

**PASQUOTANK COUNTY, NORTH CAROLINA
NOVEMBER 13, 2012**

The Pasquotank County Board of Commissioners met today as the Animal Control Board to hear two appeals of the Sheriff's Department determination that a dog is potentially dangerous, dangerous or vicious. The meeting was held in Courtroom C in the Pasquotank County Courthouse.

MEMBERS PRESENT:

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

MEMBERS ABSENT: None

OTHERS PRESENT:

Randy Keaton, County Manager
Rodney Bunch, Assistant County Manager
R. Michael Cox, County Attorney
Karen Jennings, Clerk to the Board
Sheriff Randy Cartwright

The meeting was called to order at 2:00 PM by Chairman Lloyd Griffin.

1. APPEAL BY SABRINA PARRISH:

The Clerk swore in all those who planned to testify in this matter. County Attorney Mike Cox explained that this will be a quasi-judicial proceeding with sworn testimony. Once the testimony is complete members of the Board will have an opportunity to question any of the witnesses. The dog has been declared dangerous and it will be up to the Board to either affirm, affirm with conditions, or deny the Sheriff's Department's determination that the dog is potentially dangerous, dangerous or vicious.

Animal Control Officer Nicholas Williams stated that on Thursday, October 10 he was dispatched to Brickhouse Lane. Ms. Mary Sawyer told him she was walking her dog named Maxx on the road and the dog from Lot 36 broke off of its tie out, came out into the roadway and attacked her dog. The dog required five staples behind the neck. He said the dog meets the definition of a dangerous dog according to the county's ordinance. Upon questioning, Officer Williams said he did not see either of the dogs when he arrived on the scene.

Ms. Sabrina Parrish of 118 Brickhouse Lane, Lot 36, explained that she would like to appeal the decision of the Sheriff's Department that her dog Casper is a dangerous dog. She stated that Casper is a great dog and she has never had any problems with him. She said the event actually occurred on October 4; Ms. Sawyer filed the complaint and it was investigated by Animal Control on October 6; the dog was taken to a veterinarian on October 9; and she received a notice from the Sheriff on October 10 telling her that Casper had been declared a dangerous dog. Ms. Parrish explained that Casper was in her yard and Ms. Sawyer's dog was antagonizing him by barking and growling at him. She said Casper was provoked by Maxx when he came into her yard which is why he broke away from his tether and bit Maxx. She said Casper is very territorial. She added that she was outside with Casper when this happened as she never lets him go outside by himself. She stated that Ms. Sawyer's dog required five stitches and she offered to pay the \$178 vet bill which she has done.

Commissioner William Sterritt asked County Attorney Mike Cox what the consequences would be if the dog were classified as dangerous. Mr. Cox explained that the dog would have to be registered, there are insurance requirements, there are signage requirements, and inspections would have to be done. Sheriff Randy Cartwright added that there are also requirements as to where the dog is housed. He would have to be kept in an enclosure with tops, bottoms, and sides or in the house with windows and doors. The dog would also have to be micro-chipped. Any

time the dog is outside it must be muzzled and on a four-foot leash controlled by a person who is able to control the dog.

Ms. Parrish stated that she hopes the Board does not declare Casper dangerous because she has someone who is looking to re-home him and he can't be re-homed if he is declared dangerous. She added that Ms. Sawyer waited several days before taking her dog to the vet so she does not feel the injuries were so severe that Casper could be declared dangerous according to the county's ordinance. She noted that she was given a free voucher by the SPCA to have Casper neutered so that he might not be so territorial, and she intended to have it done by the end of the month, however since Ms. Sawyer filed her complaint, she is no longer allowed to use the SPCA voucher.

County Attorney Mike Cox read letters from three of Ms. Parrish's neighbors supporting not declaring Casper a dangerous dog.

Motion was made by Gary White to overturn the Sheriff's Department's decision to declare Casper a dangerous dog based upon the failure of the complainant to appear before the Board to confirm or deny the statements made by Ms. Parrish; that the only testimony given was by Ms. Parrish that the incident occurred on her premises; and there was no observation of injury or a veterinary report other than Ms. Parrish's testimony that she did satisfy a veterinary bill for injuries.

Following discussion Commissioner Bill Trueblood seconded the motion with the condition that Ms. Parrish continue to try to relocate the dog from the area and that the dog be neutered.

The County Attorney requested a five minute recess so he might consult with the Sheriff and with Ms. Parrish.

When the meeting was reconvened, Mr. Cox advised that the Board cannot put stipulations on a denial. He said he asked Ms. Parrish if she would agree to get the dog neutered by the end of this month and to look at efforts for some type of relocation for the dog.

The motion was amended by Gary White, seconded by Bill Trueblood to delay action on the dangerous dog appeal for Sabrina Parrish for 30 days to give her an opportunity to have her dog Casper neutered and provide proof of the neutering, and to give her an opportunity to relocate him within 60 days.

Mr. Brandon Squires, Ms. Parrish's boyfriend, of 820 North Broad Street, Edenton, stated that he plans to take the dog to live with him in Edenton.

The amended motion carried unanimously.

Chairman Griffin stated that the hearing will be reconvened at 3:00 PM on December 17, 2012.

2. APPEAL BY CATARINA WIGGINS:

Commissioner Joe Winslow requested that he be recused from considering the dangerous dog appeal by Catarina Wiggins because he has a business association with some of the parties involved in this case.

Motion was made by Gary White, seconded by Jeff Dixon to recuse Commissioner Joe Winslow from considering the dangerous dog appeal by Catarina Wiggins. The motion carried.

Attorney Tony Hornthal explained that he is pro bono counsel for Mrs. Wiggins.

The Clerk swore in all those who intended to testify in this matter.

Animal Control Officer Nicholas Williams explained that on the afternoon of Friday, October 19, 2012 at about 2:45 pm, he was dispatched to 2005 Johnson Road for two dogs that had attacked and killed a cat. Upon his arrival he spoke with Mr. Charles Brown of the residence who stated that two dogs had come into his backyard and attacked and killed his cat. Mr. Brown

had caught one of the dogs and tied it to a tree and the other dog, a boxer, had run off. Mr. Williams said while they were walking to the back of the residence Mr. Brown pointed out a box covering the cat. When they arrived at the tree the dog was gone. They looked for the dog and found that the owner had come onto the property and retrieved the dog. Mr. Williams stated that they then saw the owner of the dogs, Catarina Wiggins of 108 Shanna Drive, walking toward them with the dog on a leash. She stated that her two dogs had gotten out and she thought Mr. Brown had tied the dog up for her and she was still looking for her boxer. Mr. Williams said he took custody of the female retriever/Labrador mix named Tasha. He stated that Mrs. Wiggins told him that someone in a white truck was doing work and had gone into her backyard and left the gate open allowing the dogs to escape. While they were talking Merlin, the boxer, came into the yard and he also took custody of him, and took both dogs to the SPCA. Mr. Williams stated that he explained to Ms. Wiggins the dangerous dog and leash law charges and that the dogs would be returned to her after she complied with the dangerous dog ordinance. He said he met with Mr. Brown on October 20 to get his statement. He said Mr. Brown stated that he and his wife Mary were getting ready for a doctor's appointment when Mary heard barking and growling coming from the backyard. She went out the back door and found two dogs in the backyard with her male, orange, domestic short haired cat named Joey. She called for Mr. Brown who went out and caught Tasha and tied her to a tree. The other dog had run away. Mr. Hornthal cross-examined Mr. Williams.

Mr. Charles Brown presented pictures of the cat that was killed and he testified that it was his cat, Joey. He said when his wife heard the commotion in his yard, she opened the door and looked out to see what it was. She saw two dogs in his backyard and the cat was lying on the ground wet with many puncture marks. Mr. Brown said he managed to catch one of the dogs and tied it to a tree, but was unable to catch the other dog. When questioned, Mr. Brown stated that no one saw the dogs kill his cat.

Sheriff Cartwright explained that his department has done an investigation to try to identify who possibly left the Wiggins' gate open, but has not been able to make that determination.

Attorney Tony Hornthal handed out signed affidavits from neighbors of Mrs. Wiggins and from the manager of the SPCA facility regarding their observations about the dogs. He said the affidavits speak for themselves. He stated that the record will show that Tasha and Merlin act as service dogs to this family by their nature, although he does not contend that the dogs have been trained as service dogs.

Motion was made by Gary White, seconded by Jeff Dixon to accept the complainant's photographs and the affidavits presented by Mr. Hornthal into the record. The motion carried unanimously.

Mrs. Catarina Wiggins of 108 Shanna Drive was questioned by Mr. Hornthal. She explained that she, her husband, James, and their two children moved to Shanna Drive on June 13 of this year. She stated that she has a seven-year old daughter, Megan, with aspergers syndrome, ADHD, anxiety, and depression, and a four-year old son, Brandon, with autism spectrum disorder and the mind of an eighteen-month old. She has two dogs, Tasha, a bloodhound-lab mix, and Merlin, a boxer. She stated that Tasha is her daughter Megan's best friend and keeps her safe because she is afraid of the dark. She said Merlin is afraid of cats and rabbits and runs from them. Her husband is a veteran, having served three combat tours, two in Iraq and one in Afghanistan. He has post-traumatic stress disorder and traumatic brain injury. When he has a flashback, Merlin will try to get his attention and take his mind off of what is causing the flashback. Mr. Hornthal referred to photographs of Ms. Wiggins' children with the dogs as well as photographs of the fence enclosing her backyard. Mrs. Wiggins explained that her dogs have never been allowed to run at large or leave her yard without a leash. Her back yard is fenced in and has a latch that can only be opened from the outside. She also stated that there has never been an occasion when the latch on the fence opened by itself because the latch is secure.

Mrs. Wiggins said on October 19 Tasha and Merlin had been in the backyard and the gate was closed. She heard noises on the side of her house and heard her dogs barking so she took them inside the house. She then saw a white van leave the area and returned the dogs to the backyard while she left to go pick up her daughter from school. After she put the dogs out she went to put her son in the car and she saw Merlin and Tasha on the side of her house and when she called for them, they began running across the street into her neighbor's backyard. She said she could not

get the dogs and had to leave to pick up her daughter and planned to get her dogs when she returned home. She asked her neighbors if they could catch them and either hold onto them or put them in their yards and she would get them when she got home. After she picked up her daughter from school, her neighbor told her that Merlin was in her backyard so she and her daughter went to look for Tasha. They saw Tasha in Mr. Brown's yard tied to a tree. She knew her neighbors had been looking for Tasha and she thought that Mr. Brown had found her and tied her up for her. She went and untied Tasha and put her on a leash and yelled "thank you" but did not see anyone outside. She began walking toward her home when she saw Mr. Brown and another person who was the animal control officer. She said Mr. Brown told her that her dogs had killed his cat. Mrs. Wiggins stated that the animal control officer put a rope around Tasha's neck and told her he had to take her in and check her out. Her boxer, Merlin, came out of the woods during that time and the animal control officer took him and also put him in the cage in his truck. She said all of this happened in front of her two children. She said both dogs were taken to the animal shelter and she has since been able to take Merlin home, but was told she could not get Tasha because she had been deemed dangerous. She stated that she was told that the Browns did not see Merlin with the cat in his mouth which is why she could take him home. Mrs. Wiggins said she has had new locks put on the gates on the fence, has bought new leashes, and has already bought muzzles.

Mr. James Wiggins testified that he is the father of Megan and Brandon and served thirteen years and two months of active duty in the Army as a wheeled vehicle mechanic. He served three combat tours in Iraq and Afghanistan and a peace-keeping tour in Haiti. He did convoy secure and support and came under countless mortar attacks, small arms fire, and IED attacks. As a result, he suffers from post-traumatic stress disorder and traumatic brain injury. He was honorably discharged from active duty on June 13, 2012 and currently serves in the reserves. He and his family moved to Elizabeth City on that same date and he got a job with Academi, formerly Blackwater, on September 27. He has since lost that job because he took too much time off work trying to handle these issues related to the dogs, so he is currently out of work. Mr. Wiggins stated that with his post-traumatic stress disorder Merlin instinctively senses his mood, gets his attention, and snaps him out of any episode he is having. He said Tasha and Merlin both act in service to him and his family. He explained if the dogs are declared as dangerous dogs and have to be registered, he is not currently financially able to pay the associated costs. They would be required to purchase \$100,000 of liability insurance on their property for the dogs at an initial cost of \$600 and then \$150 per month. There would also be a \$150 per dog registration fee. If the dogs are outside they would have to be in an enclosed area with ceiling and floor which will cost around \$400. Mr. Wiggins said his first year costs to register the two dogs if they are declared dangerous would be about \$3,100. He added that he is aware that this stigma would follow the dogs wherever they move. Mr. Wiggins stated that his family wants the dogs back home with no dangerous dog label. If they are labeled as dangerous they cannot be outside without a muzzle and a leash. Mr. Wiggins said he wants his dogs to have a happy life and he wants his son to be able to play fetch with them in the backyard. He noted that his son cannot talk, but can communicate with the dogs. He said if the Board of Commissioners will allow his dogs to return home, he will do everything possible to comply with any conditions for fencing, locks on the gates, leashes so there is no accidental release of the dogs.

Mr. Hornthal recognized several neighbors of the Wiggins who had submitted sworn affidavits including Buffy Reed, Shirley Washburn, Dale Sodervick, and Brenda Sodervick. He added that the President of the SPCA has also provided a sworn affidavit.

Mr. Hornthal addressed the Board in closing. He noted that Mr. Brown tied the dog up and said the dog is not vicious. He also said nobody saw the dog kill. Mr. Hornthal stated that the record before the Board is that nobody saw the dog kill. He called attention to the affidavits that have been provided in which several of the neighbors stated that Hickory Acres is next to a wooded area and foxes and other wild animals have been seen in the neighborhood. Also, some of the neighbors have indicated that they have had cats disappear. Mr. Hornthal pointed out that every person who has provided an affidavit has stated that they do not think the dogs are dangerous. They believe the dogs are gentle and kind and that they are good with people and with animals. Mr. Hornthal stated that the burden of proof is on the Sheriff and his witnesses. He said the only basis for these dogs being declared dangerous was that they had killed a cat, and if that was a fact, the Sheriff would not have had any choice but to declare the dogs dangerous. He stated that the Sheriff relied on what he understood the facts to be. He said the cat was dead and that is not

in controversy, and the dogs were near the cat. Mr. Hornthal asked if a fox might have killed the cat. He said it is in speculation as to how this cat came to die and no evidence has been presented to support the fact that Tasha and Merlin killed the cat. He asked that the Board deny the request that these dogs be declared as dangerous dogs and to allow them to return to their family. He added that these dogs are in service to this family and they are valued.

Mr. Charles Brown said what he saw was a dead cat wet with slobber and two dogs near the cat with wet muzzles. He stated that there are foxes in the neighborhood, but the fox did not kill the cat; the dogs attacked and killed the cat.

Members of the Board commented on the information presented today. The County Attorney stated that once the Board weighs the evidence, it has three options in making its decision: 1) to affirm the Sheriff's determination that the dogs are dangerous; 2) to deny; or 3) to affirm with conditions.

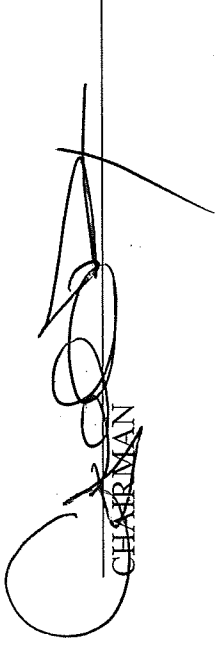
Following deliberations;

Motion was made by William Sterritt, seconded by Cecil Perry to deny the determination of the Sheriff's Department that Tasha and Merlin are dangerous dogs. The motion carried 6-0.

It was ordered that Tasha be returned to her owners.

At 5:25 PM the Animal Control Board recessed its hearing until December 17 at 3:00 PM in order to continue the appeal by Sabrina Parrish.


CLERK TO THE BOARD


CHAIRMAN