

TOWN OF PROVINCETOWN - BOARD OF SELECTMEN

SPECIAL MEETING - MARCH 28, 2000

JUDGE WELSH HEARING ROOM

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Chairman, Betty Steele-Jeffers opened the meeting at 7 PM, noting the following attendees: Board of Selectmen members: Elizabeth Steele-Jeffers, Mary-Jo Avellar, Cheryl Andrews, David Atkinson, Richard Prowell and Vernon Porter, Secretary to the Board of Selectmen.. Other attendees: Keith A. Bergman -Town Manager, Robert Anthony – Chief of Police, Rachel Peters – Dog Officer, Jackie Silver – Health Inspector and other interested parties.

The following are minutes, in brief.

1 DOG HEARING; MGL C.140,S.157:

Pit Bull named “Apache” Owned by Yoko Berowski_

Betty Steele-Jeffers read into the record a letter hand delivered on March 24, 200 to Mr. Yoko Berowski 16 Aunt Surkey’s Way, Provincetown, MA 02657 Subject: Notice of Hearing on Vicious Dog. MGL C.140.§157 Tuesday, March 28, 2000 7 p.m.

Keith Bergman – for the record. 1) Mr. Berowski evaded service on Friday the date of the hearing notice and service was made to his last known address yesterday and was accepted by his father. 2) Since the issuance of the notice the Chief of Police, the Dog Officer and Health Inspector have come into, additional information, relative to the status of the dog which I would like the Chief to go over it with the Board at this time.

Chief Anthony – This afternoon Jackie, the Health Agent, spoke with Mr. Berowski from New York and he informed Jackie that the dog has been euthanised and has been cremated. He called the station asking for the Animal Control Officer (Rachael) and was told she was not working at the time and he hung up on the dispatcher. Then there was a subsequent call to the Health Agent. She can relay that conversation in regards to our need of proof that the dog was put down and he became irritated and hung up on her again. We have no address or phone number to reach this individual.

So, what I want to do is turn this matter over to Rachel. She contacted the State which the State contacted the New York authorities, they confirmed that the dog was euthanised and cremated.

Keith - we did received a fax, an hour or so ago, a copy of a document from a Manhattan Shelter, 326 E 110th St., New York City indicating by a code referenced here that a Pit Bull named Apache owned by Yoko Berowski was euthanised on Friday, March 24, 2000.

Betty - for the members of the Board who just came in (Mary-Jo Avellar / Richard Prowell) – what I’ve done so far is read the notice, the Chief has given us a little information on the facts that the dog has been disposed of and Rachel Peters will elaborate on that, so, we haven’t actually opened up the hearing.

Rachel – I spoke with Mike Cahill, he’s a Rabies Program Coordinator for the State of Massachusetts. I explained to him what had happened as I was looking to find out what additions to the charges I’ve already filed against Mr. Berowski and he gave the information. I told him I had a number in New York, asked if he could call them, and ask, if in fact, that this was true. He did. Then he called me back, and confirmed that the dog was destroyed and the embalming people picked up the body on Monday and he was wondering if maybe the dog was still there but it was not. The dog had already been cremated. I asked him if he could send me confirmation so that we may have it for tonight’s meeting and he said he would get back to me, but he needed to get an opinion from Town Counsel whether or not he could fax me the information. In the meantime, Jackie

had gotten me the info.

- **Keith** - So we do have evidence that the dog has been euthanised. The scope of the Board of Selectmen's actions deal with the dog itself since the outcome of this hearing would be some action taken against the dog. The Police department, separate and apart from actions the Board takes, can take action against the owner and those in charge of the dog and there have been charges filed.

- **Rachel** - I've charged Max with two counts of failure to restrain and failure to vaccinate. I've charged Berowski with failure to vaccinate and failure to license. I will be charging Max with violation of quarantine, as that is what the gentleman from the State told me I should do, and also, in that same chapter, in a different section, I am going to charge him with hindering the investigation and allowing the animal to be removed before re-inspection. I am going to be charging the father with that also because I feel that as though numerous attempts to try to reach the son to serve the papers - he just blew steam to avoid the service.

- **Mary-Jo** - What about assault?

Betty - What about the dog biting people - who takes care of that?

- **Rachel** - that is also going to be one of them.

- **Mary-Jo** - so is that like an assault charge for having the dog

Cheryl - Yea, I don't understand that.

Betty - The question is, the dog bit somebody and nothing that you said seems to address that particular

- **Mary-Jo** - and it bit the dog too.

Betty - what particular charges would pertain to that?

Chief Anthony - The other dog going after the other dogs. That's what we are addressing regarding the dog being off leash and out of control with the person in charge. As far as the dog being bit, it is basically a civil action against the owner to recoup the medical bills. But, there is no specific charge in regards to biting - that's why we are here - to see what the Board wants to do in regards to the vicious dog. There is no specific charge in regards to biting.

- **Betty** - People?

Chief Anthony - that is why we're going before the board.

- **Jackie Silver** - If the dog was not euthanised, it would be the authority of the Board of Selectmen to remove the dog.

- **Betty** - I understand, we can banish it or euthanised it, - we're asking what about the people who got bitten.

- **Keith** - that's a police matter

Chief Anthony - That's a police matter that is handled through the courts under Chapters 140 and 157 - Vicious dogs; nuisance; barking or other disturbances; annoyance to sick person. That's what we will be taking him to court on.

- **Mary-Jo** - is there no assault with a dangerous weapon kind of thing?

- **Chief Anthony** - no - because the owner never sicked the dog on anyone.

- **Keith** - Criminally it is failure to restrain but that doesn't mean that there are not civil issues between the two parties.

- **Cheryl** - Don't know how my colleagues feel but I am shocked that there is no effective crime. I got chased by a dog – while it was chasing me there is no crime - I have to wait until he bites me before there is a crime. Doesn't make sense to me.

- **Chief Anthony** - Unless the owner or person in control specifically sick the dog on you.

- **David** - But the person in control was not in control. He ought to be charged for the damage the dog did.

- **Chief Anthony** – That's the civil remedy.

- **Cheryl** - It's not the damage – what I am saying is people think – common sense – you would think it would be a different crime. I've been chased and I've been bitten by a dog and they are two different things. I would think they would have two different crimes – and that is what surprises me.

- **Chief Anthony** – not unless there was specific intent by the owner to allowed that dog to be used as a weapon.

- **Jack Kelly** – Madam Chairman, can you accept a point of information from the public.

- **Betty** - We are not conducting a hearing at this point and the dog seems to be dead and the point I would have to go to is #1 – is ask if anyone wants to comments, I would have to swear them in or is it just a moot point

- **Keith** - your ultimate remedy is the dog and it no longer exists.

- **Cheryl** - We don't know yet. Some of you think you have proved this. I haven't seen anything that proves this.

- **Betty** – I want to see the evidence.

- **Mary-Jo** – Who euthanised the dog? A Veterinarians – SPCA ?

- **Keith** – euthanised dog named Apache – name and date. **Mary-Jo** - it cost \$60.

- **David** - We are obligated to send a message, of some kind, that this behavior is not allowed in Provincetown. I don't know how you go about it but the dog is not as responsible as the person that owns the dog.

- **Mary-Jo** - I don't know this dog and I'm glad I don't. What bothers me about this is – and I was just talking with people about it – they hope that this summer that they are not going to see a lot of unleashed dogs around Provincetown. I've said to the Board in the past that I think a part-time dog officer is not sufficient. What I need to know from the Chief - what are we going to do to make sure that, at least, we don't have loose dogs running around? It's bad enough they jump out of the window but what do you do about the loose ones?

- **Cheryl** - The key point is, do we accept that this as evidence that the dog is gone. The only thing here is that it is clearly identified by age, fact that it is a spayed female, its breed, and its description (a brown brindle). Is this enough documentation that this is indeed the dog.

- **Rachel** - Yes. Here is the faxed copy of an expired vaccination from New Mexico that he received last year. I confirmed with the veterinarian that this is in fact expired – which also says pit bull, brown, brindle, Apache – and I saw the dog.

- **Cheryl** - so as far as you are concerned this is the dog.

- **Rachel** – Yes.

- **Cheryl** – Then, I think that this is the first order of business – to agree that is what happened.

Betty – If we accept this report that the dog is dead, then we have no function.

Keith – Then your job is done and it is a Police matter after that.

Betty - Then I have to say, disappointingly enough for the people who have been bitten, that they should have to pursue it on their own as a civil matter, seems inappropriate. I just want to ask the question once more – even though I'm sure the answer is going to be NO – there's nothing we can do or encourage the Police to do to get some satisfaction for the people involved or the dogs involved.

Keith – We will provide whatever assistance we can to the individuals that were harmed and that includes some of them are going to have to seek medical and possibly financial assistance.

Chief Anthony – We are going to actively pursue this in the courts. One of the remedies would be for restitution for medical, veterinarian, or whatever. Once we get this person in court. If this person doesn't show up for the hearing on the summons, then a warrant will be issued. So that means an active warrant in the State of Massachusetts for these charges if he does not respond. So he can be arrested anywhere in this State.

Cheryl – I don't feel that all is lost here. The dog attacked another dog and that will not happen again because the dog is no longer here and that was our function to make sure that that dog could not attack anymore. When this has happened in other towns the Board of Selectmen have issued orders for restraint, kenneling and the next thing you know the dog is running around the neighborhood again.

Betty - My only question would be - waiting 10 days to make sure the dog does not have rabies for the people who were bitten.

Jackie – As the time has expired, the State recommended that the victims go through the series of rabies vaccination injections.

Betty – and who is going to pay for that?

Keith – if their insurance does not cover it then the Town can pay for it and if there is restitution at a later date then the Town can get reimbursed.

Cheryl – What I would like to see is an Agenda Item to talk about what our quarantine protocol is – because that's really the issue.

Mary-Jo - Why was the dog not impounded on the spot?

Betty - Would that be something that we normally do or not do – or do we run in to this so rarely.

Chief Anthony – The way we have handled dog bites in the past is, Jackie gets notified of the bite and she goes there and makes sure that all the vaccinations are up to-date. The dog is quarantined for ten days on one's own property. And after ten days, as long as the person has valid vaccination records to show these dogs are up to-date on their vaccinations. This is the first time that we ran into a bite that the dog has not been vaccinated.

Cheryl - That is exactly my point. The dog should go to a kennel at the owner's expense. My observation is that the number of dogs, especially in the summer- downtown, seems to be going up.

David – I would like to thank Alice Foley for keeping the dog alive that was being attacked.

Mary-Jo - Alice – you did something that no one else would do – it was her nurses training.

Keith – will bring the matter back to the Board at its next regular meeting. Any problems with medical bills, people can talk to me directly.

Meeting recessed at 7:35 PM to reconvene later to go into executive session.

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Minutes transcribed by: Vernon Porter, Secretary
April 3, 2000