

HEARING MINUTES
Town of Heath
SELECT BOARD
Dangerous/Nuisance Dog Hearing
July 19, 2022

Called to Order at 6:00 p.m. With Robyn Provost Carlson, Susan Lively, Brian De Vriese and Hilma Sumner, Town Coordinator, in attendance.

Animal Control Officer (ACO) Kyle Dragon was also in attendance.

Others in Attendance: See attendance sheet.

6:06 p.m. Dangerous/Nuisance Dog Hearing

Chairman Robyn Provost Carlson called the Dog Hearing to order.

Immediate parties, who will give testimony, Heather Hathwell of 1 Bray Road and Constance Frenette of 13 East Main Street were sworn in by the chairman.

Evidentiary Items:

1. Complaint written by Heather Hathwell and the June 23rd Letter requesting the hearing sent by ACO Kyle Dragon and sent with the complaint and email addressed to the ACO from Ms. Hathwell.
2. ACO incident report written on July 1st.
3. Town Clerk letter attesting that the dog is not licensed.

Hathwell Testimony: Ms. Hathwell stated that she and her step-daughter had walked her dog Lily on Bray Road and were returning home. Lily is a fawn-colored pug who was restrained on a leash. When they had almost reached their home, the dog Sam ran across the road, grabbed the pug in his mouth and shook her. At that time, a man was driving by. He (Joey) stopped to assist the two women and the pug.

Sam ran back to his home. About that time Ms. Frenette was walking along Main Street toward her home. When spoken to about the incident, she stated that it could not have been her dog; he was penned at her home.

Frenette Testimony: Ms. Frenette reported that she was walking home from the post office and heard screaming. She saw that Ms. Hathwell was walking home with her dog. Ms. Frenette was told that her dog had attacked the pug which she denied stating that her dog was penned at their home. Ms. Frenette also stated that her husband, Jean, later went to the Hathwell home to apologize and offer to pay the veterinarian bills. To date, they have not been presented with any bills. Ms. Frenette also noted that Sam, a white Pyrenees, was a certified service dog for Jean.

Hathwell Response: Ms. Hathwell commented that she was not given an apology but there was an offer to pay the veterinarian bill.

ACO Dragon's Remarks: Mr. Dragon stated that his incident report did not take into account that the hearing date had been rescheduled twice from June 21 to July 5 to tonight.

Mr. Dragon stated that it appeared that Sam had gone under the kennel fence but that the owners had corrected the problem area immediately. He saw the dog and papers affirming that the dog had a

current rabies vaccination. He described the dog as being very civil in the owners' presence. Mr. Dragon stated he would have a hard time labeling the dog as dangerous.

Frenette Comments: Ms. Frenette stated that they are in the process of installing a stockage fence and expect to be finished by the end of the week.

Hathwell Comments: Ms. Hathwell said that, if the dog stayed within the fence, it would be reassuring but she was still concerned about the safety of her dog and children that would be visiting the home. She also commented that many times the Frenette's dog was chained on a run to the west side of the house and was worried that he would escape the chain.

Frenette Comment: Sam was only chained on his run once every other week when the couple were away grocery shopping.

ACO Dragon's Comment: The mentioned chain was approximately 25-30 feet in length.

6:40 p.m. Chairman Provost Carlson closed the evidentiary phase of the hearing.

Deliberation by the Select Board: The chairman reviewed the procedure for this phase of the hearing and the possible options for an outcome.

Mr. De Vriese Comments: He commented that the dog needs to be restrained and has shown that it will attack, and may attack the same dog or another dog again.

Ms. Lively Comments: She remarked that a plan needs to be developed that acknowledges the concerns of all parties involved.

Chairman Provost Carlson Comments: The chairman stated that she did not view Sam as a dangerous dog. She had spoken with legal counsel who informed her that, if the complaint was dismissed, then there would be a "gentlemen's" agreement and nothing to enforce. She then asked if the two parties thought they could reach an agreement that would include conditions that ACO Dragon would follow up on and would also have the Select Board oversight.

Both Ms. Frenette and Ms. Hathwell affirmed that they would be willing to work out an agreement although Ms. Hathwell expressed concern if Sam got loose and there was an incident in the future.

The Board held further discussion and decided that the chairman would consult further with legal counsel about what types of conditions could be included in an agreement.

Hearing Continuation: *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to continue the hearing until August 2, 2022, at 6:45 p.m.*

7:05 p.m. *On a motion by Susan Lively and a second by Brian De Vriese, the Select Board unanimously voted to adjourn the hearing and reconvene the regular Select Board meeting.*

Respectfully submitted,

Hilma A. Sumner
Town Coordinator