

IN BOARD OF SELECTMEN  
TUESDAY, NOVEMBER 30, 2004  
SPECIAL MEETING

Present: Chairman John C. Drobinski, Selectmen Lawrence W. O'Brien and William J. Keller, Jr.

The statutory requirement as to notice having been complied with, the meeting was convened at 7:30 p.m. in the Lower Town Hall, 322 Concord Road.

**Clerk Pro Tem**

It was on motion unanimously

VOTED: To appoint Janet Silva, Administrative Assistant to the Board of Selectmen, as Clerk Pro Tem for the duration of these proceedings.

**Dog Hearing – Elizabeth Sulkowski, 73 Moore Road**

Present: Elizabeth Sulkowski, Adam Sulkowski, Dog Owners, 73 Moore Road; Betsy DeWallace, Sudbury Dog Officer; Paula Adelson, Assistant Dog Officer; Cheryl Kurtz, 53 Butler Road; Anthony J. Sorrenti, 47 Butler Road;

The Board reviewed the following information:

1. Complaint, dated September 29, 2004, notarized October 1, 2004, by Cheryl Kurtz, 53 Butler Road, stating a dog owned by Elizabeth Sulkowski, 73 Moore Road, is a nuisance for the following reason: "The dog had been at my house every day for 1 week. He sneaks in my fenced yard where my dog is kept. At one point he made a hole in the fence, another time he caused my dog to break through and follow him. He followed when taking my dog for a walk so my dog was constantly pulling on his leash almost injuring me."
2. Complaint, dated October 1, 2004, notarized October 1, 2004, by Anthony J. Sorrenti, 47 Butler Road, stating a dog owned by Elizabeth Sulkowski, 73 Moore Road, is a nuisance for the following reason: "The dog is always running loose. He comes in my yard and bothers my dog. My dog is either tied outside in my yard, or kept in my porch. My dog has ripped open my screens several times as a result of that dog coming up to my house."
3. Report, dated October 19, 2004, from the Town Clerk, stating a dog license was renewed on February 5, 2004, for a Weimaraner named Clifford, licensed by Adam Sulkowski, 73 Moore Road.
4. Report, dated November 26, 2004, from Betsy DeWallace, Dog Officer, stating she has inspected a large crate inside the house which is sufficient to house the two (2) Weimaraner dogs known as Clifford and Daisy, and the owner has agreed to lock the dogs in the crate when no one is home. Ms. DeWallace stated further the outside pen needs modification to block a 10" space between the fence and the house, which is wide enough to the dogs to squeeze through. Lastly, Ms. DeWallace recommended that maximum fines be imposed upon the owner, Elizabeth Sulkowski, if either Clifford or Daisy are discovered loose, and referenced numerous previous complaints over the past several years.
5. Report, dated October 7, 2004, from Betsy DeWallace, Dog Officer, listing seven (7) complaints dating from July 22, 1999 to September 2004, in which the dog known as Clifford was loose and visiting various homes in the neighborhood. Addendums to this report, dated October 10 and 17, 2004, describe additional,

more recent, incidents of Clifford on the loose, breaking fences, and confirm a second Weimaraner named Daisy also resides at 73 Moore Road. Addendum, dated November 26, 2004, cites two incidents from 1993 in which a German Shepherd owned by Ms. Sulkowski was loose, captured and impounded.

Chairman Drobinski stated anyone wishing to speak during this hearing would be sworn in by Town Counsel, and that the Board of Selectmen acts as the hearing officers. He stated the complainants would be heard first, then the dog owner, and finally the Dog Officer. Mr. Drobinski briefly reviewed the hearing, decision and appeal process.

Paul Kenny, Town Counsel, further explained the hearing procedures, and stated the Selectmen could make several different decisions, i.e., fine the owner, order the dog restrained, banished, or destroyed. Mr. Kenny stated that every dog owner is legally responsible for the actions and behavior of his dog. Dog owners can be fined for every instance where they are loose and caught by the Dog Officer. Should the dog be ordered to be restrained, any subsequent damage is trebled [increased three-fold], and further, the dog could be ordered destroyed if he gets loose. Mr. Kenny cited the example that, in an extreme case, a restrained dog could be shot by a police officer if he is loose and causing damage.

At this time, Town Counsel swore in the following individuals: Paula Adelson, Assistant Dog Officer; Betsy DeWallace, Sudbury Dog Officer; Cheryl Kurtz; Anthony J. Sorrenti; Adam Sulkowski, Elizabeth Sulkowski.

Mr. Anthony J. Sorrenti, 47 Butler Road, stated he had called the Dog Officer numerous times over the course of the summer before making the complaint in late September. He stated the Sulkowski dog would come into his yard and up to his house, agitating his dog, who would then destroy the screens to get out of the porch enclosure. Mr. Sorrenti stated he keeps his dog either tied in the yard or enclosed on the porch. Responding to a question from Selectman Keller, he stated he has not seen the dog for about a month, but clarified the dog had been loose most of the summer, two or three per week. The dog comes and goes on his own.

Chairman Drobinski asked about the dog's temperament. Mr. Sorrenti replied the dog is a really nice dog, and he had no fear or concerns about his safety or the safety of his dog.

Chairman Drobinski asked about the damage to Mr. Sorrenti's screens. Mr. Sorrenti replied he was not looking for compensation and had replaced the screens as necessary. Mr. Sorrenti stated he was simply seeking peace and quiet and that the dog be confined as the leash law requires.

Selectman O'Brien asked Mr. Sorrenti if his dog is outside at times when he is not at home. Mr. Sorrenti replied that his dog is inside the house, not on the porch or outside, when he is not at home. His dog becomes agitated when he is on the porch and sees Clifford approaching the house, and he brings the dog inside at that time.

Ms. Cheryl Kurtz, 53 Butler Road, stated Clifford visited her home a great deal during the summer and into the fall. She stated he visited every day for a week, was absent two days, then back again for seven consecutive days. She stated Clifford would pull planks from her picket fence to get into her yard and her dog has also broken the fence to be with Clifford. Ms. Kurtz expressed disappointment that there was little response from the Dog Officer, which added to her frustration. She acknowledged that the dog's owners seem to be trying more diligently to keep the dog under control. She stated the dog's disposition is very

friendly, and that she just wants him to behave. Responding to a question from Selectman Keller, Ms. Kurtz stated there have been about 20 visits from Clifford since July 4, 2004.

Selectman O'Brien noted, after referring to the Dog Officer reports, that Clifford gets out at all hours of the night and day, sometimes after 11 p.m. Ms. Kurtz stated she has found teeth marks on the planks from her picket fence, indicating the dog's level of desire to get into her yard.

Ms. Elizabeth Sulkowski, 73 Moore Road, stated Clifford is 10.5 years old, and that they have tried many different means to control him. She opined he develops very strong friendships with other dogs. She stated an enclosure was built, but he managed to squeeze through an opening between the house and the end of the fence. She stated sometimes he would get out and come home before she even realized he was gone. Ms. Sulkowski stated she has purchased a large crate in which to confine him when she is not at home. She stated one day she found the dog missing, and contacted Ms. Kurtz to see if he was at her home, which he was. She stated they have been trying more diligently the past month and a half to keep him under control, but as he is a hunting dog and seeks the company of other dogs, it has been a challenge.

Chairman Drobinski reminded Ms. Sulkowski it is her responsibility to do a better job of keeping him under control, even if his disposition is friendly. He opined the dog could unintentionally injure someone out of his own exuberance.

Selectman Keller asked Ms. Sulkowski how long she has owned the dog. She responded she has had Clifford since he was a puppy, and opined the leash law has been in effect only about 4 years. Mr. Keller asked about the second dog mentioned in the Dog Officer's reports. Ms. Sulkowski stated that the second dog, Daisy, left the yard only once, but, as a rule, does not run around with Clifford.

Selectman Keller suggested the Sulkowski family hire someone to walk the dogs in the middle of the day, which might reduce the desire to get out of the yard. He opined that this could resolve much of the issue, and noted that if fines were to be assessed on a more regular basis, Clifford's behavior could become costly.

Ms. Betsy DeWallace, Sudbury Dog Officer, stated she has inspected the enclosure which is of good size, but noted there is one area next to the house where the dogs can get through. She notified the owners they need to somehow block that area, and that would alleviate the problem. She stated she also suggested the dogs be confined inside the house when no one is at home. Chairman Drobinski opined the dog walker suggestion from Selectman Keller could be helpful. Ms. DeWallace stated the dog is a very nice dog who simply likes to "hang out" with other dogs.

Chairman Drobinski asked when the fence would be fixed, so that the Dog Officer could come by to check on it. Ms. Sulkowski stated there is a pet door that allows the dogs to come in and out of the enclosure as they need to, then they escape.

Mr. Adam Sulkowski, 73 Moore Road, stated the enclosure is approximately 50' x 40' [estimated at the size of Lower Town Hall meeting room], and was built this summer of concrete, hog wire, chicken fence, with the hog wire and cement two feet beneath the ground so the dogs cannot dig under, and that portion attached to the chicken wire. He opined the dogs leave the house via the dog door, slip through the opening, and no one knows they are gone. He apologized to the neighbors in attendance, and promised to fix the opening so the dogs cannot get through.

Ms. DeWallace stated the fence post near the house cannot be placed any closer to the house, and suggested placing something significant, such as another post, in the remaining space to block entry. She stated that the fence seems to be sturdy enough otherwise. Selectman O'Brien asked if the dogs could jump the 5-foot fence, and she responded she did not know.

Town Counsel advised the Board to make a finding and then a recommendation, if they were finished with their questions to all parties.

Chairman Drobinski asked if the second dog known as Daisy is licensed in the Town of Sudbury. Both Ms. Sulkowski and the Dog Officer responded it was.

Chairman Drobinski stated he would like the fence repaired to the satisfaction of the Dog Officer, and when the dogs are outside the enclosure, they must be on a leash. He opined he was not ready to require them to be restrained yet as it seems the dog owners are trying to keep them under control and alleviate the frustration of the neighbors. Mr. Drobinski opined further that, if the dogs get out again, the Board may be forced to require them restrained, which elevates the seriousness of the situation with respect to fines and further action.

Selectman Keller noted the estimated 20 violations over the summer and fall to be a concern, and stated fines should become more frequent. Ms. Paula Adelson, Assistant Dog Officer, responded the owners have been fined, on the occasions when she or the Dog Officer have been able to actually pick up and contain the dog. Many times the dog is gone by the time they reach the location or he eludes them. She noted it is at the \$50 level at this time.

Selectman Keller stressed that this situation is not a "first offense" matter, noting again the number of incidents.

Selectman O'Brien stated he would like to hear back from the Dog Officer that the anticipated modification meets her approval, and suggested reports after thirty and sixty days would be appropriate to assess the success of said modification. He opined the dogs are clever and may in time find another way to get out.

Chairman Drobinski summarized their decision should include: the modifications to the pen should be completed over the weekend, the Dog Officer to inspect the modification on Monday; a finding that the dog is a nuisance as defined by Bylaw and statute; and reports from the Dog Officer at 30- and 60-day intervals. He gave a copy of the regulations to Mr. Sulkowski for his records. Selectman Keller added that also included should be a finding that the dog has violated Town Bylaw Article V, section 3-12 (Control of Dogs) numerous times.

Chairman Drobinski cautioned the dog owners that if their modifications are not effective, this situation will become more serious.

It was on motion unanimously

VOTED: That the Board of Selectmen finds the Weinmaraner dog known as Clifford, owned and harbored by Elizabeth Sulkowski of 73 Moore Road, to be a nuisance in accordance with Sudbury Bylaw Article V, Section 3-13. Nuisance Abatement, and also finds said dog to be in violation of Sudbury Bylaw Article V, Section 3-12. Control of Dogs, a number of times as stated in the testimony of this November 30, 2004

hearing, and it is therefore ORDERED that the outdoor pen to confine the two Sulkowski dogs be modified to the satisfaction of the Dog Officer by Monday, December 6, 2004, and inspection by the Dog Officer take place by that date; that maximum fines be levied for any further violations of Sudbury Bylaws, Article V, Section 3, Regulation of Dogs, by either of the Sulkowski dogs; that the Dog Officer reinspect the dog pen to determine whether it is still satisfactory to contain the dogs and report to the Selectmen at the end of December 2004 and again on February 1, 2005, concerning the pen and the family's compliance with said Bylaw; and, additionally, if further complaints are received concerning the dogs owned by the Sulkowski family requiring another hearing, a more stringent order will be considered at that time.

The hearing concluded at 8:20 p.m.

Chairman Drobinski advised all citizens that the leash law is in effect, and the Town takes all complaints seriously. He encouraged dog owners to be responsible for their pets.

There being no further business, the meeting adjourned at 8:25 p.m.

Attest: \_\_\_\_\_  
Janet Silva  
Clerk Pro Tem