

**PASQUOTANK COUNTY, NORTH CAROLINA
MAY 9, 2013**

The Pasquotank County Board of Commissioners met on Thursday, May 9, 2013 as the Animal Control Board for the purpose of hearing two dangerous dog appeals. The meeting was held in Courtroom C in the Pasquotank County Courthouse.

MEMBERS PRESENT:

Jeff Dixon, Chairman
Joseph S. Winslow, Jr., Vice-Chairman
Lloyd E. Griffin, III
Cecil Perry
Gary G. White
Dr. William R. Sterritt
Frankie Meads

MEMBERS ABSENT:

None

OTHERS PRESENT:

Rodney Bunch, Interim County Manager
R. Michael Cox, County Attorney
Karen Jennings, Clerk to the Board

Chairman Dixon convened the Animal Control Board meeting at 2:00 PM.

1. APPEAL FROM JOSEPH P. OLAH:

Animal Control Officer Nicholas Williams was sworn in to testify on behalf of the Sheriff's Department. County Attorney Mike Cox asked Officer Williams to describe his findings. Officer Williams said on Friday, April 5 Mr. Shawn Turek was jogging on Kelly Drive and was chased by two dogs. Mr. Turek claims that one of the dogs bit him causing a bruise on his leg. Officer Williams said Mr. Turek did not wish to pursue charges, but just did not want to be chased by the dogs anymore when he was jogging. He stated that when Animal Control arrived on the scene the dogs were in a pen in the neighbor's yard. He said Animal Control seized the dogs and they are currently being held at the Animal Shelter. He explained that a letter was sent to Mr. Olah explaining the circumstances and that the dogs were declared potentially dangerous by Sheriff Cartwright.

Commissioner Gary White asked if there was any previous history with these dogs. Officer Williams responded that he does not recollect any previous history with the two dogs.

Commissioner Frankie Meads asked Officer Williams if the dogs seemed vicious to him. Officer Williams said the dogs did not seem vicious, but dangerous. He added that he had the dogs cornered and they were aggravated because of this. He said once he got the dogs to the shelter, he did not have any further problems with them.

Chairman Dixon asked Officer Williams if he saw the wound on Mr. Turek's leg. Officer Williams stated that he did not see the wound and was not called to the hospital. He said Mr. Turek did not seek medical attention.

Commissioner Sterritt asked if it has been determined which dog attacked Mr. Turek. Officer Williams said Mr. Turek claimed that both dogs had jumped on him, but only one bit him. Commissioner Sterritt asked exactly where Mr. Turek was bitten. Officer Williams said he was bitten on the thigh area of the leg. He added that he did not see the wound because he interviewed Mr. Turek over the telephone and Mr. Turek did not want to be involved in any criminal proceedings.

Commissioner Perry asked if Mr. Turek jogs in that area daily. Officer Williams said Mr. Turek did not address that. Commissioner Perry also asked if this is the only incident with these dogs that he is aware of. Officer Williams said he is not aware of any other incidents involving the dogs.

Chairman Dixon said the report stated that a neighbor had taken both dogs and put them in their pen. Officer Williams stated that a neighbor had corralled both dogs and put them in another

neighbor's pen, not the dogs' own pen. Chairman Dixon noted that it appears the neighbor was able to handle the dogs without he himself being attacked.

Mr. Joseph P. Olah was sworn in by the Clerk. Mr. Olah stated that he never saw his dogs attack Mr. Turek and never got to the see wound and he does not believe anyone else did either. He said no one has presented him with pictures or evidence and in fact he was not even given the information until weeks later. He stated that his dogs are house dogs, are good dogs, and are very loving. He stated that the day of the alleged attack the dogs happened to have been put in a kennel because it was hot that day and they could not be in a vehicle in the heat as they usually ride with him. He said more than likely they got out of their kennel.

Chairman Dixon asked if the dogs have ever attacked anyone before. Mr. Olah responded that they have not.

Commissioner Meads asked Mr. Olah if he and Mr. Turek have ever discussed the dogs. Mr. Olah said they have not and that Mr. Turek lives in a completely different neighborhood.

Commissioner Perry asked if people regularly jog in his community. Mr. Olah said there is one person who jogs on a regular basis and it is not Mr. Turek. He added that he is not even sure what Mr. Turek looks like.

Commissioner Sterritt said if it is true that there was a mark on the thigh of Mr. Turek, that means the dog jumped. He asked if the dogs had grabbed a person's ankle whether they would have let go. Mr. Olah said he is sure the dog would have. Mr. stated that more than likely when the dogs jumped up on Mr. Turek it was a show of affection and was not a vicious act. He said everyone in his neighborhood knows his dogs and nobody has problems with them. Mr. Turek submitted some paperwork from the SPCA for the Commissioners to review.

Vice-Chairman Winslow asked what proof there is that the dog bit Mr. Turek if there are no pictures of the injury. Officer Williams said Animal Control does not take pictures of any bite, and he did not see the wound, but the investigator who went out to talk to Mr. Turek stated that he saw the wound on Mr. Turek's leg.

Commissioner Griffin asked Officer Williams if he personally handled the dogs. Officer Williams said he did. Vice-Chairman Winslow asked Mr. Williams if the dogs were aggressive toward him and Officer Williams said they were. He said once he got the dogs to the Animal Shelter there was no longer a problem with them. He stated that while they were dealing with the dogs in their neighborhood they were aggressive and barking and growling. He added that he was carrying a catch stick when he approached the dogs.

It was noted that Mr. Turek is not at today's hearing. Sheriff Randy Cartwright advised that he called Mr. Turek this morning and he has not returned the call. He said Mr. Turek has said all along that he did not want anything done besides the dogs being kept from chasing him while he is jogging.

Commissioner Sterritt asked Mr. Olah if he has a fenced in yard and if it would be an imposition to have the dogs fenced in. Mr. Olah said he has kennels for the dogs when they are outside and he plans to put panels around the kennels so the dogs cannot get out. Commissioner Sterritt asked Mr. Olah if he was home at the time of the alleged incident. Mr. Olah said he was away at work.

Motion was made by Gary White, seconded by Joe Winslow to deny the Sheriff's Department's determination that Mr. Olah's dogs are potentially dangerous based upon the alleged victim's failure to prosecute their claim and because there is no evidence of injury. The motion carried.

Mr. Olah's dogs will be released from the Animal Shelter by the end of today. Commissioner Griffin pointed out if another incident occurs in the future with Mr. Olah's dogs, he needs to understand that there is a record of this incident.

2. APPEAL FROM ROBERT POWELL:

County Attorney Mike Cox stated that Mr. Robert Powell is appealing the Sheriff's Department's determination that his dog is vicious. He said the complainant is Mrs. Joann Roughton. Animal Control Officer Nicholas Williams testified that on April 10 he was called to Mrs. Roughton's residence because her neighbor's dog had come onto her property again and killed one of her domestic animals. Officer Williams stated that the dog has a history because on April 24, 2011 Ms. Jennifer Swaoger filed a complaint that Mr. Powell's dog came onto her property and attacked a dog that she had tied up. On June 12, 2012 Animal Control was called to Mrs. Roughton's residence for the first time when Mr. Powell's dog attacked and killed some of her ducks. At that time the dog was declared a potentially dangerous dog by Sheriff Cartwright. Officer Williams advised that in lieu of complying Mr. Powell removed the dog from the county, but he was aware that the dog had been declared potentially dangerous at that time. The dog was then brought back into the county which did not comply with the county's ordinance. Officer Williams said on April 10, 2013 the dog got loose again and went next door where it attacked and killed one duck.

Chairman Dixon asked what the owner has to do once a dog has been declared dangerous. Mr. Cox explained that once a dog has been declared potentially dangerous there are insurance requirements, fencing requirements, and other requirements. Officer Williams said the Sheriff's Department did not follow up because Mr. Powell had advised that he had removed the dog from the county.

Sheriff's Deputy Travis Jackson was sworn in by the Clerk. Deputy Jackson testified that according to the county's ordinance once an animal is deemed potentially dangerous or dangerous, the ordinance requires that they either meet the stipulations of the ordinance or they have the option to move the animal out of Pasquotank County. He said the owner of this dog made the decision to move the animal out of Pasquotank County and he notified the Sheriff's Department of that situation. He stated that once an animal that has been declared dangerous comes back to Pasquotank County the owner has to again notify the Sheriff's Department which then has to go to the property and check the list of stipulations that have to be met in order to keep the dog in Pasquotank County. He said in this case the owner never notified the Sheriff's Department so the dog was in Pasquotank County illegally.

Mr. Robert Powell of 715 Mount Hermon Church Road was sworn in by the Clerk. Mr. Powell said it is news to him that he notified the Sheriff's Department that he planned to take his dog out of the county. He said to his knowledge there are only two accounts of problems with this dog, the first time was with the ducks and they went to court. He stated that he was not aware of any classifications given to his dog at that time and he thought it was just a one-time action. He said he followed through with what was asked of him at that time. He explained that he has tried to do a good job of keeping his dog away from anyone else's property and the majority of the time she does great. He said he has a fenced in area in his backyard and sometimes he lets her out when he is in the yard so she can get some exercise. He stated that she did slip out of the yard on the day she killed Mrs. Roughton's duck. He said he does not remember any conversation concerning him agreeing to remove the dog from the county.

Officer Williams said a trial was held for the first incident when the dog attacked Ms. Swaoger's dog. Mr. Powell said the incident with Ms. Swaoger's dog was this dog's mother named Sugar, and not the same dog that killed Mrs. Roughton's ducks. He explained that Sugar was also a yellow female that he no longer has. He stated that his current dog, Molly, had only had one issue with Animal Control until now, and that was about six months prior to this issue with Mrs. Roughton. Officer Williams said his records only mention a yellow Labrador dog.

Mrs. Joanne Roughton of 716 Mount Hermon Church Road was sworn in by the Clerk. She said she raises ducks and chickens. He explained that each of the incidents at her residence were by the same dog. She said during the first incident, the dog came onto her porch where two little ducks had just hatched. The dog had already killed one and had come back for the second one. Mrs. Roughton advised that Mr. Powell paid her for the ducks and he promised her it would not happen again. About two weeks later the dog came back onto her property and killed another duck and she called Animal Control. She said this past April it happened again and the dog entered her chicken pen under the wire and killed one of her chickens. She stated that Molly does not get out by herself, but Mr. Powell lets her out. She said when he goes inside the dog will come over to her house. She added that there have been a total of five incidents. She noted that she had no problems with the dog's mother.

Commissioner Meads asked Mrs. Roughton if she was paid a fair price for her ducks. Mrs. Roughton responded that she was not paid a fair price, considering the cost to feed and care for the ducks.

Mr. Powell stated that Mrs. Roughton did bring to his memory the fact that there was one additional incident that occurred without Animal Control being called. He said Molly is only three years old and he admits that three incidents are too many. He stated that he is finally getting a grip on how to contain his dog. He said the dog is a loving dog and a good-natured dog and he understands if he keeps her he will have to build a Fort Knox in his backyard to satisfy Animal Control. He said if he cannot have her he would hope that she would not be deemed vicious and that someone else could have her and take better care of her than he can. He stated that he has paid a total of \$90 to Mrs. Roughton and has probably paid more than \$400 in court costs. Mr. Powell said the dog is a sweet dog and it is his fault the dog got away from him and caused this trouble. He stated that he grew up across the road from Mrs. Roughton and has lived there all his life and he does not want to cause any trouble for her.

Commissioner Meads asked Mr. Powell if he realizes that once a dog gets a taste of chicken or duck there is no turning back and the dog will always go after a chicken or duck. He said the only way to keep that from happening is to get rid of the dog.

Commissioner Griffin asked Mr. Powell if his dog is a pet or a working dog. Mr. Powell responded that she is a pet. He said he rescued her mother years ago and she eventually did the same thing that Molly has done. He stated that he refuses to have a dog if he has to keep it in an eight foot by eight foot cell. Commissioner Griffin asked Mr. Powell what he does with the dog during the day while he is at work. Mr. Powell stated that the dog stays in his pen inside a four foot tall fence. He said she did not escape from the pen and he let her out himself while he was working in the yard and he realizes it is his fault that she went into Mrs. Roughton's yard. He stated that he does not want her to be deemed vicious because he thinks it is a dog's instinct to do what she did. He said he would like for her to be able to have a good home with someone else.

Commissioner Sterritt asked where the dog is now. Mr. Powell said the dog is currently at the Animal Shelter. He asked Mr. Powell if he said he planned to take her out of the county. Mr. Powell stated that he was unaware of calling the Sheriff's Department and saying he planned to take the dog out of the county. He said the mother of Molly went missing and he may have been referring to her.

Officer Williams said he spoke with Mr. Powell following Ms. Swaoger's court case and Mr. Powell told him the dog had been moved out of the county so the Sheriff's Department stopped going forward with enforcement of the dangerous dog ordinance.

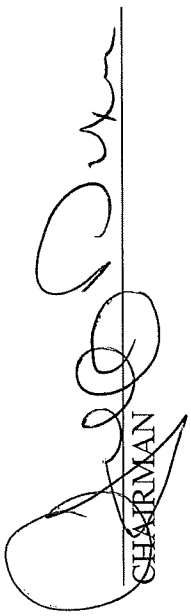
Mr. Victor Roughton was sworn in by the Clerk. He explained that he is the son of Mrs. Joanne Roughton. He said he buys the ducks and chickens for his mother because she enjoys them. He stated that they raised the first set of ducks in an incubator which is very time-consuming and meticulous. He said the dog came onto the front porch where the door was cracked and killed a duck that had just hatched. He stated that they have always kept all of their animals in pens which are built to keep the chickens and ducks in, not to keep dogs out because that would not be cost effective, so a dog could easily crawl under the fence. Mr. Roughton said it appears to him that Mr. Powell is irresponsible because the dog is not getting out, he is letting her out and forgetting about her.

Motion was made by Lloyd Griffin, seconded by Frankie Meads to affirm the Sheriff's Department's determination that Molly is a vicious dog with the condition that Mr. Powell relocate the dog outside of Pasquotank County within 24 hours, and in the event the dog is returned to Pasquotank County and another incident with livestock occurs, it would be handled according to the law.

After some discussion;

The motion carried unanimously.

Motion was made by Gary White, seconded by Cecil Perry to adjourn the Animal Control Board. The motion carried and the Animal Control Board was adjourned at 3:40 PM.


CHAIRMAN


CLERK TO THE BOARD