

TOWN OF PROVINCETOWN – BOARD OF SELECTMEN

SPECIAL MEETING – DOG HEARING

FRIDAY, DECEMBER 15, 2006 @ 10 AM

JUDGE WELSH HEARING ROOM

Acting Chairman Michele Couture convened this special meeting at 10:00 AM noting the following attendees: Board of Selectmen members: Michele Couture, Richard Olson, David Nicolau

Excused Absence: Cheryl Andrews, Sarah Peake

Other Attendees: Staff Sgt. Warren Tobias, Animal Control Officer Ruthann Cowing

Recorder: Vernon G. Porter

The following are meeting minutes in brief.

1. DOG HEARING MGL C.140,§157

Alleged Vicious Dogs owned by Michael Clifford

In pursuant to the provisions of Massachusetts General Law Chapter 140, section 157 the Board of Selectmen of the Town of Provincetown held a hearing on December 15, 2006 with four witnesses present including the complainants who were duly sworn and testified. There were two exhibits presented. (#1 – Letter from Michael Clifford – date received December 14, 2006 and #2 Notes from Dog Officer Ruthann Cowing.)

The Chairman read the letter sent to Mr. Michael Clifford, 156 Bradford Street, Provincetown, MA re: Notice of Hearing on Vicious/Barking Dog [MGL C.140,§157 – Friday, December 15, 2006 at 10:00 AM]

Before I commence with the swearing in of all witnesses I would just like to state that Mr. Clifford had left a voice message at town hall on December 12th saying that he wasn't able to be present and he had requested that we wait to hold the hearing for eight to ten weeks. I called Mr. Clifford on December 13th, and told him that it was unreasonable amount of time to wait 8 to 10 weeks and Mr. Clifford then stated that he had a Dr.'s appointment and could not make it and I suggested that he have counsel present and he told me he hadn't been able to get a hold of his counsel and he still requested the 8 to 10 weeks and I once again suggested that it was entirely too long to wait for a hearing to take place. Yesterday, I went to my place of work, which was closed on Wednesday, and when I was at work I had two messages from Mr. Clifford on my answering machine. Both of them stated pretty much what we had discussed the day before and that was that he had asked for an extension of the hearing. The only difference in this message is that he actually left the name of his attorney on the tape. So I spoke with our Town Counsel and gave him the name of Mr. Clifford's counsel and Mr. Giorgio had called and left a message at Mr. Wilkins – the attorney for Mr. Clifford - Russell Wilkins – and Mr. Giorgio left a message saying the hearing would be on December 15th at 10 AM and if it were possible for him to be here that would be great, if there were an alternative that that he could suggest that perhaps the Board would be willing to entertain a motion to continue the hearing until such a time that town counsel could be present and also that the time the hearing could take place would have to be within a reasonable amount of time and my suggestion was within a couple of weeks. Town Counsel hasn't heard back from Mr. Wilkins so now we are proceeding with this hearing.

Chairman sworn in witnesses: Dog Officer Ruthann Cowing, Mr. Michael Dean, Mr. Paul Thatcher; Mr. Stephen Milkewicz, and Mr. John Locke.

Chairman Couture turned the meeting over to Staff Sgt. Warren Tobias for questioning of the witnesses.

Testimony by Officer Ruthann Cowing – (See written exhibit #2)

Witness: Stephen Milkewicz – 1 Railroad Avenue. Sgt. Tobias: - Could you please tell us in April of '06 – Did

you have interactions with either Mr. Clifford or his animals. Answer: Yes, I was walking down Railroad Avenue at the intersection of Center Street and out of nowhere two Jack Russell's Terrier's attacked my Pomeranian, my mother's Pomeranian dog and proceeded to shake him, bite him and draw blood and the house boy of Mr. Clifford's came running, from I don't know from where, and took the dogs away. I took my dogs away, I have two dogs – one dog is bigger and he never gets attacked by those dogs 'cause they know better and my dogs are very passive anyway. So, I took them to Dr. Fred Pappalardo up the Street and he administered shots and treated the wounds. When I got home Mr. Clifford offered to pay for the veterinarian but it took months to finally to get him to pay, which at that time the bills went up and up and up. I paid them and Mr. Clifford only paid the original bill. Sgt. Tobias – Can you tell us how much the bills were? Answer: I think they started almost around \$80.00. And I am also on the Animal Welfare Committee and at the time that I talked to Mr. Dean he had problems and he wanted me to press charges with other people in town and I refused figuring it only happened once and I believe it is the owners not the dogs. Being a neighbor I did not want to cause any problems, so I did not press any charges. Sgt. Tobias – Your dog was bitten, but you were not in that particular incident? Answer – Not at that time, No. Sgt. Tobias – Do you have any other incidents? Answer – Yes, just a few weeks ago. Coming home from the beach with my two dogs at night. I got to my house, got my mail, went to my front door, as I was opening my front door the two Jack Russell Terriers went after my Pomeranian, pinned me up against my front door and proceeded to shake my Pomeranian by the neck – the two dogs at the same time. Sgt. Tobias – the same Pomeranian? Answer – Yes, I tried unleashing them. This was right up against my door. I fell up against my door, I fell on my side, hurt my side, and I think I might even have fractures. I haven't gone to the Doctor about it, but I think I have to 'cause I still feel it and it has been weeks, so, I think it would have healed had it been just a bruised. Mr. Thatcher came over; I didn't know who he was at that time, I don't remember seeing anything – just my dog and trying to get dogs away, finally they got away and Mr. Clifford's boy who lives there now and threatened me. Sgt. Tobias – How so? Answer – He said he was going to sue me, take my house away. He threatened that I kicked him, I was on the ground and I was trying to get my dog away – if he got kicked in the face it was his own fault. Sgt. Tobias – In this incident was your dog injured again? Answer – Yes. Sgt. Tobias – Did you take your dog to the vet? Answer – He wasn't punctured but he definitely was bruised and hurting and now when he goes outside he tries to get in the house Sgt. Tobias – Doesn't want to go outside. Answer – He's terrified of being out front. Sgt. Tobias – Speaking of being terrified – your address is #1 Railroad Avenue? Answer – Yes. Sgt. Tobias – Where is that in proximity to Mr. Clifford's residence? Answer – Right next door. Sgt. Tobias – So, living right next door are you in fear of your dogs? Answer – Yes, and every time they go by they bark. And being an animal person I know what that bark is. It's a territorial bark and his dogs are trying to get at my dogs and the next door neighbors, Mr. Dean's dog. Every time those dogs bark our dogs bark and it cause a real nuisance in the neighborhood. There are barking dogs constantly. Sgt. Tobias – Do you think, in your opinion, are these dogs aggressive? Answer – Very. Sgt. Tobias – Have there been any other incidents with these dogs that you have not reported to the police. Answer – I've seen other people walk down Railroad Avenue that been barked at and run after and I've heard arguments but I don't know their names. Sgt. Tobias – Is there anything else you would like to add? Answer – Just that Provincetown is a small place. We all have to live next-door and yesterday Mr. Clifford came by to me beeped his horn at me and said he his taking me to court and is going to own my house. Sgt. Tobias – Do you have any ideas what prompted that? Answer – He is mad at me, obviously, even though I didn't press charges. Sgt. Tobias – Maybe for coming to this hearing today? Answer – Yes. I wasn't even going to come today. I told Ruthann I wasn't going to come. Mr. Thatcher and Mr. Dean talked to me and I realized it was for the benefit for the town, of other dogs and other people. I didn't even realize how bad Mr. Thatcher was hurt. Sgt. Tobias – We really appreciate your coming today. Thank you.

Witness – Paul Thatcher – 11 Winthrop Street. Sgt. Tobias - Were you involved in an incident with Mr. Milkewicz in November of '06? Answer – Yes, I witness the whole thing. Sgt. Tobias – Can you tell us what you witness. Answer – I'll do just a brief rundown. I helped John some of his person items out of my house. Sgt. Tobias – And who is John? Answer – John is the house person for Michael Clifford. After that we got to the Elephant Inn and we were talking the dogs out to the back yard to do their thing. I knew there had been problems with the dogs in the past but I had no idea the viciousness that they had. The dogs were doing their thing and we had cigarette and we were talking and on the way out the fenced in back yard the female dog notice that Steve's dogs were out - the large dog and went over there and instigate a confrontation with the dogs; the male dog ran directly over there and immediately attacked and latched directly on to the Pomeranian dog with such viciousness that it reminded me of a pit bull fight and attack. I tried to stay out of it but I could not take the wining and helplessness of the poor Pomeranian. She was just being shaken around terribly. He

had her by the nap of the neck and he was not letting go or listening to any command from John. There was a lot of kicking going on. The kicking was basically trying to kick the dogs apart – Michael’s dog from the Pomeranian .. nothing seemed to phase this dog. Finally, John had gotten a hold of the female dog and get her out of here and as he was handing her to me, I went to go grab her under her arms and she was still in a fighting frenzy mode and was the one who had bit me. I thought it has been Bishop but Bishop had a death hold on this other dog. I really tore flesh. I mean really bad flesh. I was in tears at one time. I had a puncture wounds from the K-9 teeth. I had tissue hanging out all over the place. Sgt. Tobias – Did you see medical attention? Answer - I brought the dog into the house. There was blood all over the female dog, my blood. John eventually did come in. There was some yelling and screaming and there was mention that, sorry John - but there was mention that - John was yelling at Steve saying that he was going to sue him and own his house. Anyways, John said you better leave. I showed John my hand and said John this is not good – this is just not good. It’s bleeding and he gave me a paper town. And I said I better leave, as I knew the police were coming. I went home and I looked at it and it was pretty bad and I believe that it had to be stitched up. So, when I was driving myself up Cape, I stopped by Shankpainter Road and spoke to, I believe, Officer Carr and I told him that I witnesses the incident and that I was bitten and that I was on my way up to the hospital and to let John know. Officer Carr wanted the paramedics here in town to look at it but I knew it had to be stitched up. So I went to urgent care and they couldn’t stitch it up because it was a dog bit but they did have to trim some tissue off and around from it; it was very deep and they had to numb it as it was very deep; they irrigated it out; I had to be put on very strong antibiotics and pain medical for a couple of weeks because the pain was that significant. I still hurts like hell when I grab something the wrong way. I am not a vindictive person and I don’t believe in suing people. The thing that brings me here today is a couple of things. John was good enough to call and says that “Paul, we’ve been worried about and just wondering how you are doing?” and the Bishop the male dog is very, very, very sorry. No mention about Michael. Michael never called me, never offered to ask me to assist with any medical bill that I may have accrued with this. He has just blew the whole thing off like it has never happened. I even mentioned that to John .. why hasn’t Michael called and taken responsibility? I was doing a Food Drive at the GU for the PASG and Michael and John came in and I showed them the thing and Michael was is still ho-hum and I hope you feel better type thing. So, after talking with Ruthann I realize that there has been many other more incidents with this and I worked for the SPCA for a very short period of time out in Portland, Oregon and I didn’t last too long because they had to euthanize a lot of dogs and did eventually get to me, so I did quit. I don’t want to see the dogs put down. I really feel that it is necessary that something needs to be done with these dogs. They are totally out of control. As far as I can tell they have had no training whatsoever. No obedience training. They do not listen to voice commands. They are very barky and the bites that this dog give and attacks other dogs is not a simple snip – they virtually go and attack the other people’s dogs .. innocent harmless dogs that are passive that are minding their own business and are not doing anything. I’m here today because I can save the live of another dog or the trauma that has happened to other dogs like Steve’s small Pomeranian who is now afraid to go into her own yard and or other bites to other individuals. I did endure a lot of pain with this thing and its something that should not have happen. My suggestion is to get rid of the dogs or to put muzzles on the dogs. There are other measure as well .. such as control collars. There are ways and means that Michael can use but he has not agreed to any of this. Sgt. Tobias – I have a couple of questions, if I may - Answer – Yes Sgt Tobias - You said this first incident - the attack that the dogs were in the back yard of the Elephant Walk? Answer – Yes, which is in another condominium complex, which they are allowed to use, I believe. Sgt. Tobias – Can you describe that back yard for me. Is it fenced in? Answer – Yes, it is fenced in. Sgt. Tobias – How high is that fence? Answer – Approximately 4 ft .. maybe 6 ft. on the other end. Sgt. Tobias – Does it completely enclose the entire back yard? Answer – The sides that I could see were. Sgt Tobias - You mentioned that you went to urgent care – is that the Emergency Room at Cape Cod Hospital? Answer – Yes Sgt. Tobias – Did you incur some cost there? Answer – Yes, close to \$600. Sgt. Tobias - And you have not been reimbursed anyway for that? Answer – No, I’m on Mass Health and they did pick it up. Sgt. Tobias – So Mr. Clifford did offer to compensate you in any way shape or form? Answer – No, he hasn’t even questioned it, or asked - No. Sgt. Tobias – Is there anything else you would like to add? Answer – No. But something needs to be done with these animals. I personally feel that they are not safe to be around other animals. This is a dog friendly town and those dogs are not dog friendly and they are not very people friendly when it comes to dealing with the dog’s owners. Sgt. Tobias – That’s why we are here and we appreciate you’re coming.

Witness – Mr. Michael Dean – 5 Conwell Street – Corner of Railroad and Conwell - two doors down from Elephant Walk. Sgt Tobias – Can you tell us if you had an incident with Mr. Clifford’s dogs in June of ’06?

Answer – There has been several incidents and some of them I didn't report so I'm a little confused on what ones I reported and what ones I didn't. I know that one was an attack and the other was they were just in my yard and I called the cops. Sgt. Tobias – Ok. Can you tell us about the attack, please? Answer – The attack, I was walking down; I usually take my dogs, my dogs are usually on a leash because he'll run away if he's not on a leash. Sgt. Tobias – What kind of dog do you have? Answer – He's a Jack Russell. And we were coming off of Bradford Street walking down Railroad which is adjacent to the parking lot at Elephant Walk and one of the dogs just came out of nowhere started attacking my dog. My dog was on the leash and he ran around me 4 or 5 times and I was tied up on the legs and at that point John came over and told me to pick up my dog but I wasn't going to put my hands down in the middle of that. I think he eventually picked up one of the dogs. He went back into the house. I went into my house. My dog was attacked very badly back in March. I shouldn't have done it but I went over to the house to talk to them and John was saying that my dog bit him and telling me that he was going to sue me and both of them were standing at the door yelling at me and I just walked away. Sgt. Tobias – Did you dog sustain injuries? Answer – No Sgt. Tobias – No puncture wounds, no lacerations? Answer – No Sgt. Tobias – How about yourself? Answer – My legs were cut up but that was from the leash being wrapped around me and them pulling away. Sgt. Tobias – That would be as a result from the other two dogs attacking your dog. Answer – Right.

Sgt. Tobias - Was there any other incidents? Answer – The worst thing was March 5th of last year. My dog was tied up in the front yard when I was taking stuff out of the car. Two Jack Russells came out of nowhere - and this image is always in my mind – and my dog was on the ground up against the fence and once of the Jack Russel's had him by the neck and one had him by the butt and they were just going after him and I think he was just about to give up. I don't know how I finally got them apart but I got my dog up and put him into the front door and one of the Jack Russells would just not stop. I was sitting on the front steps waiting for them to go away and Michael was standing there and that dog was just jumping over me and finally Michael got him away. He said if there any vet bills he would take care of him. My dog has very thick hair and I checked him out and I didn't find anything wrong but like two days later I notice that he had a puncture wound on his butt. Sgt. Tobias – Did you take him to the vet? Answer – No Sgt. Tobias – And this happened on your own property. Answer – Yes Sgt. Tobias - You mentioned earlier that there were incidents that you did not call the police? Answer - They've been in my yard. Both of them go in the yard. They just go around the house and at this point I think it is ridiculous. In the summertime my dog is on a long lead leash and I am afraid to leave him out there any length of time. I won't go take a shower or anything like that because I don't know when these Jack Russells are going to come around the corner. I walk my dog at night and after these incidents I look out the front door and I have to look both ways because I don't know when they are going out. I had a baseball bat at my back book because if they came near me I'm going to smack them – then I realized that I won't do that ... because I can't hurt a dog ... so, what I am I going to do. I became quite discussed with this whole thing – it's like nobody seems to care and nobody seems to want to do anything about it. Sgt. Tobias - That is the reason we are here today and I appreciate you coming. So, correct me if I am wrong - are you living in fear? Answer - I don't think those dogs are going to hurt me but they will hurt my dog or another dog. I was not aware of all the other incidents that occurred. I thought that I might be the only one – was there something wrong with my dog. I living in fear that they're going to attack my dog again and if I get into the middle of it then they are going to hurt me. Sgt. Tobias – Is there anything else you would like to add? Answer - No

Sgt. Tobias to the Board of Selectmen – I think it is self evident what is going on there and we're asking for your assistance

- Chairman Couture – we have one more person to give testimony and then he Board will close the hearing and then deliberate.

- Witness – Mr. John Locke – I live at the Elephant Walk – currently taking care of Michael and the dogs as best I can. I can claim that yes, I was involved in two these incidences and I wasn't involved in the April incident; we were Florida at the time with a different person watching the dogs at the time. So that again, is Michael's incapacity to necessitate the rules they must follow in order to keep the dogs in order. I want to thank Mike and Paul for their honesty. Those were very accurate details of the detailed descriptions of the things that did happen. I was unaware that there was a muzzle prerequisite. Michael never told me if there had been. I do take the best care of those dogs that I possibly can. I mean if I wasn't there they wouldn't even be fed. I didn't know about them being unlicensed. I did make sure they got their shots in April – otherwise Michael wouldn't

have done it. The reality is that Michael is a person who will put off anything until the absolute last shoe falls. I love Bishop dearly, he has become my dog essentially. I think if they were separated rather than put down it might make a difference. I've found over the past year that Gwendolyn will start something and Bishop, being the boy, will come to protect her. She's the instigator in every incident, otherwise he wouldn't even bother. He's just let's go run and let's go be happy and Gwendolyn is a mental case. You can't train her for anything. Bishop listens to me. He doesn't of course in the heat of an attack. The second incident with Mr. Milkewicz was a heated incident was very traumatic for everyone involved and a lot of heated things and actions were done in the heat of the moment, which I am well over but the reality is that they were attacking Stevens dog. Be that it as it may that we were coming out of an enclosed area to go into our own house I didn't realize that they were out. Had I been able to look about the fence to see that they were there, I wouldn't have let them out until they had brought them in but I had no idea they were there. I was even mentioning to Paul that I have to be very careful with the dogs at the time because there has been incidents. So I was unaware that they were even there. So, since November 4th there has been other incidence that I am aware of because I take them and put them on a leash. I take them from the back door to the back yard. That's about twelve feet. I don't mind. They are use to it now. They haven't been in public as far as I know personally on my behalf during any quarantine period – or at least I'm told the dog office is suppose to come and see the dog and release the quarantine. I work another job also so I'm not at that residence 24/7 to know exactly what is going on at all times. I understand that other dogs and dog owners shouldn't be put at risk. I understand that there is a whole bunch of options, like Paul mentioned, but in order for those options to be carried through if there was a way that the Board could see that perhaps a separate fence could be built that I could also be notified so that I can make sure it happens. I didn't even know about the muzzle until I read the letter that was sent by the Board. I just purchased halter type leash collars that fit around the body and Michael hid them on me. He blatantly disregards a lot of thing and I do the best that I can. Anytime when they are in my care I do the best I can. I just want to thank the other witnesses for their honesty. It's a shame that things get said in the heat of the moment during an attack .. and the reality is that they were attacked.

Sgt. Tobias – After the incident following Mr. Thatcher and Mr. Milkewicz, do you know if the dogs were quarantined at that point? Answer – I was not told by Michael but I do believe they were quarantined from the 18th to the 28th. Question – Did you walk them down Commercial during that quarantine? Answer – No. Question – Did you want them down Railroad Avenue during that time? Answer – No. Sgt. Tobias – Would it surprise you if I told you that it was reported to us that you were seen walk them during this period. Answer – It would surprise me. Sgt. Tobias – Is it possible? Answer - I don't believe it's possible because I waited until December 1st before I took them anywhere ... because I wasn't sure when ... Michael never gave me a date of when the quarantine would start or end so I just assumed. The incident happened before so ten days before that would have been the 14th, so anytime after the 18th should have been – nobody gave me actual dates to be honest with you. So I basically stayed until December 1st to take them downtown anyway. Sgt. Tobias – Let me try it another way. So, nobody gave you any dates. And you assumed the dates – isn't it possible that you were walking the dog when they were on quarantine. Answer – It could be possible, however, I doubt it is my honest answer. Sgt. Tobias – Thank you. I don't have any other questions.

Chairman Couture - Thanks to all of you for testimony.

Chairman Couture started to read Mr. Michael P. Clifford's letter date stamped by Board of Selectmen's Secretary, December 14, 2006 (Exhibit #1) into the record but then decided to forgo reading the rest of the letter but to make copies available to those interested.

Comments Chairman Couture: In summation, there was testimony to nine (9) specific incidences pertaining to the viciousness of these two dogs; specifically bites on other dogs and humans.

MOTION: *I move that the Board of Selectmen vote to close the hearing.*

Motion by: Richard Olson **Seconded by:** David Nicolau **Yea 3 Nay 0**

MOTION: *I move that the Board of Selectmen vote to find that the dogs have a vicious disposition and therefore constitute a nuisance to the community.*

Motion by: Richard Olson **Seconded by:** David Nicolau **Yea 3 Nay 0**

MOTION: *I move that the Board of Selectmen vote to issue an order as follows:*

- 1) *Dog Owner is to confine dogs to inside of owner's property.*
- 2) *Owner is to provide enclosed 6 ft fencing with no outside access.*
- 3) *Dogs be muzzles anytime they are outside the residence.*
- 4) *Dogs must attend a licensed obedience school within the next three months.*
- 5) *Of one more incident occurs dogs will be banished from Town.*
- 6) *Dogs must be licensed.*
- 7) *Animal Control Officer to check within 48 hours to make sure muzzles are purchased.*
- 8) *Dog owner is to bring in plans for new chain link fencing within a month*
- 9) *Any violation of this order will require that the owner come before the Board of Selectmen for an additional hearing within 48 hours from the time of infraction.*
- 10) *Any and all cost associated with this order shall be borne by the owner of the dogs.*

Motion by: Richard Olson **Seconded by:** David Nicolau Yea 3 Nay 0

Motion to adjourn by Richard Olson at 11:40 AM.

Minutes transcribed by: Vernon G. Porter
December 15, 2006