

Sutton Select Board Hearing  
June 2, 2016

Called the hearing to order at 10:05AM by Joe Solinsky, Chair

Attending the meeting: Selectmen: Joe Solinsky, Chair; Tim Simpson; Scott Spencer; Town Attorney Peter Morrissette, Carol Brouha; Paul Brouha; George Colburn; Hank Parker; Sue Parker; Candice P. Hazen; Jeffery D'Ambra; Alissa D'Ambra; Mary Gray

The hearing was requested by Sue Parker about a dog that she was bitten by while riding her bike.

By law the select board is to hear both sides of the parties. We need to stay focused

Paul wants the minutes to reflect that the board went into a meeting with the attorney before the meeting. The board explained the meeting was about the attorney advising the board to keep focused on the issue of this incident.

Sue Parker sent a report to the board about this incident.

Hank Parker requested all the attendees introduce themselves.

Hank Parker wants clarification about the focus of this meeting. Hank feels that this issue is for all dog bites not just this instance. Sutton Town Attorney Peter Morrissette stated that this is an isolated case and not about any other incident. Hank completely disagrees and feels this is for all dogs bites and how the town handles them not just this one indecent. He wants the record to reflect this meeting be about the ordnance, how the town responds to all dog bites. Peter's advice is this is the only item they are meeting today about and this one incident and has advised the board to hear only about this incident and the board should only considered this today. Hank completely disagrees and Peter stated that you may want to disagree, but this is what the meeting is about. Hank feels this meeting is also about the town ordnance as it stand and the statutes as it stand and if all parties followed its responsibilities. Peter stated this hearing is for this dog bite incident only.

Sue wanted to read her letter. Peter feels that the letter should not be read and Sue Parker totally disagrees and wants to read it. Peter said she can read the letter about what happened in this incident only. Sue stated that they have learned of other incidents and wants to talk about this also. Sue asked Peter is he was refusing to have her read her letter and Peter said no, she can read the letter that pertains to this incident only. Tim called for point of order. Tim wants to give each party their speech as to what happened and let's keep it on point. Tim asked if all parties have a copy of the letter what happened and all answered yes. Sue stated this is a public document so everyone should have a copy. Joe stated that this is between the parties only, no one else has a say in this hearing about this incident.

Joe wants Sue to speak and the dog owners to speak only and Peter's advice is to stick to this incident.

Sue stated reading her letter dated May 12, 2016: Part of the letter was scanned in for the minutes. (full version in on file in Town Clerk's Office) Sue read from "May 10, 2016....." thru the last sentence ".....It is anticipated there will be permanent scarring from these wounds."

On May 10, 2016, at around 2:30 P.M. I was riding my bicycle on Underpass Road, Southbound, opposite the home located at 3310 Underpass Road in Sutton, VT. A black dog emerged from the driveway at 3310 Underpass Road, crossed the northbound lane, and grabbed and bit my left thigh below the hip, pulling me off my bicycle onto the road. In the process, my head hit the road pavement, and I landed on my left side with the bicycle on top of me. I was wearing a bicycle helmet. On my way to the Emergency Room at Northeastern Vermont Regional Hospital (NVRH), I stopped at the Sutton Town Clerk's Office to get a copy of the rabies certificate. It was determined by Gail Weed, Assistant Town Clerk that the dog was unlicensed in the Town of Sutton. Gail contacted the owner and the owner agreed to come to the town office with the rabies certificate. I have learned that the owner has since licensed the dog (after the attack). The rabies certificate indicates that the dog is a pit bull mix and that the current owner obtained it as a rescue dog from All Breed Rescue, located at 491 Industrial Avenue, Williston, VT. The certificate also indicates that the dog originally came from Animal Care & Control of NYC, Brooklyn, NY. I have attached a copy of the rabies certificate for your reference. I had multiple injuries. In addition to the dog bite, my injuries were: contusion of left shoulder; contusion of left knee; contusion of chest wall; abrasion, multiple sites. The dog bite caused several deep puncture wounds from the teeth and considerable loss of blood. The contusion of my chest wall required X-rays to determine if there were broken ribs. The area around the bite is swollen with a lump about 4 inches in diameter with black bruising and severely painful. Antibiotic was prescribed to prevent infection from the dog bite. An incentive spirometer was prescribed to help keep my lungs clear and active throughout the recovery process. It is anticipated there will be permanent scarring from these wounds.

Hank wanted the following in the minutes: Vermont Statute Title 20, Chapter 193, Subchapter 001: General Provisions

§ 3546 Investigation of vicious domestic pets or wolf-hybrids; order

- a. When a domestic pet or wolf-hybrid has bitten a person while the domestic pet or wolf-hybrid is off the premises of the owner or keeper, and the person bitten requires medical attention for the attack, such person may file a written complaint with the legislative body of the municipality. The complaint shall contain the time, date and place where the attack occurred, the name and address of the victim or victims, and any other facts that may assist the legislative body in conducting its investigation required by subsection (b) of this section.

Alissa D'Ambra owner of the dog stated that Candace Dane the Dog Control Officer told her that under "verbal command" means that the dog is under control. Peter stated that was wrong.

She would like to point out, Mrs. Parker approached the house north bound and turned around in front of her house on the road to go in the south bound direction. She did this a second time. The dog was at the owner's feet (D'Ambra) as Ms. Parker was going by the house. She also wants the board to know, there was an hour between the incident of the bite, as Ms. Parker went to the town office before she went to the hospital. She also stated Ms. Parker rode her bike home. Ms. D'Ambra stated she asked if she wanted a copy of the rabies certificate to ease her concerns. After the dog bit Ms. Parker, the dog went back to the house where the children were playing. Then when Ms. D'Ambra approached Mrs. Parker her dog went into the garage and cowered. She wants to enter into the record a statement from the web site (inaudible, too much talking going on). Mrs. D'Ambra stated he is in training and around small children daily, around bikes and the owners has never had an issue. When he was adopted they were assured that this dog is not aggressive. The D'Ambra's have three children and would not bring an aggressive dog around their children. This dog is now on a leash and in control at all times. Peter stated that verbal command is not the same as leach command. Mr. D'Ambra states the days of freedom are gone for the dog, now he is leashed all the time.

Mrs. D'Ambra stated a WCAX incident about a dog bite and how it unfolded. The board stated this is irrelevant.

The select board had no further questions.

Mrs. Parker stated that she did not make a u turn in front of her driveway it was down the road a little bit. Sue was not trespassing and she was on a public road and has a constitutional right to be there.

Joe explained they will take all testimony under consideration, a letter will be sent to all parties at the conclusion. Testimony has been taken and the board will now deliberate this.

Tim asked the D'Ambra's: Has this dog ever shown aggression to any other human being? Mrs. D'Ambra stated she can honestly say no. She would never have gotten the dog, they have three children and this dog is at face level with them.

Tim asked the Parkers: What do you feel should happen to this dog? Mrs. Parker stated she can't answer this until she gets a decision from the board. Tim stated, in your heart what do you think?

Joe feels we need to take all into consideration and is was a fair question.

Hank responded: relevance of the information in the letter, seemed to Hank, it's whether or not about this dog, it about dog owners and dogs under control of the owners and if a dog is a threat to the community when off the owner property. He feels it's important what the towns procedure is and what the dog officer does; what the select board does and also the health officer and how they respond to a specific incident and to how this incident was handled. This is not the dog, it is about the owners, about public safety on public property.

Tim stated no matter what we have dog ordnance and until a dog has done damage we will know after the fact and we can only protect from a reoccurrence.

Tim had another question: Going to the doctor does have some cost here. Is Sue still going to the doctor and need surgery?

Hank wants to focus on what the town is doing on public roads in this town what the town did on this incident. Was there any follow up. Did the town get a report from Candace? The board stated no they did not receive a report form Candace.

Scott made a motion to go into executive session. Tim seconded the motion. Joe called for a vote. All voted in the affirmative. Executive session at 10:45AM

The board came out of executive session at 11:04AM

The select board wants Peter Morrissette the town attorney to report on the boards' decision.

Joe explained what they did in executive session was discussed both parties sides; reviewed the Vermont Statute and the towns dog ordnance and came to a decision that Peter will announce.

Peter stated: The board defines the fact by Title 20 Chapter 193, § 3546 have been met in the sense a dog bit Ms. Parker and the attack was unprovoked and off property of owner and resulted in medical damage. The board has decided this is a first offense and from now on the dog must be hooked or

leashed on the property or kenneled. In addition the board considered the violation of the leash law ordinance and this being first offence the fine allowed under this ordinance is \$25.00. In addition a fine as allowed by laws, the fine of \$25.00 for not having a licensed dog. Assuming the board agrees, a follow up letter will be sent to both parties which will set this up as the statute states, if violations occur after this, other penalties will be forthcoming.

Joe wants to know if everyone understands this.

Alissa D'Ambra stated she disputes the \$25.00 for not having the dogs registered since she brought all the paperwork in for two dogs to license them before the incident happened. She said she also brought in her marriage license when they moved to Underpass Road. Joe asked who she gave the paperwork to and Alissa stated Gail, the Assistant. Joe asked: is she disputing the \$25.00 for not registering her dog? She said yes, but she will pay it, she just wanted it on the record that she did bring her paperwork in for two dogs and she thought the dogs were registered. Joe asked if she received the licenses. She said no. Alissa stated she will be paying the \$25.00 for not leashing her dog and the \$25.00 for not registering the dog, she does not know what happened to the paperwork.

Joe explained the board will require the dog be leashed all the times or kenneled or on a run, this means no verbal commands will be considered as control. He explained according to statute the animal can be put down tomorrow but this is first offence and the board is giving one more chance for this dog. The bite was serious enough for Sue to go to the hospital.

Joe called for a vote: All in favor of what Peter explained and drew up for the board. All voted in the affirmative.

A letter will be mailed to both parties outlining the board's decision.

Peter wanted the address for the D'Ambra's  
3310 Underpass Road  
Sutton, VT 05967

Scott made a motion to adjourn. Tim seconded the motion. All voted in the affirmative to adjourn at 11:12 AM.

Mary Gray,  
Clerk