

Sep 10 2022 10:56 am

Office of the
Board of Health
City Hall
718 Main Street
Fitchburg, Massachusetts 01420
978-829-1870

This was a Special Meeting of the Board of Health held at the Legislative Building at 700 Main Street and recorded by FATV Studios, Fitchburg, on June 23, 2022. The meeting was called to order by Dr. Bogdasarian.

Present: Stephen Curry, Director, Dr. John Bogdasarian, Chair, Sandra Knipe-BOH Member, Ian Murray-BOH member, Julie Busa, Animal Control Officer, Mr. Michael Lamkin, (Petitioner) of 117 Ashburnham Street, Mr. Paul Robinson of 107 Ashburnham Street,

Public Forum

Mr. Curry stated Ms. Jacqueline Wehtje has requested written comment on Agenda item #3 which is the dog hearing to be held shortly.

Mr. Curry proceeded to read Ms. Wehtje's letter which reads, On August 5th, 2021 the Board of Health held a hearing about another dog named Harper. Ms. Knipe (motioned) deemed him a nuisance dog then withdrew her motion a few moments later. Similarly in October 2021 the Board passed a vaccine mandate on students which they withdrew at the following meeting as well as the Board also passed a vaccine mandate on employees at the Fitchburg Public Schools which was withdrawn in 2022. There is a pattern of rushing to label, mandate and punish. Instead of coming out the gate hard and then having to backtrack you should start from a point of compassion whether with dogs or with people. In this case you are being asked to label three dogs not just a nuisance but dangerous unless they have a positive test for rabies you should go easy on these dogs, maybe they need a more rural setting but they shouldn't be labeled dangerous and put down. It is not the dog's fault, dogs are not born dangerous. Something in their experiences made them act that way and maybe someone forced them to wear a muzzle and they couldn't breathe, felt nauseous and dizzy like they would faint and their skin broke out in a rash; but you couldn't see it because it was covered in fur. That's what happened when you muzzled me with your mask mandate. You showed no compassion towards me but I am a human and I can speak up and resist your actions, the dogs cannot they are innocent animals. Recently in the news I saw bears breaking into people's houses in New Hampshire they were not killed but traps were set for them so they could be relocated. A bear

is a lot more dangerous than the dog in the death of a dog impacts emotionally the people that lives with which is not the case with wild animals.

Mr. Curry stated he refused to read the last sentence.

Dr. Bogdasarian stated for clarification when she talks about three dogs she is talking about the hearing that we're going to be doing today.

Mr. Curry stated that's correct.

Mr. Curry commented that the Board is aware and people should be aware that this hearing is bound on Mass General Law so the Board has to strictly follow MGL. He thinks Ms. Wehtje's her accusations are very strong and I think that we are very familiar or we are becoming very familiar with Mass General Law and we will follow that to the letter of the law.

Ms. Knipe stated she feels it's hideous that she compares the muzzling of the dog to wearing a mask for prevention of disease.

Open Meeting Law Complaint:

Mr. Curry stated Ms. Jacquelyn Wehtje filed an Open Meeting Law violation complaint as a result of our last meeting on June 2, 2022. Ms. Wehtje alleges that the Board voted before listening to all public members.

Mr. Curry stated just as a note it was partially his fault that happened as we did have individuals attending the meeting virtually and he had forgotten about them and he forgot to inform Ms. Knipe, however it has been determined by the Attorney General's Office (AGO), that these action are not an Open Meeting Law violation.

Mr. Curry stated further that this was determined from the April Open Meeting Law violation that Ms. Wehtje filed, so with the Boards approval, he would be glad to prepare a written answer to the to the complaint and will do so within the time frame allotted on the open meeting law complaint.

Ms. Knipe made a motion that Director Curry have the authority to contact the Attorney General's office in response to the complaint filed by the attorney by Ms. Wehtje on June 2nd.

Motion was 2nd by Mr. Murray. All were in favor. Motion carries.

Dr. Bogdasarian stated this is a special meeting of the Board of Health on June 23, 2022.

Dr. Bogdasarian opened the hearing at 5:30pm.

Hearings Request/Petitions:

Michael Lampkin of 117 Ashburnham Street petitioning to declare Logan (Male), Bear (Male) and Snowflake (Female) all Rhodesian Ridgebacks, owned by Paul Robinson and Barbara Tozier-Robbins of 107 Ashburnham St, Nuisance and a Dangerous Dogs, pursuant to Chapter 140 Section 157, as outlined in the petition.

Petitioner Mr. Michael Lampkin stated the dogs located at 107 Ashburnham St are Nuisance and Dangerous dogs, as the dogs are repeatedly running loose and constantly barking from early morning until late at night, 7 days a week. Mr. Lampkin also stated that the three dogs are often left in the dog pen on the property which is approximately 30 feet from the Petitioners property to bark incessantly. Mr. Lampkin stated that the three dogs are often loose and are allowed to run at large and they are large animals at approximately 100 pound each and are very intimidating to neighbors and the Police when called and they have been aggressive at times on the Petitioners property (to the owners and visitors to the Petitioners property), and to the Police officers and to neighbors.

Mr. Lampkin submitted several exhibits depicting incidents of the three dogs being loose and/or aggressive. Exhibit 1, presented to the Board as a letter from the Petitioner with four neighbors for 97, 127, 118 and 104 Ashburnham Street which states the dogs at 107 Ashburnham St. are Nuisances due to continued barking starting at 6am on a daily basis. Exhibit 1 also includes language that states the neighbors are "afraid if they are confronted by them either loose or being walked by children as the feel they are dangerous".

Mr. Lampkin submitted Exhibit 2 which is a report from Officer Michael Sevigny, Fitchburg Police Department dated May 22, 2022. Exhibit 3 is the Dog Complaint form provided by the Animal Control Officer (ACO) to the Petitioner. Exhibit 4 is a letter addressed to the ACO from Mr. Lampkin, dated October 17, 2021. Exhibit 5 is a letter from Mr. Lampkin addressed to Director Curry, dated June 10, 2022 and Exhibit 6 are emails addressed to the ACO from Deb LaFleur, dated May 24, 2022, November 10, 2021, June 2, 2022 and March 18, 2022.

Mr. Lampkin then presented several witnesses who have had various encounters with the dogs while they were loose and off the property of 107 Ashburnham St.

While reviewing the Exhibits provided, the members of the Board of Health asked numerous questions.

Mr. Robinson stated he resides at 107 Ashburnham St and has had the three dogs since they were 8 weeks old. Mr. Robinson stated the dogs are barking because of the work that the neighbors are doing on their property which includes power tools which starts in the early hours of the day until evening.

Mr. Robinson stated on occasion the dogs will get out of the pen and his grandchildren will go after them and bring the dogs back to the pen. He also said he does lock the gate to the pen now and it's all he can do.

Mr. Curry confirmed with Mr. Robinson that the breed of the dogs are Rhodesian Ridgebacks and there are three of them, Snowflake is the female, Logan & Bear are males.

Ms. Knipe asked if the dogs are neutered or spayed and if they have had their shots. Mr. Robinson stated they have been however he isn't sure about the shots.

Mr. Robinson stated he filled out the application to the MSPCA to give them up for adoption but hasn't heard back from them.

Julie Busa, (ACO) stated in regards to complaints, she has only received one call of a complaint and that was from Mr. Lamkin a few weeks ago and is not aware of any other phone calls. Julie stated she keeps a log of every single call and the result of every single call so doesn't know what happened with those phone calls.

Julie Busa, (ACO) was surprised that there were issues because she was aware of the dogs because Mr. Robinson had reached out to Animal Control in March asking if he could surrender the dogs. The City doesn't take owner surrenders and does not have a shelter in the city, but she did offer to help him rehome the dogs.

Julie Busa, (ACO) stated she went to Mr. Robinson's home to meet the dogs and take pictures of the dogs. They were rambunctious for a while but eventually we're able to calm down. There was some interest from people about taking the dogs.

Julie Busa, (ACO) stated if Mr. Robinson submitted the application to the MSPA it will take some time however they will assist in getting them there.

After lengthy discussion the Board asked numerous questions.

Ms. Knipe made a motion that we move forward and wait to see what happens with the MSPCA application to take the dogs and would like to have the Board of Health send along a letter of encouragement for the MSPCA to expedite this.

Ms. Knipe also added to the motion to post the pictures of the dogs again on the website and see if there's any more interest in anyone adopting them, and when people come to the house you must not have all three dogs together one at a time.

Director Curry reminded the Board that you have to be very careful what you are ordering. The MGL says "you cannot order the animals out of the city." The Board needs to determine if the dogs are a nuisance and the board can set conditions to help correct the nuisance(s), and then determine if the dog is dangerous and set conditions identified in MGL law if the dogs are

dangerous. Mr. Curry feels ordering them to the MSPCA may appear as though the Board is ordering the dogs out of the city and has concerns.

Mr. Curry asked Mr. Robinson if it would be possible to keep the dogs indoors until you do what you need to do to remove the dogs. Mr. Robinson stated he can't do that as it would be cruel to the dogs to keep them inside.

Mr. Curry stated the Board has to determine whether the dogs are a nuisance and or dangerous dogs. It is clear that they have determined that there is some nuisance issues going on and Mr. Robinson will be ordered to abate the nuisances and there are specific conditions in Mass General Law what those conditions are and one of them is to keep the animal confined on the premises, so the Board has the authority to do that.

Dr Bogdasarian made a motion that we consider these dogs to be nuisance dogs and not dangerous dogs.

Ms. Knipe withdrew her first motion. Ms. Knipe 2nd Dr. Bogdasarian motion that the dogs be deemed nuisance dogs and not dangerous dogs. All were in favor. Motion carries.

Mr. Curry stated that Mr. Robinson will be ordered to take remedial action to correct the nuisance behavior, and Mr. Robinson will need to provide us some options of how you plan to take care of the nuisance behavior.

Julie Busa, (ACO) suggestion is to rotate the dog so there's one dog out two dogs in. You can't leave them out for hours at a time they're going to get bored and they're going to bark.

Ms. Knipe made a motion that we take under consideration the Animal Control Officers suggestion to release the dogs outside one at a time so that they can go to the bathroom and get some exercise, then bring that dog in and let another one out so that they're not out in a pack together all of them, and they need to be leashed from the house to the pen.

Motion was 2nd by Dr. Bogdasarian. All were in favor. Motion carries.

Dr. Bogdasarian closed the hearing at 6:45pm.

Meeting Minutes:

Mr. Murray made a motion to table the June 23, 2022 Board of Health meeting minutes. Motion was 2nd by Ms. Knipe. All were in favor. Motion carries.

Ms. Knipe made a motion to adjourn. Motion was 2nd by Mr. Murray. All were in favor.

Meeting Adjourned at 7:00pm