

MINUTES OF THE VICIOUS DOG HEARING RE: "MAX"
JANUARY 3, 2002
PORTSMOUTH POLICE DEPARTMENT

A public hearing was conducted on Thursday, January 3, 2002 at 2:00 PM at the Portsmouth Police Department to determine if "Max", a Rottweiler owned by Fred and Linda Tate, is vicious according to City Ordinance 6.710 of the City of Portsmouth, NH.

Committee Members Present:

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

Others in Attendance:

- ?? Austin Wallace, Animal Control Officer, Portsmouth Police Department
- ?? Fred Tate, 55 Woodworth Avenue, Portsmouth, NH
- ?? Linda Tate, 55 Woodworth Avenue, Portsmouth, NH
- ?? William Tate, 55 Woodworth Avenue, Portsmouth, NH
- ?? Tekyah Smith, 55 Woodworth Avenue, Portsmouth, NH
- ?? Jennifer Leon, 120 Lafayette Road #14, Rye, NH
- ?? Raeanne Raiche
- ?? Carol Bryant, Executive Assistant, Portsmouth Police Department

The chairman called the hearing to order at 2:05 PM and briefly outlined the procedure for the hearing. Members of the committee, the Tate's, Jennifer Leon and Animal Control Officer Austin Wallace were given copies of the police report.

- ?? Animal Control Officer Austin Wallace presented his case in regards to the attack by Max. Photographs of the injuries to Shane Leon were circulated for review. Jennifer Leon noted that Shane received 32 stitches and was required to take two antibiotics and pain medication.

A 1999 report from Tufts University regarding behavioral issues with Max was reviewed. Linda Tate indicated that the report is not accurate when it suggests that Max is aggressive when unprovoked. Mrs. Tate stated that Max has only been aggressive when he is provoked. She noted that Max has bitten Tekyah when she was taking paper towels from him; Max has bitten her son when the boy was sticking his foot in Max's face; Max has also bitten or snapped at a friend of the family. Mrs. Tate noted that Max has always growled and warned before he has bitten. Mrs. Tate noted that Max was taken to Tufts University because Max was becoming aggressive and dominant and the veterinarian at Sagamore Animal Hospital had recommended that Max be taken to Tufts.

- ?? Tekyah Smith, William Tate, Fred Tate and Linda Take spoke on behalf of the dog Max.

?? Jennifer Leon spoke on behalf of her son Shane who was the victim in this incident.

?? Raeanne Raiche spoke on behalf of Max.

Chief Russ then asked that everyone present review the Vicious Dog Ordinance regarding the details of what is required if a dog is deemed vicious. Dr. Schmidt noted that the panel is required to follow the city ordinance regarding the definition of "vicious" and that the panel makes their decision based upon the evidence, not on the type of dog involved. He also noted that the panel does not make any decision on euthanizing an animal, but can make recommendations.

The committee recessed at 3:10 PM to meet privately.

The hearing re-convened at 3:15 PM.

City Attorney Sullivan addressed the hearing and stated that the Committee has five days to make their decision and they will issue a written decision within the required time period. He stated that when the decision is made all those involved will be called with the results.

Mrs. Tate asked when Max could be returned home. City Attorney Sullivan indicated that once the panel makes its decision and if Max is deemed a danger to citizens then there is a possibility that Max may not be released. He stated that one possible result could be that the City seeks legal action, through the Court, to have Max euthanized.

Chief Russ closed the hearing at 3:25 PM.

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

Respectfully submitted by Carol L. Bryant, Executive Assistant