

## **MONTAGUE SELECTBOARD MEETING**

**1 Avenue A, Turners Falls, MA**

**Wednesday, May 11, 2022**

Meeting was opened at 5:00 PM. Present were Selectboard members Rich Kuklewicz, Chris Boutwell and Matt Lord; Executive Assistant, Wendy Bogusz; Attorney Gregg Corbo; Police Chief, Chris Williams; Officer Cody Wells, Calin Giurgiu, Animal Control Officer, Kathleen Burek, Animal Inspector, Daniel Wasiuk, Director of Public Health, Nicholas Pratt, Alexander Subosz

Selectboard Chair opens the meeting, including announcing that the meeting is being recorded and roll call taken.

### **Dog Complaint Hearing, Kim Marie Caron (Dog is owned by her son Nicholas Pratt)**

Corbo explains that we are meeting today on a complaint and to determine if the dog owned by Mr. Pratt is a nuisance or dangerous dog as those terms are defined in said statute.

The task of the Selectboard is twofold; 1) to determine whether evidence supports a finding that the dog is a nuisance or dangerous dog based on the evidence and testimony given at this hearing tonight and 2) if the board decides the criteria for a nuisance or dangerous dog is met, what, if any remedy should be ordered in order to protect the public as a result of the boards findings. The board's authority here extends to issuing an order necessary to protect the public safety which might include various forms of restraints of restraining the dog or if the board finds those forms of restraint are not sufficient to protect the public then issuing an order that the dog be humanely euthanized.

Atty Corbo swears in parties who will be testifying: Chris Williams, Calin Giurgiu, Kathy Burek, Alexander Subosz and Christopher Brown. (Nicholas Pratt did not raise his hand)

Alexander Subosz gives testimony that while on a walk with his daughter and dog on April 26, 2022 near Montague Machine Nicholas Pratt's dog came through the fence and attacked his dog. While intervening he was bitten on the right hand. Ultimately two dogs were out but only the black dog was aggressive.

Calin Giurgiu, Animal Control Officer:

- Gives testimony that he has responded to the house many times
- Was there the previous week because dog went through the fence and was in the neighbors yard.
- Advised Mr. Pratt to fix fence, put dog on run while outside
- Delivered hearing notice to Mr. Pratt, the fence had not been repaired
- Walked in to this meeting with Mr. Pratt and he stated he put up a run
- Witnessed dog in house and he was sort of aggressive.
- Neighbors have stated they are afraid of the dogs, but don't want to cause any problems within neighborhood, until too much is too much
- Sometimes all three dogs are running loose on the street

Officer Cody Wells (Gregg Corbo swears Cody in for the record)

- Cody was the officer on duty on April 26, 2022 and responded to the incident
- Met with Mr. Subosz at Montague Machine where he was getting medical treatment for dog bite
- Officer Wells received statement from Mr. Subosz and later spoke with Kimberly Caron at 20 N Street
- Ms. Caron told Officer Wells dogs were not registered or up to date on vaccinations and the dogs were her sons
- Told Ms. Caron fence was not suitable and dogs should be left in
- Have received many complaints regarding dogs being left outside and barking.

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Kathleen Burek, Animal Inspector:

- Job is to quarantine animals when they bite, dog is 10 days.
- Spoke with Ms. Caron who was extremely upset, wanted son to fix fence.
- Spoke to Mr. Subosz and told him the dog that bit him was not vaccinated and he was informed to contact his doctor to see whether rabies shots were necessary
- Served quarantine to Ms. Caron and she said she understood.
- Burek did not see dogs and was told to leave paperwork in the mailbox. Burek will return at the end of the 10 days

Christopher Brown, 24 N Street (neighbor):

- Has had issues with the dogs at 20 N Street since he moved in 5 years ago. First with the yellow dog now with the black and white dog
- Brown gives the Board copies of photos which are dated showing dogs loose and goes over timeline regarding his interaction with the dogs. Also plays a recording of dog howling throughout the night.
- Atty. Corbo asks questions relating to Mr. Brown's interactions with the Dogs

Atty. Corbo asks Animal Inspector Kathleen Burek to explain what the requirements are for quarantine. Burek responds the quarantine is for 10 days, if dog outside it must be fenced in. If they want to walk the dog, it needs to be on a leash and licensed with the Town of Montague and up to date on with its rabies shots.

Nicholas Pratt is sworn into the record by Atty. Corbo

Nicholas Pratt, 20 N Street:

- Run was used for yellow dog, will start using it for Jax and has a steel face muzzle for him while he is out on the run as an extra precaution
- Been patching fence here and there, gate is last thing to repair then he shouldn't be able to get out.
- Working on getting dog licensed, made appt. at a Veterinary office in Springfield to get him his shots. States his mother is working on getting her dogs vaccinated as well
- Dog has not been trained on the muzzle. Household members have read instructions on how to use the muzzle.

Atty. Corbo announces that concludes the evidentiary portion of the hearing. It is now up to the Board to deliberate and decide whether they find the dog a nuisance dog or a dangerous dog as defined by M.G.L c. 140 157.

Discussion

Lord makes the motion based on facts adduced at this public hearing, including but not limited to the testimony of Officer Wells as well as Mr. Subocz that the dog in question, Jax bit Mr. Subocz while he was walking the street with his dog and infant child that the Selectboard find that the dog complained of is a dangerous dog by reason of the fact that without justification, attacked a person causing physical injury. Seconded by Boutwell, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye

Corbo goes through list of remedies available to the Board based on their decision that Jax is a dangerous dog as defined by M.G.L c. 140 157.

Vaccination and Registration is a requirement of the law whether it is part of this proceeding or not. Any order other than euthanization is implied that the dog must be vaccinated and registered otherwise it is

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subject to seizure and put into the kennel. If it is not licensed and vaccinated within 7 days the animal control officer can put it up for adoption at his discretion or euthanize it.

- The dog either needs to be on a secure run or within a fenced area rugged enough that the Animal Control Officer finds suitable to contain the dog within the premises.
- When the dog is not in Mr. Pratt's direct control or being walked outside on the street the dog must be muzzled, at least for a period of time until Mr. Pratt can come back before the Board to reexamine in 6 months.
- Mr. Pratt as owner of the dog (keeper of the dog) has a responsibility to be responsible. Important that Mr. Pratt provide an insurance that specifically lists that dog as insured. Proof of insurance within 7 days no less than \$100,000. Bring to Wendy in Selectboards office or in Wendy's absence give to Town Clerk.
- Provide current photo to Animal Control Officer (ACO) and Animal Inspector
- Next step euthanization, if dog found loose the ACO can pick up dog
- Based on Mr. Browns testimony regarding frequent barking throughout the night from 10:00 PM to 6:00 AM that Jax the dog complained of in this hearing is a nuisance dog due to excessive barking causing interference that a reasonable person would find disruptive to quiet and peaceful enjoyment.

Pratt states the dog barking is not his dog barking. Kuklewicz states if there is a complaint of a dog barking we will be back before the board for a Nuisance Hearing.

*Lord makes the motion that the dog in question Jax, is considered a nuisance dog in the form of barking and he is not allowed to be left unattended in the yard between the hours of 7:00 PM and 7:00 AM.*

*Seconded by Boutwell, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

*Boutwell makes the motion when Jax is in the yard he be securely attached to a run as described with a strength exceeding 300 lbs. or at the discretion of the Animal Control Officer in a securely fenced area and that he be muzzled when he's outside and the dog be muzzled when not outside under the control of the owner on his own property. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

*Boutwell makes the motion whether in the control of his owner and on a leash on any public way will be on a secure leash not exceeding 3' in length and muzzled. Seconded by Lord, approved unanimously.*

*Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

*Boutwell makes the motion to require Mr. Pratt to obtain proof of insurance no less than \$100,000 for any claims resulting from intentional or unintentional acts of the dog within 7 days of tonight's hearing (5/11/22). Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

*Boutwell makes the motion to require Mr. Pratt to provide the Animal Control Officer through the Police Department photos of the dog by all angles so it will be easily identified. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

*Boutwell makes the motion that the dog not be permitted loose off the owners property at any time unless held securely on a leash. If dog found loose for any reason, upon report of that, it will immediately result in a dog hearing. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

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*Boutwell makes the motion that the dog be vaccinated and licensed within 7 days. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz – Aye*

Kuklewicz would be willing to revisit this in 6 months for a discussion with Mr. Pratt and neighbors

G. Corbo points out the seriousness of the Boards order and that the statute states two things: If an owner or keeper of a dog violates an order issued under this section, the dog is subject to immediate seizure and impoundment by law enforcement and the owner would be prohibited from owning a dog in the Commonwealth for a period of 5 years. In addition, it is a criminal offense to violate this order subject to fines up to \$1,000 and imprisonment for up to 5 years. This is a very serious order and there will be consequences if it is not There will be consequences if this order is not complied with.

These orders follow the dog wherever he goes in the Commonwealth.

*Boutwell makes the motion to close the public hearing. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz - Aye*

*Boutwell makes the motion to adjourn the meeting. Seconded by Lord, approved unanimously. Boutwell – Aye, Lord – Aye, Kuklewicz - Aye*