

**East Montpelier Vicious Dog Hearing APPROVED (10/19/15) MINUTES
September 28, 2015 at the Town Office**

A hearing in the matter of the dog Zoe, owned by John Clement and Callie Buck of 365 Mays Way, East Montpelier, Vermont.

Selectboard members present: Carl Etnier (recording secretary), Seth Gardner, Casey Northrup, Steve Sparrow, Kim Swasey; Bruce Johnson (town and zoning administrator).

Others present: Rob Chickering (town resident), John Clement (respondent), Sandy F. Conti (Animal Control Officer and Town Constable), Norman Hill, Alan May (complainant), Toni May (complainant).

Chair Seth Gardner called the hearing to order at 6:30 pm.

Mr. Gardner began by reading the warning of the hearing, regarding a September 19 incident with Callie Buck and John Clement's dog Zoe on the property of Alan and Toni May. Mr. Gardner then introduced everyone present or invited them to introduce themselves.

Mr. Gardner read the complaint filed by Ms. Toni May on Tuesday, September 22. (See attached.)

Mr. Gardner requested disclosure of any conflicts of interest and/or *ex parte* communications. Mr. Etnier noted that the entire Selectboard was present at the September 21 meeting, when Ms. May described the situation that forms the basis of the complaint. Mr. Johnson noted that the complaint had yet to be filed at that time.

Ms. Swasey began the questioning for the Selectboard, asking for details on any specific damage caused by Zoe. Ms. May replied that there was no bite, but she did feel threatened by the dog. Ms. May's dog was only in contact with Zoe for a short time and was not harmed.

Mr. May said if the dog comes over again, he'll take it somewhere. And he acknowledged that the dog is not a vicious dog.

Mr. Etnier asked whether the Mays wish to withdraw their complaint, since they acknowledged the dog is not vicious. Mr. May said they did not. And he reiterated that he would take the dog somewhere else the next time it came onto their property.

Mr. Etnier asked whether the dog had attacked Ms. May. She said no, it did not attack her. Zoe did not bite her dog. She did not know whether Zoe would have bitten her dog if she had not thrown Zoe off so quickly.

Mr. Gardner asked John Clement to give his side of the story.

Mr. Clement said that he doesn't think the dog has been on the Mays' property five times. He can recall three times it's been there.

He said the dog is a puppy, an 11-month-old pit bull. He has owned it since it was 8 weeks old. He said the dog slipped her collar. The first thing he did was get in the car and drive down the road, hoping she'd get in the car. She doesn't listen well when she gets away. She has never bitten anyone, he said, and she's not a vicious dog. She's just a puppy.

He said he didn't go on the Mays' property until Ms. May asked him to. The dog was running around, crazy—he's not going to deny that. He says when Zoe escapes, the first place she goes is to see the Mays' dog. Once the yelling and screaming started, he said, he lost his ability to control the dog by calling her.

Mr. Gardner asked whether the dog is tied up outside when no one is at Mr. Clement's. Mr. Clement said no, the dog is in the camper.

Ms. Swasey asked whether the dog is outside when Mr. Clement is home. He said no.

Ms. Swasey asked whether the dog had ever bitten anyone. Mr. Clement said no; Zoe is the most loveable dog they've ever had. She's never killed a duck or chicken; they've had kids up there and she's never hurt a kid.

Mr. Gardner invited Animal Control Officer Sandy Conti to testify. He said everything has been said.

Ms. May asked why the dog is licensed just now when it's 11 months old and has been with Mr. Clement since it was 8 weeks old.

Mr. May said that previous times, the collar was on the dog. And he referred to his previous comments, saying that if the dog is back down there again, he's not walking her back home.

Mr. Clement said he doesn't deny being late with the registration and vaccination of the dog.

At 6:58 pm, the board entered deliberative session. It came out of deliberative session at 7:30 pm.

Motion: I move to continue deliberations on Oct. 5 immediately after the end of the regular SB meeting. Made: Mr. Etnier. Second: Ms. Swasey. 5-0. 7:31 pm.

October 5, 2015 Continuance of Clement Vicious Dog Hearing

Chair Gardner reopened the Clement Vicious Dog Hearing at 9:20 p.m. following the conclusion of the regular board meeting. Mr. Etnier was not present for the continuation of the hearing.

The board moved directly into deliberative session. The board exited deliberative session at 9:30 p.m.

Motion: The Selectboard has determined that Zoe is not a vicious dog, but is a nuisance and the board orders the owners to keep her under control at all times. Made by Mr. Sparrow; second by Ms. Swasey. Passed unanimously.

The board reviewed and tweaked the draft written decision. Consensus was reached on the wording.

Motion: To authorize Chair Gardner to sign the written decision in the Clement Vicious Dog Hearing matter. Made by Mr. Sparrow; second by Mr. Northrup. Passed unanimously.

Motion: To adjourn the hearing. Made by Mr. Sparrow; second by Mr. Northrup. Passed unanimously.