

MONKTON NUISANCE DOG HEARING  
MONKTON TOWN HALL  
Minutes

DATE: Monday November 6, 2017

1. **CALL TO ORDER:** S. Pilcher called the hearing to order at 7:04pm
2. **ATTENDANCE:**
  - a. SELECTBOARD MEMBERS IN ATTENDANCE: Stephen Pilcher, John McNerney, Ann Layn, Henry Boisse, Roger Parker.
  - b. OTHERS IN ATTENDANCE: Bailee Layn-Gordon, Scott Gordon, Laurie Earle, Angela Auclair.
3. **INTRODUCTION, PROCESS, SELECTBOARD DISCLOSURES**

S. Pilcher introduced the Selectboard and laid out the hearing process with testimony being taken from the Scott and Bailee Gordon, Laurie Earle (ACO) and Angela Auclair in that order. Following initial testimony, rebuttal testimony will be taken in the same order. S. Pilcher indicated that proceedings would be recorded and participants could have copies if requested.

S. Pilcher introduced into evidence emails received by the Selectboard from B. Layn-Gordon:

“Dog attacked chickens – in front of kids” dated 9/24/2017 (labeled E1 for clarity)

“Dog attack again” dated 10/16/2017 (labeled E2 for clarity)

Anne Layn recused herself given a conflict of interest.
4. **GORDON TESTIMONY**

B. Layn-Gordon introduced into evidence a document entitled “Dog Hearing ” dated 11/6/2017 (labeled E3 for clarity) and summarized its contents which consists of a timeline starting in Spring 2016. A. Auclair interrupted to say that the dogs in question are not owned by her. J. McNerney directed A. Auclair to reserve her testimony for later. B. Layn-Gordon testimony follows:

In early 2016 the dogs would come over from the Auclair residence by would go home when yelled at. The dogs would growl at her. In November of 2016, three dogs came over and fought with their dogs. The dogs were separated and they went home. The Gordons left the property for 45 minutes and when they returned the dogs had returned and killed several chickens – two smaller dogs had feathers in their mouth. When the dogs were told to go home, one of the larger dogs growled at her. B. Layn-Gordon said A. Auclair and the Animal Control Officer were notified and that Auclair responded saying they had a problem with the fence. In winter of 2016-2017 the dogs were around often but did not disturb the chickens which were fenced. No contact was made with ACO or Auclairs. In February of 2016 six more birds were killed even though they were in a portable fence. When Bailee returned home 3 of

the dogs were running back to the Auclair property. ACO was contacted but she is uncertain if there was any follow up. On September 17, 2017 two dogs came over while the chickens were free ranging and the girls were outside. Chickens were attacked in proximity to where the girls were playing. Bailee did not feel the girls were safe and put them in the van. Yelled at dogs to go home – other dog postured, growled, showed teeth – she hit the dog with a plastic fence post and it went home. She called ACO who came over, took pictures and went to the Auclairs. She was encouraged to call the State Police and record the incident. Dogs were taken by ACO. This was the first time the dogs showed aggression and the dog did pounce in her direction. Bailee has been told by neighbors on several occasions that there have been Rottweilers chasing her horses. In a separate incident in October she returned home with the girls around 5 p.m. and everything was fine. Fifteen minutes later one of the horses was very upset, on inspection one of the dogs was in the barn with the horse – the dog left the barn limping. She yelled at the dog and it went back up the road home. When she checked there were several more chickens dead despite being fenced in. B. Gordan-Layn feels there is a clear progression with the dogs from occasional visits to killing animals and standing their ground when challenged. She feels that she cannot just let her girls outside. B. Gordan-Layn says the dogs have killed 16 hens and 1 rooster and if you look at the cost of replacement plus the lost income from egg production the total is \$2458. None of the chickens that were attacked survived. There is a picture of the dog that was in with the horse in the evidence supplied. S. Pilcher asked if B. Gordon-Layn could identify the dogs. B. Layn-Gordon said one of the dogs had a bit of white and a tail but most of the dogs had very similar markings. Most have docked tails. A. Auclair again stated that the dogs were not hers and the vet papers would show this. S. Pilcher asked if they were younger dogs. B. Layn-Gordon said she assumed that the dog with gray around it's muzzle was older dog. None of the dogs are puppies but they are different sizes. B. Layn-Gordon noted that her yellow lab is 90 pounds and two of the dogs are taller and broader. Sometimes they have collars, sometimes they don't.

##### **5. EARLE TESTIMONY**

L. Earle, Monkton Animal Control Officer, read from her notes of September 17, 2017. L. Earle noted that the dogs are registered to A. Auclair with the Town. S. Pilcher asked how many dogs are registered. L. Earle said there are 5 dogs registered and that two dogs that she picked up on 9/17 were Devil and Coco. Coco being the smaller of the two, Devil is not docked, they are both female. At 8:20 on 9/17, L. Earle received a call, 2 Rotweillers entered the Gordons property and killed a chicken in front of their two pre-school aged children, and there were feathers of multiple birds in the yard. She reported that B. Layn-Gordon saw one of the dogs kill a chicken, grabbed her children and placed them in a van and tried to get the dogs to leave the property. B. Layn-Gordon struck the dog with a plastic fence post and the dog left the property at which time the ACO was called. L. Earle arrived approximately 9

a.m. ACO found remains of chickens in children's play yard and visited Auclair residence. L. Earle determined that they were looking for two Rottweilers, Coco and Devil. Spoke with David Auclair and spoke to him about the inappropriate nature of the dogs being loose especially killing chickens and acting aggressively to adults with children nearby. L. Earle noted to D. Auclair that the fenced in area looked too small for 5 high energy dogs and that the fence did not appear high enough. She informed D. Auclair that the State Police would be notified and that impoundment would be necessary due to the repetitive nature of the problem referring to a file of approximately 10 years of complaints long predating her tenure as ACO. D. Auclair stated that he is the owner although A. Auclair name is on the registration. The dogs were placed in crates without incident. L. Earle spoke with A. Auclair later that afternoon and indicated that A. Auclair did not believe her dogs killed the chickens and that B. Gordon lies. L. Earle noted that since the dogs were easily handled on leash there was no reason for the dogs to be loose. She set up a time with A. Auclair to for the next morning to pay fines and fees. She suggested that A. Auclair place muzzles on the dogs so if they get out they can't bite anything. S. Pilcher asked A. Auclair if she wanted a copy of L. Earle notes – she declined. L. Earle mentioned at she had sent a letter to the Selectboard indicating that she would not be returning to the Auclair property and had no further information on the October incident. L. Earle feels that this problem has gone on for 10 years and that fines have not done any good. They are nice dogs, easily handled.

#### **6. AUCLAIR TESTIMONY**

A. Auclair indicates that none of her dogs has white or gray on them. She offered to get a certified letter from the vet or to let the Selectboard check them from top to bottom. None of her dogs are 10 years old. S. Pilcher asked which one were her dogs. A. Auclair said none of them. S. Pilcher asked if all the dogs were David Auclair's. A. Auclair said yes. S. Pilcher asked if David Auclair knew about the hearing. A. Auclair said she would not know. S. Pilcher asked for David Auclair's contact information and received his cell phone number. S. Pilcher asked for information on the dogs. A. Auclair indicated that there are 4 Rottweilers and 1 Lab. S. Pilcher asked about fencing and if there is normally someone at home. A. Auclair said that the dogs go in and out through a dog door and there is an electric fence which was replaced 2 weeks ago with a more powerful fence. A. Auclair stated that two different vets would certify that the pen is quite suitable for the 5 dogs. S. Pilcher asked how the dogs were getting out. A. Auclair said they chewed through the wiring and that the Gordons dogs come to the fence and instigated. She also noted that they jump the fence when a fox comes by. They dig underneath the fence but they are putting bricks all around it. S. Pilcher asked how the bricks are installed. A. Auclair indicated that where the fence meets the ground is now lined with bricks. S. Pilcher asked when the bricks were install – A. Auclair said when the ACO suggested muzzling her dogs. J. McNerney suggested that if A. Auclair doesn't want to be contacted by the Town for dog violations that she should have the owner(s) register the

dogs. A. Auclair noted that John Phillips, the Assistant Town Clerk, made the same suggestion. The dogs are individually owned. J. McNerney asked about fence repair using stones which was suggested last year. A. Auclair said it did not work. R. Parker noted that it is not the Town's job to keep the Auclair dogs fenced in. A. Auclair repeated that the neighbor's dog comes to their fence line and gets the dogs excited. R. Parker asked questions regarding fence construction noting that he installs fences 18 inches in the ground. A. Auclair said she has video tape of two older black dogs that are not their dogs that chase the Gordons horses. She suggested the dogs lived on Gilman Road and in the condos. S. Pilcher asked if A. Auclair knew whether some of David Auclairs dogs were responsible for killing the chickens on 9/17 and 10/16. A. Auclairs said she didn't know about October but in September she knew of one and there was another time but they have paid fines and taken precautions and did their best. A. Auclair does not believe the dead chickens are done by the Auclair dogs – always they come back from being away and the chickens are dead. A. Auclair said that except for the two instances B. Layn-Gordon did not directly witness the dogs killing the chickens. S. Pilcher noted that there have been problems keeping the Auclair dogs inside the fence and he is worried that one or more dogs have chased and killed chickens and that once a dog does that it is difficult to keep it from doing that in the future. S. Pilcher suggested that one of the solutions is to muzzle the dogs. He noted that it was a better solution than trying to take the dog. S. Pilcher asked how often people were home. A. Auclair said that 90% of the time someone is home. S. Pilcher asked for her reaction to muzzling the dogs. A. Auclair responded that she has two letters from two vets indicating that is not appropriate for dogs. S. Pilcher asked if there was a proposed solution to the problem beyond hoping that the electric fence will keep them in. A. Auclair felt the new fencing is sufficient. J. McNerney asked about the references to letters from vets and asked for copies of the letters.

**7. GORDON REBUTTAL**

S. Gordon said the dog that went over to the Auclair's house was an older dog named Wallace who was senile and would go over to Steve Raymond's house (Auclair neighbor) to get treats. He was put down in May. The other two dogs stay at home and have electric collars and an invisible fence. S. Gordon said he was home one day when two dogs came down from the Auclair residence and got into the chicken enclosure. He caught them before any chickens were killed. He stated that if it happens again that he will shoot the dogs. He stated that his kids safety is more important than a neighbor and their dogs. B Layn-Gordon also noted that two State Police, a Game Warden and the ACO have said that they have a right to kill any dogs harassing livestock. She does not want to do that. B. Layn-Gordon says it is not fair to the dogs just want to let the kids out to play.

**8. EARLE REBUTTAL**

L. Earle said the day she picked up the dogs she watched them go through the Gordon's pasture and back up the road to the Auclair residence. She also noted that the two times she visited the Auclairs dogs greeted her in the

driveway and were not in the pen. She said that was another possible way that the dogs were getting loose. R. Parker asked if the enclosure included the driveway and L. Earle said it did not. A. Auclair said the only way the dogs can get out in the driveway is if someone opens the garage door. A. Auclair says electric fence now run through the driveway and around the back of the house.

**9. AUCLAIR REBUTTAL**

S. Pilcher noted that he is looking for a solution and suggested getting David Auclair to attend. S. Pilcher asked who owns which dog. A. Auclair said David Auclair owns Jill, Matthew owns Brodie, Nicolas owns Coco, Daniel owns Devil, Hunter is Lab was owned by Angela's brother. Matthew did know about the hearing but is underage. A. Auclair said Jill, Coco and Devil seem to be the dogs that the Gordons are complaining about. J. McNerney asked how to proceed – suggested that the Selectboard could allow D. Auclair an opportunity to submit testimony. R. Parker commented that we had contacted the owner of record and we were done. S. Pilcher asked if the board had an interest in inspecting the fence. R. Parker said it was not the board's responsibility.

**10. HEARING CLOSE**

The Selectboard started discussion of when to hold deliberations and what finding of fact would look like. A. Auclair noted that she runs a day-care out of her home and there a 4 grandchildren that are in the home. J. McNerney asked if it was appropriate to ask each party what they felt should be done. S. Pilcher indicated that he was most interested in a solution. S. Pilcher asked the Gordons their solution. S. Gordon believes that all the dogs should be removed. He believes that should be housed where they will be taken care of and allowed to run. L. Earle suggested that the dogs should only be allowed out on a leash. Barring that L. Earle thought the dogs should be rehomed. A. Auclair had no comment saying that her attorney had asked her to attend and bring back all paperwork.

S. Pilcher closed the hearing at 7:54.

Respectfully submitted

Stephen Pilcher

Recording: Nuisance Dog Hearing Recording 2017\_11\_06.WMA

Subject **Dog attacked chickens - in front of kids**  
From Bailee Layn-Gordon <creeksidefarm.vt@gmail.com>  
To Stephen Pilcher <spilcher@monktonvt.com>  
Date 2017-09-24 22:02



Hi Steve

On Sunday the 17th of September, we had 2 of the Auclair's dogs come over (1 older with a tail and a younger one). Around 8:00am, the girls and I were outside and the dogs were attacking the chickens where the girls were playing. I was able to get the girls into the van for safety ( I am 6 months pregnant and had to scoop both of them up and run them up the hill to the van). Then I had to use a plastic fence post to chase them off our property. The young dog turned and growled and postured at me several times to the point that I had to hit him with the post repeatedly. He was hardly phased by this. I felt like I was not safe in my own yard. My 2 and 4 year old daughters were most definitely not safe with those dogs here.

I called the animal control officer and she came over, took pictures, and then went to Auclair's. I was encouraged to call the state police to have the incident recorded. I did call the New Haven barracks and an officer recorded the information. The dogs were taken by the animal control officer. We were notified that Angie was allowed to pick them up with only 24 hours hold. I do not think that is appropriate for the severity of this case; as well as the fact that this pack of dogs have shown a pattern of attacking animals, as well as growling and posturing at people. It was unclear if it is required to have the animal control officer inspect the property to make sure the dogs would not get out again.

When Scott came home later in the day, we went searching for our birds that hadn't come home. We were picking one body out of the ditch and Angie drove by, swearing at me and giving me the middle finger. When she got home, we could hear her yelling and screaming from across the field. Luckily we didn't have any retaliation; however that is a fear of mine. We have been advised by a variety of people (police officers, animal control officers, etc.) that it is within our rights to shoot a dog attacking livestock. We were lucky that our dogs were inside during this attack, otherwise I know the younger dog would have attacked our dogs. I know that if we did shoot one of their dogs, there would be retaliation.

The dogs killed 4 chickens that day, for a total of 14 over the course of 3 attacks. I have had one of their dogs growl at me twice, but this is the first time a dog didn't run away when I yelled or threw something at them. They have also been reported chasing my horses (one of which is very elderly and has major health issues) by a neighbor. Several people have contacted me who do not wish to come forward, saying that the Auclair's have 8 dogs there and are kept in a small fenced area (too small for that many dogs). It was reported to us that there are 2-3 dogs that are very aggressive and that they often fight with each other.

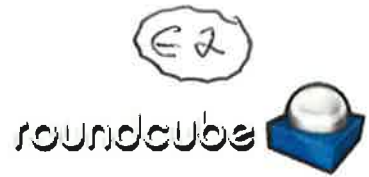
The Raymonds have called the animal control officer in past years numerous times regarding the dogs chasing them, growling, and fighting with their dogs. This should all be on record with the animal control officer.

I know the selectboard is discussing this topic on Monday. Scott and I cannot attend this meeting, but would like to have our information/ concerns are shared. I would like to see the town rules changed to protect against aggressive dogs. I think there should be a longer hold of a dog that is accused of aggression. There should be proof that the owner is able to contain their dog- through inspection of the property before the dog is returned to the owner. I also think when we have a pattern of the owner not being able to contain/ care for their dog- then the town should take steps to have the dog removed from their care. This is not too much to ask when the safety of children is in question.

Could we please be kept up abreast of the updates on this case as well as the bigger issue of the town regulations on aggressive dogs?! I'm also interested in our next steps to keep our kids and animals safe. Scott is taking steps to make sure we have a quick opening safe to provide access to a gun in a more timely manner. I can't imagine having to fight off a dog in front of my kids, but I did on the 17th. I also can't imagine having to shoot and kill a dog in front of my kids, I hope that isn't our only option.

Thank you for the time and energy on this case. I am available by phone on and off throughout Monday if you need to speak with me.

Bailee Layn-Gordon  
(802)-922-1653



Subject **Dog attack again**  
From Bailee Layn-Gordon <creeksidefarm.vt@gmail.com>  
Stephen Pilcher <spilcher@monktonvt.com>,  
To <selectboard@monktonvt.com>, <Townclerk@monktonvt.com>,  
<aco@monktonvt.com>  
Date 2017-10-16 21:45

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- 20171016\_175008.jpg (~2.6 MB)
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Hi everyone

I wanted to update everyone on the details of the attack tonight.

We (the girls and I) got home at 4:50 and were outside caring for the horses and chickens until 5:15. At that time all the chickens were happily pecking at bugs in the garden within a fence. At 5:40 I heard one of the horses yelling and I went outside to see what he was upset about. He was far away from the barn and the other horse (who was locked in the barn to eat) was banging around a lot. I saw one of the Rottweilers come out of her side of the barn and dog was limping. I went around the barn yelling "bad dog- go home" at her. She growled and showed her teeth, but headed up the road limping. At that time I saw another dog (even bigger rottweiler) out of the corner of my eye. This dog was running across the field back to the Auclair's house. There was someone outside looking for the dogs and yelling at the dog in the road. They were swearing and threatening to "beat her ass". The dog gave the man a wide range and range back to the Auclair's house down Cattail lane. When I went to check on your hens- there were 3 dead. One of which we had just gotten (1 week ago) to replace the lost hens from the last attack. One of the other hens was a pet of my daughters. All of our hens were in a fence- the dogs somehow got into the fence and chased the birds over the fence or carried their bodies out. One of the hens was found across the yard from their fenced area. I have attached some pictures, clearly showing that the hens have a fence around them, one of the dogs go back home, as well as some of the bodies.

I want to be sure that people understand that we have done everything we can to keep our animals safe and cared for. We even fence them in, when we should be able to let them free range in our yard.

With the time frame of this attack, the dogs must have come directly to our home after the animals; this shows a clear pattern on the dogs behavior. This attack now brings the body count to 17 birds. It also seems that the dogs are escalating- from chickens, now going after the horses and growling/ showing teeth at people. This demonstrates a larger risk to our family than just the loss of birds and money. We have a 4 year old, a 2 year old, and a baby on the way. We should be able to allow our girls outside to swing and play in the sandbox in their own yard without worrying about an unsafe neighbor dog coming into the yard.

Bailee Layn-Gordon



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Dog Hearing  
November 6th, 2017

Details of the attacks

In the spring of 2016, I was in the garden and one of Angie's dogs came through the field. It was playing with our dogs, but it quickly turned aggressive. I yelled "go home" and the dog turned and growled at me. I had the water hose next to me and I squirted the dog in the face and repeated go home until it turned and left. This dog was an adult with a full tail. Through the summer and fall of 2016 there were often dogs (1-4) coming over, but always responded to "go home" and were not aggressive. We have had chickens this whole time and they were free-ranging on our property. The dogs never showed interest in the chickens during these visits. I did not notify Angie or the animal control officer about these visits, as we understand sometimes dogs wonder out of their yards.

11/16/16- 3 dogs came over and started fighting with our dogs. I was able to send them home and put our dogs in the house; our dogs were not injured. I left to pick up my daughters and when we returned about 45 minutes later, the 3 dogs were back and had killed several chickens (2 killed during the attack and 2 a few hours later from their injuries). The two smaller dogs had feathers in their mouths and ran home quickly when I yelled "go home", the larger dog started growling at me, but soon also went home. I emailed Angie and called the animal control officer. Angie said they were fixing the fence for the dogs.

Through the winter of 2016/2017 the dogs came over less frequent. Our chickens were penned up for the winter and no one seemed to bother them.

Early 2017 (not sure of actual date- some time in February)- 6 birds were killed while in a portable fence when we were at work. When I got home 3 dogs were running back across the field from our house to Angie's house. Only 5 bodies were found and it looked like one of the dogs had something in it's mouth, it was hard to see what it was from 1/2 way across the field. Animal control officer was contacted, but it was unclear if there was any follow up.

9/17/17- 2 dogs came over around 8am. My daughters (4 and 2 years old) were outside playing. The dogs chased and attacked the chickens within feet of where the girls were. I did not feel the girls were safe- I carried them up to the car and tried to chase the dogs off. One dog ran off quickly, while the other dog stood his ground and growled and postured at me several times. I had to use a plastic fence post to protect myself. I hit the dog repeatedly with the fence post before he finally turned and left the property. We were lucky that our dogs were inside during this attack, otherwise I know the younger dog would have attacked our dogs. The dogs killed 4 chickens that day.

I called the animal control officer and she came over, took pictures, and then went to Auclair's. I was encouraged to call the state police to have the incident recorded. I did call the New Haven

barracks and an officer recorded the information. The dogs were taken by the animal control officer.

I have had one of their dogs growl at me twice, but this is the first time a dog didn't run away when I yelled or hit the ground with something. They have also been reported chasing my horses by a neighbor. One of our horses is very elderly and has major health issues.

10-16-17- We (the girls and I) got home at 4:50 and were outside caring for the horses and chickens until 5:15. At that time all the chickens were happily pecking at bugs in the garden within a fence. At 5:40 I heard one of the horses yelling and I went outside to see what he was upset about. He was far away from the barn and the other horse (who was locked in the barn to eat) was banging around a lot. I saw one of the Rottweilers come out of her side of the barn and dog was limping (I'm not sure if the horse kicked the dog or if the dog was limping when it came over). I went around the barn yelling "bad dog- go home" at her. She growled and showed her teeth, but headed up the road limping. At that time I saw another dog (even bigger rottweiler) out of the corner of my eye. This dog was running across the field back to the Auclair's house. There was someone outside looking for the dogs and yelling at the dog in the road. They were swearing and threatening to "beat her ass". The dog gave the man a wide range and range back to the Auclair's house down Cattail lane. When I went to check on your hens- there were 3 dead.

#### Additional Information

I want to be sure that people understand that we have done everything we can to keep our animals safe and cared for. We even fence the hens in, when we should be able to let them free range in our yard. We have been advised by a variety of people (police officers, animal control officers, etc.) that it is within our legal rights to shoot a dog attacking livestock. We do not want to shoot any dogs.

With the time frame of this attack, the dogs must have come directly to our home after the animals; this shows a clear pattern of behavior. This attack now brings the body count to 17 birds. It also seems that the dogs are escalating- from chickens, now going after the horses and growling/ showing teeth at people. This demonstrates a larger risk to our family than just the loss of birds and money. We have a 4 year old, a 2 year old, and a baby on the way. We should be able to allow our kids outside to swing and play in the sandbox in their own yard without worrying about an unsafe neighbor dog coming into the yard. Although we keep the chickens for eggs, some of these birds that were killed were pet birds of my daughters. The girls have been very upset about the loss of their birds. They often ask before going outside, "are those mean dogs going to come back to eat the chickens?"

As of this date, the Auclair's dogs have killed 16 hens and 1 rooster. It costs \$20 on average to replace each of these birds; that comes to a total of \$340. Each of these hens would produce an average of 530 eggs over their lifespan. That would be a total of 706 dozen eggs lost. Farm

fresh eggs cost on average \$3/ dozen; which comes to \$2118. The total of replacing the birds and egg lost comes to \$2,458.

Attached are some pictures of some of the dead birds, spots they have been attacked, and the fence and coop we have. Please note all of the injured birds in the pictures died within 24 hours or had to be put down because of their injuries.

