

SUNDERLAND SELECTBOARD MINUTES

Place: Town Offices, 12 School Street

December 5, 2022

Attending: T. Fydenkevez, C. Drake-Tremblay, N. Waring, Geoff Kravitz

Others: Police Chief Demetropoulos, ACO-E. Martin, P. Sniadach, M. King, Dominic-Recorder Reporter, K. LaClaire, A. Halloran, J. Paul; on Phone or zoom: C. Bennett, G. Corbo-Town Counsel, Eddie Tsai, H. Tsai, Ms. Luo, #FreeLobo, J. Gardner, S. Tillona, SFL. Tyler, Jackson Gardner, William's iPhone, Nate, Ian, Mac, Tyler, iPhone.

Meeting: Hybrid: in person with portions recorded by FCAT

Meeting called to order at 6:32PM

MINUTES

Ms. Drake-Tremblay motion to APPROVE MINUTES OF 11/28/2022, Mr. Waring second, Vote 3-0.

BUSINESS

- **DANGEROUS/NUISANCE DOG HEARING:** Ms. Luo vs. Michael Sniadach (victim). Mr. Fydenkevez explained this was an adjudicatory hearing. Public who wish to speak may do so during complainant section if they are representing that matter, or during the defendant's portion. Speakers must take the Oath to Testify Truthfully. The hearing was opened under MGL 140, §157. Hearing notice was sent 11/09/2022. Mr. Waring read the hearing notice; Michel Sniadach was injured by dog owned by Ms. Luo. Mr. Fydenkevez also reminded emotions do not interfere with fact gathering, testimony given should not address the audience members, just the Selectboard members. Only one person may speak at a time when recognized by the Chair, Mr. Fydenkevez when recognized to do so. Participates on Zoom must raise the electronic hand to speak, when called upon. The proceeding is recorded by Zoom, FCAT and the in-person Recorder Newspaper reporter in attendance. Speakers must state name and address and then take the oath.
- **Complainant:** P. Sniadach, son of victim, M. Sniadach who resides at 2 Shaddock Rd, Hadley, MA, was not present due to illness. P. Sniadach gave account of what his father explained; Michael Sniadach walked to Ms. Luo's house to bring bone to Lobo, the dog. He entered gate and gave bone, dog scratched arms and "attacked him" upon retreating severely injuring arms. Ms. Luo was not at home at the time. M. Sniadach was transported for emergency medical treatment by son, who met the Victim's daughter, M. King at Baystate Medical Center. Mr. Corbo asked if victim was present, which he was not and for description of dog's property. Victim never had issues visiting and bringing food for dog before, with the owner present. Incident statement account was given to victim by Ms. Luo's son. Statement included coming over without owner present, victim said he had a skin condition/bleeding disorder and entry onto property without owner present or invitation. Logo is a Maremma breed, is about 15 mos. old and weighs about 88lbs. The victim's daughter, Ms. King showed photos to the Board of her father's injuries while he was receiving treatment. Mr. Corbo asked if Ms. King was aware of any medical conditions to cause the injuries and she stated she was not. Mr. Howard Luo, the dog owner's son, asked Ms. King if she was aware of her father signing the statement of account presented after she told him not to sign the document, which she wasn't but did confirm it was her father's signature. Her father did indicate that he would file a complaint per Ms. King. The complaint was filed with Police Chief Demetropoulos on 11/06/2022 by email. Next witness for complainant was recommended to be Chief Demetropoulos and ACO Emmie Martin, per Mr. Corbo. Police Chief and ACO were initially aware of situation when contacted by Hadley Police Department on 10/26/2022. It was stated the dog was tethered the day of incident and there was blood on the fence and leaves of property. Mr. Tsai shared computer screen to show photos since Mr. Corbo did not get them prior to the meeting. Police Chief and ACO were asked if any signs "Beware of Dog" was visible. A photo was shown to both and they stated only a "Beware of Dog" Sign was visible but closer to the ground level on the gate, not the other signs in the photo. The driveway is long and 6-7 car lengths to the house behind the fence. Anyone entering has to encounter the dog in order to reach the house. Police Chief also indicated it was unknown whether the dog was tethered but leash could be seen attached to dog. Sunderland ACO, Ms. Martin recounted the incident noting at the time of incident on 10/25/2022, the dog's rabies vaccine was to

expire 11/13/2022. Ms. Martin placed the dog on 10-day quarantine as required. She conducted investigation with dog owner and victim. The dog is now out of quarantine because no signs of rabies was shown. She also educated Ms. Luo that per MGL, an animal may not be tethered for more than five (5) hours in a 24-hour period. Dog owner indicated concern for victim and he has visited on occasion while she was home in dog's presence without issue. Neighbors also expressed nuisance concerns due to Lobo barking, especially late in the evening and Ms. Luo's ability to manage such a large dog. She was seen recently walking dog since it was out of quarantine. They also reported Lobo aggressively coming towards their animals while out in public. Mr. Tsai reiterated no signs of aggression was observed shown while ACO was on property as stated and owner was concerned for victim who was on her property when she was not home. A recess was taken at 7:56PM and returned to session at 8:05PM. Neighbor Ms. K. LaClaire has made multiple complaints about continuous barking and ACO reported talking to the dog owner. Other neighbors sent videos to ACO which were inclusive where barking was coming from; onsite visits did not exhibit any barking in ACO presence. Owner reports other big dogs are by her property who bark as well and cannot assume it is Lobo. Mr. Tsai addressed that his mother had training for Lobo, installed an electric fence when he got out of the yard some time ago and has been deemed is ready to take walks on a leash. Lobo is an intact male. A. Halperin stated not all dogs are outside all night and they cite Lobo because he has a distinctive bark. Neighbors cannot open windows in seasonal evenings due to barking, he has torn up her lawn running in circles and another neighbor was bitten by the dog when it was younger, but it was not reported. Mr. Tsai recounted testimony from neighbors and initial complaint. He also stated it was a Dangerous Dog Hearing even though no sign of aggression was noted. The victim's injuries worsened when he tried to push away from dog and victim did not want to file report. He was not invited on the property without owner home. Ms. Luo, Lobo's owner testified that she did not know of tethering laws and he is inside now. Reports being good friends with victim and stated to her that it was not Lobo's faulty. Owner reported Lobo was just at vet confirming dog is 88lbs and received his three-year rabies vaccine. She has dog under control due to training. Lobo is not a dangerous dog otherwise she would not be defending him or keep him. Ms. Tsai noted that a pen had been made for the dog and was only accessible from inside the house. Only way to approach the dog now would be going into the house to access the pen. 300' chain link fence currently. Mr. Tsai requested his brother Edward Tsai speak regarding the dog. Dog gets excited to see people and they are taking proper precautions. Never saw dog behave aggressively, mean or bite anyone, even when meeting new people. They were previous dog owners for 15+ years and mother knows how to be a proper owner. He has no concerns moving forward. Ms. King stated she had paper from hospital stating father received a dog bite, not a scratch, which was given to Mr. Kravitz. No further testimony, Mr. Corbo suggests Board close the evidentiary phase and stay in open session to enter deliberation if a nuisance or dangerous dog, what remedy would be imposed to address the matter, then enter a decision phase. The Chair closed evidentiary hearing. Board will enter into deliberations. Ms. Drake-Tremblay asked if findings could be of nuisance and dangerous nature? Mr. Corbo stated usually findings are not both but could be considered a nuisance if it is dangerous. Mr. H. Tsai asked Mr. Corbo if any reports of barking, etc. which were not part of the reason for the hearing not be considered as part of this consideration. That is up to the Board's discretion. The nuisance statements are in the rights of the Board to consider. Language for hearing included consideration of those additional report including up to the incident date. Categories that will govern the Board's decisions, by definition as read: Attack, Dangerous Dog, Nuisance Dog, Ms. Drake-Tremblay stated the board has heard plenty of nuisance complaints related to barking, statements neighbors were fearful because they felt the dog was aggressive to neighbors and their animals. Chair reiterated the basis of the hearing is for the board members to determine if the dog sought out victim and viciously attacked him, based on the complaint. Mr. Corbo elaborated on definition for board members, under chapter 140 sec163A and section 157 of that statute certain circumstances where a dog could not be considered dangerous and those are: 1) if the incident is based on solely growling and/or barking, 2) breed of dog and 3) if the dog was reacting to another animal or person and dog was not acting disproportionate if it was protecting itself or offspring, protecting another animal or assault, attacking the person if they were committing a crime to the owner, the person attacked was involved in teasing or tormenting the dog, or provoking the dog or 4) or at time of attack, the person breeched an enclosure or structure where the dog in which the dog was kept apart from the public and where such person was not authorized by the owner of the premises to be within such

enclosure. Mr. Corbo continued in terms if it is a dangerous dog, it is clear there was an attack while there may be some variations of how the incident was described, it appears undisputed that the victim entered the gate and was not threatening it and the dog jumped on him, bit him, causing him serious injury. Whether the victim was more prone to bleeding easier than others or skin was punctured, the pictures show a very serious attack, a very deep injury to this person. Mr. Corbo's opinion, based on statute, the label of Dangerous Dog would apply, provided that you find the victim was authorized to enter the enclosure at the time he entered. If you were to find the dog is not a Dangerous Dog but incident was serious enough warrant further precautions, then it is his opinion that the dog would fit within the definition of Nuisance Dog particularly where it is stated the dog has threatened livestock, other animals, or person but such threat was not grossly disproportionate under the circumstances. The difference between a nuisance dog vs. a dangerous dog is the matter of degree and one could find an incident or harmful enough to have risen to dangerous but still be a nuisance to still take precautions to protect the public. Mr. Tsai interjected the willingness to debate however Mr. Corbo noted it is not a debate at this point, evidentiary portion of hearing was closed he is here to provide the Board with advice and suggested the board not take any further argument or evidence at this time and the Board simply complete its deliberations. Mr. Tsai insisted on stating that the label of attack is a legal conclusion and does require an aggressive physical contact which is a matter of deliberation for the board and it was emphasized it is not a given conclusion that it was an attack and it was aggressive in nature. The Chair announced they were going to continue their deliberations. If one does not agree with what we decide, you do have other options available and ask that they be allowed to deliberate. Mr. Waring stated his opinion that this was a vicious attack by a dog. Based on pictures, could have been worse. Ms. Drake-Tremblay agrees and unfortunately hearing from some of the neighbors there is potential for it to happen again. Mr. Fydenkevez stated he thinks Mr. Sniadach was very lucky and believe there are a couple of problems, the dog was not properly restrained, the dog needs to be restrained in such a manner that it is not allowed if someone could arbitrarily enter the property, such as for a delivery and have something happen. When no one is home and dog needs to be restrained and be in a place where it cannot get out but allowing the dog to have water, food, and other needs to comply with MA laws. He also thinks the dog should be neutered and thinks that would help. The dog should be muzzled at all times if it was to go out in public, Mr. Waring agrees and noted he has a 70lb dog and does not allow his kids to walk the dog because he believes they cannot control it. He does not believe the dog owner could have the physical capacity to control a dog that is a similar weight than her. Mr. Corbo agreed those are things that the board can put in their decision. Several measures can be put in place rather than euthanize if they find the dog to be a dangerous dog. He suggests complete deliberations on dangerous vs. nuisance dog first. Mr. Fydenkevez, looking at dangerous dog, a motion he would entertain based on following dangerous dog definitions. Ms. Drake-Tremblay declare this a DANGEROUS DOG based on the testimony heard from witnesses today, Mr. Waring second, with discussion. Mr. Fydenkevez does not want to see the dog euthanized at this point. It was a tragic event experienced by the victim. His statement noted he does not want to see the dog euthanized, but to rehome or something similar, which is not an option we are allowed to select. Vote 3-0. Mr. Corbo stated next step is what step is next to protect the public from the danger. Ordering the dog be euthanized in one extreme version which ensures this can never happen again but it is not the only thing. As stated previously, rehoming the animal is strictly prohibited in MA. They are things that are appropriate. There is a running account that the dog is not properly supervised while its owner is not at home. Mr. Corbo suggests the Board order the following: 1) the dog be confined to the premises of the owner in a securely enclosed and locked pen or dog run area on the property while outdoors. Said pen be in an area that is not accessible to the driveway or front door. The pen being described previously may already meet those specifications; 2) the order include a requirement that the dog not be kept outdoors unless the owner or another responsible adult is present at the property; 3) suggest the dog not be allowed to be tethered to an inanimate object outdoors for no more than five (5) hours in any 24-hour period; 4) the dog not be allowed outdoors from 10:00PM to 6:00AM the following day, 5) if the dog is removed from the premises by the owner that it be held by a person capable of restraining the dog and be muzzled, and, 6) the dog be fixed by a veterinarian. Mr. H. Tsai stated the vet recommended that they not neuter the dog at this time so he asked the board to consider that in their orders. Mr. Fydenkevez stated that a letter from the vet is required as to when the dog can be neutered and the town can have it reviewed by their vet. Mr. Corbo noted that the

veterinarian has to certify that the dog is unfit for alterations because of a medical condition. Ms. Drake-Tremblay motion to IMPOSE THE ORDER OF CONDITIONS:

1. The dog shall be confined to the premises of the owner or keeper in a securely locked pen or dog run area upon the Property. Said pen or dog run shall be located in an area that does not allow the dog access to the driveway or front door such that visitors to the Property do not have to encounter the dog when entering the Property. Said pen or dog run shall be subject to approval of the Animal Control Officer and the deck area described at the hearing may be used for this purpose.
2. The dog shall not be permitted or kept outdoors (including within the pen) unless the owner or another responsible adult is present at the Property.
3. The dog shall not be tethered to an inanimate object for more than five (5) hours in any twenty-four (24) hour period.
4. The dog shall not be permitted or kept outdoors (including within the pen) between the hours of 10:00 pm and 6:00 am the following day.
5. When the dog is removed from the Property, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length.
6. Unless the owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact. The owner shall make an appointment for the procedure within thirty (30) days of the date of this Order and the procedure shall be completed within ninety (90) days of the date of this Order.

Mr. Waring second, Vote 3-0.

OLD BUSINESS

- ARPA REQUESTS: no requests
- SELECTBOARD UPDATES: The Board had no reports
- TOWN ADMINISTRATOR UPDATES: no updates
- Next Selectboard meeting is scheduled for Monday, December 12, 2022.
- ADJOURNMENT: Ms. Drake-Tremblay motion to adjourn, Mr. Waring second, vote 3-0 at 10:15PM.

Respectfully submitted,



Geoff Kravitz,
Town Administrator