If you'd like I can bring them back to another hearing.

Garron:

I guess. Right now is, you say she says. Ya know, and I've heard what Annie had to say.

Clawson: Um hum.

Garron:

Dogs are gonna bark if you got twenty three dogs they're gonna bark I don't care and I don't know ...

Clawson: By design is (inaudible)

Garron: How and I don't know in fact that there any particular hour that you can tell a dog not to bark.

Clawson: Um hum.

Garron:

Okay if they're inside or outside they're gonna bark. I mean, when you got twenty three it's gonna be make some noise. But what concerns me is that did you in fact cut down trees during the time that she still owns these dogs.

Clawson:

No absolutely not. There was on one side of the berm, on the closest side to the road there were several trees taken down. On the back side there was no trees. That's where the majority of the noise comes from and the trees that were on the side that we're talking about your talking about there's this much sound barrier (made a gesture with his hands) that's how round, there was no foliage on them these trees. Not like Annie was saying an arborvitae.

Garron: I ...

Clawson: There's no foliage on them.

Roy: Was it a pine?

Clawson: There's been zero soundproofing and that's in her permit.

Garron: But, I can, I can ...

Clawson: She was supposed to do some soundproofing and there's been zero.

Garron:

Been to both of your properties at one time or another and you're in a concave like you got trees all surrounding you on either side.

Clawson: Right

Garron: If I'm right and your neighbors are here ...

Clawson: Um hum

Garron: That creates a loud sound just the echo itself.

Clawson: Right

Garron:

Because you're closed in it's like being in an enclosed room so that's what happens. Now I don't know whether that, the foam will do it or not, as I said earlier I don't know how to resolve this barking short of saying you can't have dogs anymore and you can't have horses anymore and you gotta just move away from each other. I'm serious, and I'm serious about it cause I take this serious because I love animals, I have dogs I've had dogs, cats, horses, I've had a bull, and, but one of the things that we said animals come secondary to human beings. I don't care whether they're horses, dogs or whatever at all, people buy a piece of property they want to be able to enjoy that without having (inaudible) responsibilities and being disturbed. So I don't know how to settle this, this issue maybe my other board members might.

Roy: Well I actually ...

Garron:

The Zoning committee had said they had gone down on those dates they went down, they didn't hear any barking. The last time we had this hearing we had several police officers say they went down there at certain times and didn't hear any, any period of barking. So its gotta be a period of time somewhere where the dogs aren't barking whether they're put away at night or whatever but.

Roy: Can I.

Garron:

When you say they continually barking that's to me that's twenty four seven. Ya know.

Clawson: I didn't say twenty four seven.

Garron: Well

Clawson: But you know, what I said.

Garron:

I'm just saying when I hear somebody say continually barking that's twenty four seven. Continuous means non stop.

Clawson:

Okay and I also said there was an hour in between sometimes that's what I also said.

Roy:

I just have a question, a breeding question I'm not familiar with breeders but ...

Choate: Sure

Roy: If you're only gonna have six litters per year ...

Choate: Um hum

Roy: Why do you need twenty three adult dogs?

Choate:

Um, in my opinion, I have a responsibility to have at least two to three heats in between breeding months.

Roy: Okay so that's why

Choate: So they're not over used.

Roy: Okay

Choate: Uterus problems.

Roy: Ya no I was just trying to think about maybe a deal to say ...

Choate: Yup

Roy: Maybe we don't need as many dogs.

Choate: Nope nope.

Roy: But okay.

Clawson:

Can I make a suggestion to the board that maybe we can, that someone can look into someone could look into what other kennels do for soundproofing various other kennels that are in the same situation and then maybe we could look at review that.

Roy:

Could I ask the zoning Board member, um how many kennels do we have in town?

Tinkham: Three or four.

Roy:

Three or four, and do you ever get complaints by neighbors when people go to renew the permit for um barking dogs?

Tinkham:

No, we did from a while from um but he's way, set he's set way off the road um there was one down at ah the Gentiles ... Ellis Auto Body um but he had his dogs vocal cords cut so they stopped barking.

Schleiff: That'll do it.

Garron: Every time

Brown:

It just changes the pitch they don't stop barking and it's now illegal in Massachusetts so that's not an option for Massachusetts.

Roy:

And it I know this is silly but is it less um harmful to the dog to have like one of those nose things

Schleiff: Muzzles

Roy: Then to zap them.

Clawson: Shock collar

Brown:

The Muzzles that cause cause more restraint and more anxiety and more bark.

Roy: Okay thank you.

Brown: And it also is going to cause temperament issues.

Roy: Okay

Schleiff: I mean I would ...

Brown: I can I'm sorry ...

Schleiff: Go ahead.

Brown:

I can speak to commercial kennels and how we handle things and one of the things that we do is hours of operation. Um if I do have, I own a kennel so I'm gonna tell you what my restrictions are and I can tell you some of the surrounding kennels that I've worked for. Um, I have hours of operation. I have a limit to amount of complaints that I'm allowed to have, signed complaints and then I'm

brought to the Board for a hearing. Um, I have ah I have specific arrangements made with my next door neighbors, um that allow me to have specific types of dogs out meaning if I have a barker come to stay with me that dog goes out, goes to the bathroom comes back in. I have indoor play space, she doesn't have indoor play space so that's another arrangement that I have. Um I can speak to Kim's Country Inn for Pets where we used to actually board our stray animals I used to work for them, and actually took care of your stray animals then. It's changed hands but that was an indoor outdoor facility, um dogs were allowed opened from seven in the morning we had sixty dog facility. The dogs were allowed outside from seven in the morning till seven o'clock at night. On Saturdays every other door was opened, every other dog then it was rotated half way through the day so that less dogs were outside for barking. Sundays there were no dogs allowed. Um

Roy: Do you ...

Brown: Yup

Roy:

I'm sorry Annie to interrupt but do you have soundproofing in at your kennel?

Brown:

I don't. I don't but I have a different set up. Um and to tell you the truth when you have an outdoor an outdoor facility um it's not only very difficult to have commercial soundproofing that's gonna weather, other than doing the concrete barriers. Um a dog jumps up on foam and that's ripped and now its every where and that could potentially be an ingest situation and so you're looking at that and other issues. Um so theres I think, I think by limiting time and access is the best compromise.

Schleiff:

The way I look at it too is I mean this is a business (spoke towards Choate).

Choate: Um hum.

Schleiff:

and um your (spoke towards Clawson) also a business so it's kind of hard to say no you can't have your business and it's okay to have your business. If that's one way to look at it.

Roy: Well because certainly ...

Schleiff: Ya know

Roy: The trucks are probably aggravating the dogs.

Schleiff: On, on occasion.

Clawson: If you look in the tapes

Schleiff: Sure

Clawson:

Its five o'clock in the morning its six o'clock at night I have no trucks coming no traffic it's, this was in November and there was no show traffic. Some of them in October no horse show traffic. Some in December there's no horse show traffic.

Roy: Okay

Clawson:

Okay. The people out front don't hear the dogs barking because of the road traffic.

Roy: Ah hum.

Clawson:

I've actually been bizzarred, ya know wondered why myself no one else complains because I walk down the end of my driveway you hear road traffic you don't hear the dogs barking. Maybe if she moved the dogs to the front part of the property versus the very back the road traffic will drowned out that noise. Ya know I'm trying to think of scenarios also to keep, ya know Bobbi's in this business, without I mean, she's not just affecting me she's affecting a hundreds of people that come to my property during the horse shows they hear this barking. They're not annoyed about it because they leave during the day but the people that work there are very annoyed by it and the people that board there are really annoyed by it. They're not Halifax residents so they I didn't think I could invite them to come up here.

Roy: Okay you could have. Um in the future you could have.

Clawson: Ah Hum

Roy: But Bobbi I understand that you had worked with Mr. Clawson before about moving he tried to work with you to say hey if you moved it here ...

Choate: Yes

Roy:

Um, so I think it was his hope that it would happen and certainly it didn't because he is still hearing the dogs. Um and so would you be open to moving the kennel further, closer to the street? Or are you are you open to that sort of thing if you're not.

Choate:

I think the money that it took me to put the dogs where Mr. Clawson asked me to move them.

Roy: Okay

Choate: Because it was all wet I brought in loads and loads of fill.

Roy: Ah hum.

Choate:

All my kennels are rubber matted four by eight, I can't even imagine filling front area that's wet, putting mats moving kennels again.

Roy: Okay. No I just thought

Choate:

I think the cost incurred, certainly I would be more than happy to look into that and that's actually one of my other thoughts was to not to have just two areas but now again split one of my areas and put them on the front those that have been there. When you drive down my driveway there's an out building closet to my house that maybe I can do a couple of my kennels there. So I'm entertaining that

again trying to maybe to break them up, but I will guarantee you and tell you that they are in every night and they're out, I mean there's no way ...

Clawson: Could I set the record clear for one ...

Roy: Could I just interrupt just one more second.

Clawson: Okay

Roy: The twenty three dogs.

Choate: Ah hum.

Roy: Um so your puppies I imagine stay in the house.

Choate: Correct. They're in a building.

Roy: They're in the building so it's really the adult dogs that we're talking about.

Choate: Correct

Roy: We're talking about ...

Choate: And it's only the German Shepherds.

Brown: Ya it's not all. There's eleven adult German Shepherds.

Roy: Okay. So those, so we're talking about eleven adult barkers.

Brown: Ya

Roy: Okay

Clawson:

The record straight as far as Bobbi asking me if this was okay if I moved the dogs here is incorrect because that, in 2010 when we went through this hearing I never agreed to have this number of dogs. I tried to appeal it. I never agreed. She only built those kennels in back of my property after the fact, after that she built them. If you want to go on Google maps you can look at it and you can see that those kennels were built after 2010. And, as far as the dogs being in at four o'clock at night it really doesn't matter if they're in or out it's the barking.

Choate: Between four and six they're in.

Clawson:

It's the barking during the day, the barking at night or in ... I live there. It's the barking non stop constant barking. Whether it be for twenty minutes or for a half hour and then it stops for a half hour then starts up for a half hour. Its non stop everyday and theres only been two weeks and I'll grant it I know why the two weeks right after Christmas there was two weeks of dead silence. It was pleasant. It was nice.

Roy: What happened Bobbi the two weeks after Christmas?

Choate:

Nothing. I tell you they're still silent. I've been out there. I'm doing them. I don't know.

Roy: Okay. Annie.

Choate: Nothings changed.

Clawson:

And can I can I make a comment on that and I'm just gonna give you my opinion, I don't know if its true or not the reason that they were quiet for two weeks she was, um I'm sure um received notices from the Board here and from her I believe that dogs were some how drugged.

Roy: Oh

Clawson:

To keep them quiet for those two weeks. Now this has gone on prior to this I'm sure when another Board comes down there. You can give them certain drugs to keep them quiet.

Choate: Go give them a drug test right now.

Clawson:

And the reason I know this for a fact and you may think I'm crazy I've gone right up to the kennels with those dogs that used to bark like crazy and they just stand there with their heads. For three or four days I'd do this and they would not move. So you might think I'm crazy but that's what happens.

Roy: I ... okay

Schleiff: Um

Clawson: Why else would they be quiet for two weeks?

Schleiff: Ah can I ...

Roy: I don't know.

Garron: May I say something. Continuing ...

Roy: Ya

Garron: This meeting at this time is not gonna resolve. I said earlier ...

Clawson: Ah hum

Garron:

I don't know what you're gonna do. We're gonna listen to the tapes get the information from the Zoning board whether or not we change anything there's, but I don't see anything getting accomplished.

Roy: Ya

Garron: But continuing this discussion. That's just my opinion.

Brown:

My hope was that we could where March is the next hearing date. I was I was hoping to establish some time boundaries firm that both parties can agree on that where we're only talking about eleven dogs being the primary issue perhaps we could move it to six dogs out at a time, rotate them as often as you like. I don't know but, ya know that's reducing the amount of dogs out at once causing a problem and we evaluate it when we go for the permit hearing.

Schleiff:

I'd still like to see some soundproofing out there. I mean like you say styrofoam the dogs will get at it.

Brown: Right.

Schleiff: You can put it where the dogs can't get at it.

Clawson: The other side of the cages you could ...

Schleiff: You still accomplish the same thing.

Clawson: Ah hum.

Schleiff:

I know they do it on um a lot generators they have soundproofing to minimize noise from generators um when power goes out. The do it in building all over the place. I don't know what the expense is. If you could look into what might be the best option for soundproofing?

Clawson: Or even move it around (inaudible).

Schleiff: Whether it be planting or you know some sort of fencing or ...

Choate: There is fencing.

Schleiff: Um

Choate: There's fencing.

Schleiff:

Obviously it's you know I don't know what's out there I'd haven't been out there myself. But if, if you were to come up with something that you think might minimize it that you could live with that in addition to the hours um might be ...

Choate: Could I speak?

Schleiff: Ya

Choate:

I would say I welcome you as Board members to come to my property. If you, if the dogs in fact causing the ruckus that Mr. Clawson is accusing me of, then by all means I do not want to impose that horrific noise on him continuously. And I would certainly be happy to look into something and if my dogs are quiet when come I would be delighted to take them to the vet for blood test for drugging.

Schleiff: Okay

Choate: No problem.

Roy: Now

Choate: Whatever you gotta do that would be fine.

Roy: I would prefer to go to Mr. Clawson's property then to your property ...

Choate: Oh sure that's fine too.

Roy: Because that would give me ...

Choate: Oh sure sure.

Clawson: You're more than welcome to come over.

Choate: Absolutely. That I welcome that.

Clawson: Anytime

Choate:

It's, I mean give it a block of time. If they bark whatever see what happens. Absolutely I think that's a great idea.

Brown:

You can't do it from the yard you actually you have to go into property. That's my only you know what I mean. That's my only suggestion is that you go into into the property because it definitely sounds different from out front. Out front I can't hear them. They could be barking and I couldn't hear them.

Clawson: And I think that what happened when the police came the last time.

Roy: Ah hum

Clawson:

They were down sitting down front at at her driveway and at the road and stuff and they didn't hear them. You actually have to come into where the barn is.

Choate: The police have sat ...

Clawson: And you can hear them

Choate: Everywhere

Schleiff: How far is it from the street to the prop, to where the kennels are?

Brown: The main dogs ...

Clawson: Probably a thousand feet.

Brown: Are in back of are in back of the house. I have a, pictures.

Schleiff: Is it that far back that you would not hear barking?

Brown: From the street ya

Schleiff: From the street

Brown:

I'm comfortable saying. She has in my opinion if, if he were a forward neighbor she has the ideal set up for that. If you were a forward neighbor.

Roy: Okay we're gonna ...

Schleiff:

Hey Charlie you have contact information, if we want to go to the property that you could, I could call you and you would give me that information so I could go out and visit.

Clawson: Yup anytime.

Roy: I think we should continue the hearing.

Clawson: Thank you

Roy:

Um I think that I would like to watch the movie that you dropped off and we will continue the hearing.

Seelig: To a time ...

Roy: Um well what do we have on the agenda for the ...

Garron: February nineteenth is the next.

Roy: The twenty sixth.

Garron: After that?

Seelig:

Twenty sixth I believe added something you wanted to have municipal and school building committee coming in possibly at eight thirty on the twenty sixth um.

Roy: That could be March 12th.

Seelig:

Right my thing given what's the ah amount of discussion you've already had um and what the Boards thinking of doing I would think wait to March 12th. This issue is not going away I assume one way or the other.

Roy:

Yup and that gives us time to go in, in over there intermittently so that we have more of a sense of you know if I just went there just once it may not ...

Choate: Absolutely

Seelig: The Board approves I'll put this on at seven forty-five on the twelfth of March.

Roy: Yes

Schleiff: Its, its you have hours of operation that you can just come over?

Clawson: Daylight. Anytime.

Choate:

I have a gate but it's not to keep anybody out it's in case a dog gets loose but outside your drivers window just press the button your welcome any time you want.

Schleiff: So do you have a place that you can pull in and park and walk over.

Choate: Ah hum drive all the way out back

Clawson:

You can come to my property where the barn is any, any day of the week its open

Schleiff: Okay

Roy:

Before we go to Deborah, I just want to ... for me I, I know you take good care of your dogs.

Choate: Sure

Roy:

I, I know Annie has reported that so for me it is not important for me to visit your property.

Choate: Sure

Roy: I will be visiting just Mr. Clawson's property. Deb, you have a comment to make.

Tinkham:

Ya Bobbi is coming back before us, I believe in the March hearing for renewal of her permit.

Seelig: And that date is ...

Roy: March 13th

Tinkham: Ah it we got March 11th but I think the thirtieth is our next meeting.

Roy: Okay

Seelig: So which day you usually meet. What day of the week?

Tinkham: Monday. Monday nights

Seelig: Monday would be the eleventh.

Tinkham: What's that?

Seelig: Monday is the eleventh.

Tinkham: That would be the eleventh.

Roy:

So would you want us to come to one of to come to your meeting to report what we found out, or ...

Tinkham:

Sure, I think one of us would like to go with you when you do that if that's all right.

Roy: Ya

Schleiff: To what revisit the property?

Roy:

So March the, and then I can get your contact information. Okay March 11th. I think I have a Capital Planning meeting but I'll figure that out. What time do you normally meet?

Tinkham: We meet at seven.

Roy: Okay okay. Thank you for coming in and we'll see you we'll be in touch.

Choate: Thanks for having us.

Clawson: Thank you.

Roy: We'll make a motion to um close the hearing.

Seelig: Well continue the hearing.

Garron: Continue

Roy: Continue the hearing until March.

Seelig: Twelfth seven forty five.

Roy: Do I have a second?

Garron: Second

Roy: Seven forty five

Schleiff: You motioned?

Roy: I did

Schleiff: Okay

Roy: All those in favor

Garron: Aye

Schleiff: Aye

Roy: Aye

GENERAL MAIL / DISCUSSIONS (CONTINUED)

Picture for Town Report

Two pictures have been submitted for the cover of the town report. One was a picture of Burrage Pond that was submitted at the Mass Memories Road Show and the other of cranberry pickers harvesting cranberries and being carried up by a helicopter. Schleiff liked the one of them harvesting the cranberries as it promotes growth. The Board decided to use them both one on the front and the other on the back.

Pipe Bursting at Halifax Elementary

The school will open tomorrow but there are six rooms with no heat due to a pipe that burst. Those classrooms that have no heat will be set up in the All Purpose Room. On a side note the repairs reported last month on the boiler at the school have been done.

Resumes Received for Police Chief Position

The board was given copies of all resumes received for the police chief position. Garron stated that his choices are Sgt. Broderick, Joseph Perkins and Edward Slocum in that order. Roy chose Sgt. Broderick, Edward Slocum, Thomas Galvin and Joseph Perkins in that order.

Schleiff asked if Seelig did some searches on the web and he said he did for two of the applicants. One case was that he knew the individual because he was from Rhode Island and was familiar with the situation in that community. Seelig was curious on the other seeing as the applicant lived quite a distance away and as it turns out he had a colorful background.

Schleiff asked if anything stood out on the individuals who they chose. Garron stated that he liked what he saw on their resumes and said that he already made his opinion a long time ago and that there is someone here in town for the position and felt that he did not think they needed to interview anyone else. Schleiff said that he is inclined to agree with Garron but said that interviewing the applicant makes that person work for it. Roy asked Schleiff if he wanted what do you want to interview the three candidates that she and Garron chose and he stated initially he would but at this point it did not makes sense seeing as Garron has already someone in mind.

Seelig asked if the board wanted to interview three or four people and Roy did not think they needed to interview four. Schleiff was fine with the three that Roy and Garron had chosen and said he would like to interview those three. Garron brought up the point that three surrounding towns have gone through the same process and have hired from within. Roy asked Schleiff if he was open to interviewing the three candidates that both Roy and Garron selected after he said he'd like to interview all three. Roy confirmed with Seelig that three would be sufficient. Seelig did say that they do not have to interview anyone and they could make the selection tonight if they wanted to. She asked then why post the position at all and Seelig said that you are required to post as per the town by-laws. Seelig explained that ninety nine percent of the time people will do interviews but you can also look at a bunch of resumes and decided not to interview. Roy was very taken back by this information and explained that perhaps the bylaw should specify not only posting positions but making sure that candidates are interviewed. Schleiff stated that here at the Town Hall when there is a position we are more inclined to hiring within qualified individuals because we know their abilities but we still go through the process because nothing is guaranteed. Seelig said the by-law is in place to give everyone the opportunity to apply for the job and after that it is up to each department to decide on the hiring process.

Garron said that he has a person in mind for the position and that they should send thank you letters to the applicants who have applied for the position and tell them they already have interviewed for it. Roy again asked if Schleiff if he would like to interview all three candidates and he said that he would do it but he felt the decision had already been made. He then said he is fine either way.

Roy said that she was prepared to interview three applicants and would have liked to have had a discussion about whether or not they were going to interview anyone before making a decision this evening. She stated that she went through all the resumes and picked the top three who she felt were most qualified and now they are opting not to interview. Seelig's recommendation was if they feel that there are three people qualified for the position that they want to interview then hold those interviews. Roy asked is it fair to those candidates if everyone has one particular person in mind? Seelig's said if that is the case then that person should be able to fly through the interview over and above the other applicants.

Roy asked Garron and Schleiff if they had any suggestions. Garron again said that he already made his decision. Schleiff suggested contacting the other two individuals letting them know that the board is leaning towards one particular person and ask them if they still want to come in. Roy stated that although the board feels highly of Sgt. Broderick it is important that they interview him to make sure they all have the same vision and expectations for the department before contacting the other candidates just in case it does not work out the board has not turned the other applicants away. Garron was fine with that suggestion. Schleiff added that he has not had a chance to go through the resumes as he just got them a couple days back but he respects Garron and Roy's chooses.

The board originally had planned to hold interviews on March 5th and if they hold off on interviewing Sgt. Broderick until then and then want to interview others it will not fall within the timeframe they had decided on. With that being said Roy stated she was like to shoot for February 19th to interview the inside candidate so that they have a sense of where they are.

Moved by Schleiff and seconded by Garron, the Board unanimously voted to interview Sgt. Broderick for the position of police chief for the Town of Halifax on February 19th at 6:30 p.m.

Complaints from Personnel

Seelig asked the board if they wanted to do anything about on the notes that he had given them. Schleiff thought they should and Garron thought that the board should schedule a hearing on it to determine whether they are going to have an executive session or not. Seelig stated that you need to decide that ahead of time so the individuals can be informed. Garron thinks that they should have a hearing and it should be in executive session and held within the next few weeks.

MEETING ADJOURNED

There being no further business, moved by Garron and seconded by Schleiff, the Board unanimously voted to adjourn the meeting at 10:30 p.m.

Michael J. Schleiff
Clerk

/pjm