

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