

MINUTES OF THE VICIOUS DOG HEARING RE: "JOSUHA"
MAY 16, 2002
PORTSMOUTH POLICE DEPARTMENT

A public hearing was conducted on Thursday, May 16, 2002 at 2:00 PM at the Portsmouth Police Department to determine if "Joshua", a Rhodesian Ridgeback owned by Charles Bryon, is vicious according to City Ordinance 6.710 of the City of Portsmouth, NH.

Committee Members Present:

- Chair: Bradley J. Russ, Chief of Police
- Marion "Mimi" Clark, Resident of Portsmouth/Appointed by the Mayor
- Craig Williams, DVM
- Robert Sullivan, City Attorney for the City of Portsmouth

Others in Attendance:

- Austin Wallace, Animal Control Officer, Portsmouth Police Department
- Donald Capalare, 186 Madison Street - Apt. #9, Portsmouth, NH
- Michael Capalare, 53 Columbia Street, Portsmouth, NH
- Charles Bryon, 846 State Street - Apt. #1, Portsmouth, NH
- Carol Bryant, Executive Assistant, Portsmouth Police Department

The chairman called the hearing to order and asked for those present to introduce themselves. All present were given copies of the police report as prepared by Animal Control Officer Austin Wallace. City Attorney Sullivan reviewed the procedures for the hearing and noted that this is an informal process. The dog owner, Charles Bryon, noted that the dog is named "Joshua" not "Jacob" as noted on the paperwork.

- Animal Control Officer Austin Wallace presented his case in regards to the attack by Joshua. Photographs of the injuries to Mr. Donald Capalare were circulated for review. It was noted that the dog is territorial and that this incident happened in the same location as a previous incident with the dog. It was also noted that during this incident Joshua was trying to drag Mr. Capalare to the ground.
- Donald Capalare presented his review of the incident when Joshua bit him and how it has affected him. He reviewed his medical bills and hospital/doctor visits. He noted that he is depending on the panel to do the right thing. Mr. Capalare also noted his concern with the City Ordinance and questioned how people can be out in the City walking their dogs without the animal being on a leash. Animal Control Officer Austin Wallace encouraged the Capalare's to notify him or the Police Department if any dogs throughout the City are bothering them.

- Charles Bryon spoke on behalf of his dog Joshua. He noted that he did not witness the attack because he had gone into the house to get an item and the wind blew the door open and Joshua got outside. After the incident, he did accompany Mr. Capalare to the hospital. Mr. Bryon presented letters from people who know the dog. He stated he would work with "Pet Manners" out of Exeter to try to figure out what is going on with Joshua and that he would install a baby gate on his door so that the dog could not get out in the future. He also noted that prior to these two incidents he has never had a problem with Joshua. He stated that he continues to pursue options for the future of Joshua.
- Michael Capalare spoke on behalf of his father and asked the panel to give consideration to the location where the dog lives and the close proximity to the street. This is the second time that Joshua has bit someone and he would hate to see this happen to another person. He also noted the changes that this has brought upon his father's behavior.
- The panel asked questions regarding the incident including: the weight of the dog, the prior incident when the dog bit another individual, the time of the incident, where the dog is kept during the day, the location of the home, Mr. Bryon's plans for keeping the dog secured from harming any other individuals, and Mr. Bryon's ability to gain permission from his landlord to fence in the yard and comply with the City Ordinance if the dog is deemed vicious.

The panel recessed at 2:50 PM to meet privately. The hearing re-convened at 3:00 PM.

Ms. Clark moved that Joshua be deemed vicious. Seconded by Dr. Williams. On a vote the panel unanimously voted in favor of the motion.

Chief Russ noted that City Ordinance 6.701D lists the enclosure requirements for a vicious dog and 6.705B on pg. 16 reviews the restrictions on vicious dogs. The signage requirements at the home were also reviewed. Mr. Bryon was instructed that Joshua cannot be released until all of the ordinance requirements are met and he was asked to work with Animal Control Officer Austin Wallace to accomplish this. Mr. Bryon asked if the dog could be released if he could find a home for the dog outside of Portsmouth. City Attorney Sullivan stated no, that the dog will not be released until the requirements of the City Ordinance are met.

The Capalare's requested a copy of the audio tape of the hearing. Michael Capalare noted he would like to see a change to the City Ordinance so that the Animal Control Officer does not have discretion regarding whether a vicious dog hearing is held. He hopes to work with the City to change the ordinance. Animal Control Officer Austin Wallace will notify the Capalare's when the dog is released to Mr. Bryon.

Dr. Williams moved to adjourn the hearing at 3:10 PM. Seconded by Ms. Clark. On a vote the panel unanimously voted in favor of the motion.

(One cassette tape documenting this hearing is on file for reference).

Respectfully submitted by Carol L. Bryant, Executive Assistant