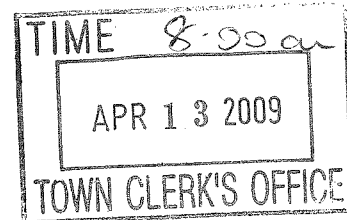


BOARD OF SELECTMEN
MINUTES OF MEETING
PUBLIC HEARING FOR DOG KENNEL



March 9, 2009
7:00 p.m.

Board Members Present: Chairman Paul Savage, Vice Chairman Tom Petrowicz, Charlie Poulin, Jackie Lima and John Laura

Others Present: Town Counsel Attorney Jason Grossfield

Chairman Savage opens the Public Hearing at 7:05 p.m. at the Millville Town Hall.

Chairman Savage reads the Hearing Notice as posted in the Milford Daily News concerning a petition regarding a dog barking nuisance at the dog kennel located at 77 Fisher Street. He further explains the ground rules he expects to be followed during the hearing.

Selectman Poulin recuses himself from the Board explaining that he is a neighbor of the Shuras' and personally knows the Grants.

Chairman Savage asks that all individuals who expect to provide testimony this evening stand up and state his/her name in order to be sworn in. The following individuals were all sworn in: Joseph Alves of 23 Debra Way, Cynthia Joliecoeur of 16 Debra Way, Richard Dutremble of 24 Debra Way, Ben Grant of 32 Maureen Way, Paul Ouellette of 382 Chestnut Hill Road, Claudette Barrett of 52 Fisher Street, Susan McNamara-Millville Town Clerk/Assistant Assessor, Ms. George of Milford, Joe and Kathy Shuras of 77 Fisher Street and Tracy Belanger of 123 Grove Street.

The Board grants permission to Attorney Heller to have the Hearing videotaped.

Chairman Savage asks the Petitioners to speak on the matter first.

Ben Grant, 32 Maureen Way. He has a problem with the dogs barking and would like peace and quiet. There is 1-1/2 to 2 hours of barking each night when the dogs are being fed, not including the morning and daytime barking. He has called the Police Department and sometimes they investigate and sometimes they don't. He feels he has the right to peace and quiet and the 27 petitioners are looking for cooperation from the Board.

Cynthia Joliecoeur, 16 Debra Road. She feels this has been a problem since 1997. In 2000 she had run-ins with the former Animal Control Officer and Chief of Police. The dogs were a barking nuisance in trying to get her baby to sleep at night. She was told at that time that the barking was due to four-wheelers. The neighbors wouldn't sign a petition. She is now looking for assistance from the Board to allow peace and quiet.

Joe Alves, 23 Debra Way. The Town needs to set something up to succeed in resolving this problem. There need to be rules to address these problems as they have gone on too far. He would like the Town to help out.

Richard Dutremble, 24 Debra Way. He has been living with the barking dogs for a long time. He has the same situation at nighttime. He isn't asking for the kennel license to be taken away but he does want peace and quiet – this is an uncomfortable part of life.

Attorney Warran Heller represents the kennel owners, Joe & Kathy Shuras.

Mr. Heller questions the validity of the petition and received assistance from the Town Clerk and Assistant Assessor. At least two people who signed moved away from 36 Maureen Way last fall. Linda Poissant no longer lives at 7 Debra Way. There are four people under the age of 18 who signed. He does not believe this is a valid petition.

Attorney Heller is sworn in as a witness.

Mr. Heller explains an experiment he recently conducted as to whether the alleged barking nuisance exists. He could not hear the dogs barking at the top of Debra Way, only strained outside of the car. Near the Alves home he could hear the dogs but not loud. Near the Dutremble and Joliecoeur homes he could hear the dogs but not excessive or overly loud. Residents near 35 Maureen Way said they never hear the dogs. It is impossible to hear the dogs on Forest View Drive though somebody who lives there signed the petition. Some neighbors have commented that they hear the lions at the zoo and the trains going through town more than they hear the dogs. The Shuras' own approximately 4-1/2 acres of land and have had the kennel license for 20 years.

Attorney Heller describes the dogs living in the kennel. He further offers pictures and explains the location of the property and kennels. He adds that the barking in the summer is muted due to the natural vegetation. He indicates that evidence of 36 calls to the Police Department was provided by Chief Landry. Attorney Heller indicates that Mass. General Law indicates that one must be aggrieved and annoyed to an unreasonable extent due to excessive barking and he does not feel that is the case here. He advocates that the petition be dismissed. The only complainant to the Police Station is Ben Grant. He suggests this is a personal vendetta or an obsession of Mr. Grant.

Mr. Heller presents a letter authored by Kathy Shuras which outlines the situation. It contains vulgarities used by Mr. Grant, therefore, he does not wish to read the document aloud but would like it entered into record. Some portions of the letter were redacted by Mrs. Shuras. Mr. Heller presents a letter authored by Susan Desjourdy. Mr. Heller also presents a letter authored by Russell Poissant, a Milford Police Officer. He also would like to confirm for the record that Paul Ouellette previously submitted a letter which should be in the file. He presents a map of the neighborhood which was provided by the Assistant Assessor which he would like entered to record. The map shows that the Shuras' parcel is the largest.

Mr. Heller feels that it is disingenuous that the Shuras' must alter their kennel license when formal complaints were never received by this Board or former Boards.

The parties all review the map – Mrs. Shuras indicates in red ink where the kennels are located on the property.

Mr. Heller indicates that the calls to the Police Department are inconsistent – sometimes officers would go to Maureen Way first and didn't hear anything. Ben grant would use an air horn then sometimes lean on his car horn.

Mrs. Shuras feeds all the dogs between 6:30-8:30 p.m. Mrs. Shuras is the primary caregiver of the dogs. They will bark for 5-10 minutes while she is feeding them. Mr. Grnat would call to complain during this time, but by the time the officers would arrive the dogs were not barking any longer.

In closing, Mr. Heller admits that the Shuras' do have dogs that bark but he questions whether it is excessive. He feels that after the Board evaluates the petition it should be dismissed because it is not supported by fact. He would rather treat this as a legal petition so this matter can be resolved.

Susan McNamara, Town Clerk and Assistant Assessor explains that she added the residents names to their properties on the map and that only two homes are within 300 feet of the property. She also states that had she been given the petition to certify she would have excluded several names including those of children 18 and under.

Paul Ouellette, 382 Chestnut Hill Road. He plows the Shuras' property and only hears barking for 2-3 minutes. He has also done work on the exterior of their home – after 5 minutes the dogs don't give him a second look. He would like to reinforce his letter submitted in February.

Claudette Barrett, 52 Fisher Street. She walks her own dog and doesn't hear the dogs barking when she goes walking – nothing excessive, nothing different than other neighbors.

Ms. George, Milford, MA. Her son plays with the Shuras' son and the dogs bark right when she gets to the home but that is it.

Tracy Belanger, 123 Grove Street. The dogs bark when she pulls into the driveway to drop her son off but when she leaves the house they are not barking anymore.

Attorney Peter Padula represents the Petitioners.

Mr. Padula indicates that the petitioners take this matter seriously. Mrs. Barrett does not live that close to the Shuras' according to the map. He would prefer the Board deal with this issue now as he does not want to see it escalating. He indicates that one dog barking is enough to disturb the public and argues that the size of the lot or number of dogs does not violate the local by-laws. He would like to add that the smells emanating from the zoo may be causing the dogs to bark. He suggests the Board conduct a site visit. He states that nobody begrudges a person for having dogs but maybe they could wear bark collars. Lastly, he indicates that should the Board find a technical issue with the Petition, they will be back with another petition. He respectfully requests the Board resolve these issues.

Selectman Savage asks Gary Fagan, Animal Control Officer, to give a brief synopsis of the situation currently. Mr. Fagan is sworn in.

When the complaints initially came in he assessed the situation. It was never his intent to shut the kennel down. He would like to see everyone coincide peacefully. He provided electronic device pamphlets to Mrs. Shuras. His goal was to get the kennel quiet – he didn't care how they did it as long as they got it done. He told Mr. Grant to be patient while they get this underway. Mrs. Shuras promised she would buy the items so he wanted to give it some time. He didn't think that shutting down the kennel was the thing to do – he tries to give people chances. There were times that the dogs were not barking. However, on August 17 the dogs were barking while the camp was going on. It was unacceptable and he asked to see the no-barking devices. He was told by Mrs. Shuras that she returned one as defective and the other was not working due to a dead battery. There was one birdhouse which was functioning. The last time he was at the Shuras' home there were 2 or 3 barking collars but they were on the table, not worn by the dogs. Mrs. Shuras said she would set up kennels in her basement but only one had been purchased. Mr. Fagan does not feel the Shuras' would comply with a muzzle order.

Selectman Petrowicz would like to know if anything could be done structurally to the kennels to muffle the barking. He was under the impression that barking collars do not harm nor cause trauma to dogs.

Mr. Fagan agrees that the barking collars are a good way to go. He adds that other than the barking, the kennel is in compliance. He feels that things may have gotten a little better due to all the attention the matter has received.

Chairman Savage said his recommendation would next be to muzzle the dogs or work with other preventative devices.

Chairman Savage would like to know Mr. Fagan's recommendation.

Mr. Fagan feels that enough time has gone by and the barking should be at a satisfactory level by now. He would recommend a probationary period and insists that the Shuras' should do whatever it takes to keep the dogs quiet. He does not feel that impounding would help as it is only a short term solution. Mr. Fagan feels that if the problem continues the kennel license should be revoked.

Chief Landry is sworn in. Chief Landry indicates that all statements made concerning the calls were accurate. He states that the calls to the Police Department started in December 2007 and that Mr. Grant is the sole caller. The officers respond if they are able and they are directed to go to the Grants residence to see if they can hear the dogs barking. The Chief estimates that 80% of the calls responded to the officers did not hear the dogs barking. The dogs could have stopped barking before they got there. The officers' response times are 3-4 minutes. Chief Landry feels that from the Police prospective, this has to stop – it is a draw on Town and Police resources – they can't continue responding to barking dogs. He does not feel that giving more time to work on it is going to resolve it. His recommendation would be to use the barking collars and enforce it. Whether or not the Grants are exaggerating, enough is enough. He does not feel enough has been done.

Chairman Savage opens for comments by the Board members.

Selectman Petrowicz would like to address the barking collar issue. He thinks this may be the best answer for dogs outside of the house. He would like to give Mr. and Mrs. Shuras the opportunity to address the collars but he agrees that this must stop.

Selectman Lima was under the impression that after the meeting with the Shuras' last year, they were going to purchase the barking collars and birdhouses. She would suggest intermittent/spontaneous site visits and feels that the Board should have followed-up in the past.

Selectman Petrowicz agrees that there should be a probationary period with threat of further enforcement action.

Selectman Laura feels that if the Shuras' would get the birdhouses and barking collars that work everyone would be happy – the Board has to set rules that are fair to both parties.

Selectman Savage addresses the attorneys for both parties. What outcome would appease the residents?

Attorney Padula feels that an outcome that leaves everyone reasonably unhappy usually works. He would agree with the Animal Control Officer to enforce the birdhouses and barking collars. He would also encourage a timeframe be placed on it.

Attorney Heller feels that it is pathetic to rely on children when you can't get 25 citizens to sign a petition and would like to know why the Animal Control Officer hasn't been to the home since last August.

Selectman Petrowicz feels that children are citizens are well. Town Counsel indicates that there is no age restriction in the statute.

Attorney Heller feels that if everytime Mrs. Shuras feeds the dogs, Mr. Grant is going to complain, the problem will never be resolved. He agrees that there should be a period of review but feels that the Animal Control Officer needs to document his visits before making recommendations. He maintains that there is nothing here to indicate or convince overwhelmingly that the dogs are excessively barking. He does not feel the barking collars are the answer. He would like to see the petition dismissed.

Kathy Shuras, 77 Fisher Street. Explains that she attempts to feed the dogs earlier in the afternoon and that she is using the birdhouses. She now has three kennels in the basement. Out of the 8 dogs, only 5 bark. She has spent \$500 on equipment and she has had to alter her life in many ways. She has been trying but emergencies do come up that she cannot help. She says that the most the dogs bark is 15-20 minutes at a time.

Joe Shuras, 77 Fisher Street. Explains that he is the owner of a karate school and is a Milford Police Officer. He is upset that his integrity has been questioned. He feels that Mr. Grant has an axe to grind and Mr. Grant must stop staring at Mrs. Shuras when she feeds the dogs. He feels that Mr. Grant is purposefully agitating the dogs to bark.

Joe Alves, 23 Debra Way. He feels that Mr. Shuras is an upstanding guy-he has known him for years. He feels that there is a lot of passion involved on both sides and recommends that Mr. Padula put together what he wants and Mr. Heller submit what he wants. The Board should review both and put something in writing for everyone.

Selectman Laura feels the Shuras' must have 2 functional birdhouses, 5 functional barking collars in use, the Animal Control Officer should log in check-ups for 60 days indicating who he spoke to and when, and whether the situation is better or worse.

Selectman Lima feels that it should be longer than 60 days and the Board should be prepared with what the next step will be. Is the next step to muzzle the dogs?

The Board agrees with a longer review period, but not too long so that this drags out.

The Animal Control Officer feels that whenever nobody is home, the barking collars should be on. This will help to regulate the barking.

Motion by Laura, second by Lima, that the Shuras' utilize 2 functioning birdhouses, 5 functioning barking collars to be worn by the barking dogs when the Shuras' are not home, a 90-day review period monitored by the Animal Control Officer with periodic, logged visits, and a 6-month probationary period. Motion passes by unanimous vote.

Selectman Savage thanks everyone for coming and cooperating this evening.


Selectman Poulin returned to the Board.

Motion by Lima, second by Laura, to adjourn the Meeting at 10:05 p.m. Motion passes by unanimous vote.

Respectfully submitted,

Helen M. Coffin

Paul Savage, Chairman


Thomas Petrowicz, Vice Chairman


Charles Poulin


Jackie Lima


John Laura