

**VILLAGE OF PLEASANT PRAIRIE
PLEASANT PRAIRIE VILLAGE BOARD
9915 - 39th Avenue
Pleasant Prairie, WI
June 12, 2013
5:30 p.m.**

A special meeting of the Pleasant Prairie Village Board was held on Wednesday, June 12, 2013. Meeting called to order at 5:30 p.m. Present were Village Board members John Steinbrink, Monica Yuhas, Steve Kumorkiewicz and Mike Serpe. Clyde Allen was excused. Also present were Michael Pollocoff, Village Administrator; Dave Smetana, Police Chief, Thomas Camilli, Attorney and Jane Romanowski, Village Clerk.

- 1. CALL TO ORDER**
- 2. ROLL CALL**
- 3. PUBLIC HEARINGS**

A. 5:30 p.m. - Consider appeal filed by Amanda Lay of a vicious dog determination.

Thomas Camilli:

Thank you President Steinbrink, members of the Board. For the record my name is Thomas Camilli, Jr. I'm an attorney with the firm of Godin, Geraghty, Puntillo and Camilli serving as counsel for the Village of Pleasant Prairie this evening. Good evening to all of you. Mr. President, the matter is here this evening on an appeal of Village resident Amanda Lay of a determination by Police Chief David Smetana that her four year old pit bull is and should be deemed a vicious animal.

This matter arises out of an incident which occurred on May 10, 2013 in the Village of Pleasant Prairie at 2634 Springbrook Road. At that time David Smielewski, a neighbor and fellow Village resident, was suddenly and viciously attacked by this pit bull while he was performing lawn work in the area. We are prepared to present testimony today which indicates that Mr. Smielewski sustained very serious and significant injuries to his left arm and his right leg which required hospitalization. This is very disturbing because this is not the first incident with this animal, but rather there was a prior incident as well which Officer Jung will also testify to.

It is the goal of the Police Chief in this community to ensure the public safety and the welfare of the community and to make sure it is protected from undue harm. The Police Chief after reviewing all of the relevant police reports has made a determination that this dog is a vicious animal, and as such it should either be licensed in accordance with Chapter 119 of our ordinances or removed from the community entirely.

What we're also going to learn during this hearing is that this is a neighborhood that is fearful. It is fearful because of the presence of this animal, because of the disposition of this animal and because of its nature, frankly, to attack and it has done this through its attack on Mr. Smielewski. We have a number of residents of this neighborhood who are here and who are going to be commenting after the conclusion of testimony regarding their concerns about this animal.

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A few words about the applicable standard that this Board needs to apply. Chapter 119 of our ordinances allows the Police Chief to deem an animal vicious if the animal has bitten another person. And if an animal has bitten another person that is prima facie evidence that the dog is vicious. And we're going to present testimony today indicating that, in fact, this dog has attacked and bitten a resident of the Village.

Because a prima facie showing of viciousness will be demonstrated, it is then up to the dog owner, Amanda Lay, to demonstrate or to rebut that presumption of viciousness. We are going to present testimony first from Officer John Bonogofsky who was the attending officer at the incident on May 10th, and we'll follow that with testimony by Officer Jung and finally Chief Smetana. And lastly the victim, David Smielewski, will also give testimony this evening.

At this time I would like to call Officer John Bonogofsky. And I will simply direct the board in front of you. You have an exhibit book with the incident number and today's date. I'm going to be referring to this book throughout our examination. And the documents contained within the book will serve as the exhibits that I'm going to be referring to as I examine the witnesses.

Jane Romanowski:

Will you stand up so I can swear you in. Do you solemnly swear in the matter now in hearing to tell the truth so help you God.

John Bonogofsky:

I do.

Jane Romanowski:

State your name and address for the record.

John Bonogofsky:

Officer John Bonogofsky. My home address?

Thomas Camilli:

Just your work.

John Bonogofsky:

8600 Green Bay Road, Pleasant Prairie, Wisconsin, my work address.

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Thomas Camilli:

Thank you, Officer Bonogofsky. You are employed by the Village of Pleasant Prairie Police Department?

John Bonogofsky:

That is correct.

Thomas Camilli:

How long have you been employed by the department?

John Bonogofsky:

Coming up on seven years.

Thomas Camilli:

And what is your rank with the department currently?

John Bonogofsky:

I'm a patrol officer.

Thomas Camilli:

Thank you. And Officer Bonogofsky were you working on May 10, 2013?

John Bonogofsky:

Yes, I was.

Thomas Camilli:

And you were working as a patrol officer for the Village at that time?

John Bonogofsky:

Correct.

Thomas Camilli:

And Officer Bonogofsky on May 10, 2013 did you respond to a call at 9229 27th Street?

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John Bonogofsky:

That's correct.

Thomas Camilli:

And in connection with your response to that address you prepared a report which detailed your findings, is that correct?

John Bonogofsky:

That's correct.

Thomas Camilli:

And I'm going to refer you now, Officer Bonogofsky, to Exhibit Number 4 which is your incident report, and it's Item Number 4 in the book that all the Board members have. I'm going to refer you to Exhibit Number 4. And do you recognize Exhibit Number 4?

John Bonogofsky:

Yes, I do, that's my report.

Thomas Camilli:

And this is a report that you prepared after your investigation of this incident?

John Bonogofsky:

That's correct.

Thomas Camilli:

Alright, I'm going to take you through this report. When you arrived at 9229 27th Avenue what was the nature of the call? Why were you called?

John Bonogofsky:

The med call that I had received that I was dispatched to was a dog bite call, and I was to respond to the area for that reason. The dispatch referred to the dog bit call that the victim he could not stop bleeding, and that's why there was a sense of urgency to get there.

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Thomas Camilli:

Alright. When you responded at the scene and you arrived at the scene tell us what were the first things that you observed? What did you notice at that time?

John Bonogofsky:

When I arrived at the scene the fire department already had the victim in the ambulance loaded up. And the fire department asked if I wanted to speak to him or did they want to just transport him and then I'll speak to him at the hospital. I told them to get him out of here because he would not stop bleeding.

Thomas Camilli:

And what type of injuries -- when you refer to the victim you're referring to Mr. Smielewski?

John Bonogofsky:

That's correct.

Thomas Camilli:

And what type of injuries did you observe on Mr. Smielewski?

John Bonogofsky:

At that time I did not see the injuries. I saw the injuries later on when I went to Kenosha Memorial Hospital in Kenosha.

Thomas Camilli:

And we'll talk about that in a moment. While you were at the scene did you speak with Ms. Lay or the caretaker of the dog?

John Bonogofsky:

I spoke to a Sheldon Seichter, Sheldon L. Seichter who came out and spoke to me about what had happened.

Thomas Camilli:

Alright, and what was your understanding as to what happened at that time?

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John Bonogofsky:

Sheldon told me that he currently was watching the dog for Amanda. He lives at the residence on Springbrook Road. He stated that he was in the bathroom using the restroom and he heard some yelling. And then he ran out and he saw -- I have to look at my report here. He stated something to the effect that the dog had jumped over the fence and had gotten to the neighbor, Mr. Smielewski.

Thomas Camilli:

And so your report indicated that the dog was fenced in and actually jumped over the fence to attack the victim?

John Bonogofsky:

Correct. I observed approximately a four foot chain link metal fence in the backyard of the Springbrook residence.

Thomas Camilli:

And as part of your investigation did you visit with Mr. Smielewski while he was hospitalized?

John Bonogofsky:

Yes, I did. After I briefly spoke to Sheldon I went to Kenosha Memorial Hospital to see Mr. Smielewski and see the extent of his injuries at that time.

Thomas Camilli:

And what did you observe or what can you describe about his injuries during your visit at Kenosha Memorial Hospital?

John Bonogofsky:

Mr. Smielewski was lying there, and I saw a large piece of flesh torn off of his left front forearm, and the back side of his arm had a large cut. It almost looked like a knife cut. And I believe -- I have to look at my report. It was his right ankle also had a large cut on it. It looked like when the attack occurred he had some work gloves on, and inside the ER the gloves were dripping blood still from the chair onto the ground as I was sitting there.

Thomas Camilli:

Thank you. And did you have the opportunity to take some photographs of the injuries sustained?

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John Bonogofsky:

Yes, I did. I'm going to refer you now to what has been marked as Exhibit Number 12 or Item Number 12 in the evidence book. Can you tell us what these documents are that we're looking at as far as Exhibit Number 12 is concerned.

John Bonogofsky:

That's a photograph of Mr. Smielewski's left arm, left forearm. That's where the piece of flesh was missing, the top part of his forearm.

Thomas Camilli:

And what I'd like you to do, Officer Bonogofsky, is simply take us through, you have four different photographs here. If you can briefly describe what each of the photographs are for us starting with the second photograph.

John Bonogofsky:

The second photograph I tried to get in closer to get the -- it's hard to get the depth of the injury in this one so I tried to get in closer. The picture of his left forearm I tried to get a little closer to see exactly -- it's hard to tell from a distance until you get up closer on it, and it's kind of blurry looking here.

Thomas Camilli:

Photograph Number 3 under Exhibit 12.

John Bonogofsky:

Item number 3 I took another kind of a different angle, the photograph of his left forearm also, the top part. I tried to get his hands and everything there. I could see that his hands were swollen. Photograph number 4 is a picture of his I believe it's his leg area. I just want to get left and right correct. Okay, what I have written here is his right leg another cut it looks like towards his ankle and up a little more towards the knee. And the next photograph is a picture of his left back side of his arm, the large cut that looked very close to a knife cut. That's all the photographs I took.

Thomas Camilli:

Thank you. And as a result of your investigation there was a determination made to impound the animal?

John Bonogofsky:

Yes there was. After I saw the extent of the injuries that happened to Mr. Smielewski I contacted Deputy Chief Mogensen, and he agreed with me that the pit bull involved in this incident should

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be quarantined for up to ten days at Safe Harbor until we can determine what was to happen with the dog.

Thomas Camilli:

Thank you. Now are you aware, Officer Bonogofsky, as to whether Ms. Lay possessed liability insurance.

John Bonogofsky:

I have no idea.

Thomas Camilli:

Thank you. I have no further questions for Officer Bonogofsky at this time. I believe it would be appropriate, President Steinbrink, if Ms. Lay wished to question or cross-examine Officer Bonogofsky she may do so at this time.

John Steinbrink:

Ms. Lay, do you have any questions?

Sheldon Seichter:

Just one or two.

John Steinbrink:

Could you give us your name and address for the record, sir?

Sheldon Seichter:

Sheldon Seichter, 5712 49th Avenue, Kenosha, Wisconsin. How long after the incident until you wrote the report about?

John Bonogofsky:

I usually try to get my reports done very quickly. I have no idea what day I wrote it on.

Sheldon Seichter:

The same day?

John Bonogofsky:

Yeah.

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Sheldon Seichter:

So everything you wrote in here is accurate from what you could recall?

John Bonogofsky:

Well, as I see in my report here there's a -- it's kind of like a time line that I went down starting on the date of the incident. It looks like it ends on 5/12 after I issued a citation to you. So it is correct.

Sheldon Seichter:

Okay. I don't think I have any more questions that will help anything right now.

Thomas Camilli:

If I could just ask one follow-up question. Officer Bonogofsky, you mentioned a citation being issued. What citation was issued?

John Bonogofsky:

I issued Sheldon Seichter the citation for animal at large because he was unable to maintain control of that animal at the time of this incident.

Thomas Camilli:

Thank you very much. At this time the Village would call Officer Peter Jung.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Peter Jung:

I do.

Thomas Camilli:

Please state your name for the record and your work address.

Peter Jung:

Sergeant Peter Jung, J-U-N-G, 8600 Green Bay Road, Pleasant Prairie, Wisconsin.

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Thomas Camilli:

And, Sergeant, you are employed by the Pleasant Prairie Police Department?

Peter Jung:

That's correct.

Thomas Camilli:

How long have you been employed in that capacity?

Peter Jung:

Twelve years.

Thomas Camilli:

And you indicated you are currently working at the rank of sergeant?

Peter Jung:

That's correct.

Thomas Camilli:

Officer Jung, do you recall an incident which would have occurred on or about December 13, 2011 involving the pit bull that's at issue in this case?

Peter Jung:

Yes, I do.

Thomas Camilli:

And I'm going to ask you to refer to what's been marked as Exhibit Number 5 in the exhibit book, and I'd like you to identify Exhibit Number 5. Can you tell me what that is?

Peter Jung:

That is an incident report that I wrote regarding the events of December 13th.

Thomas Camilli:

And this would have been a report that you would have written shortly after your investigation?

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Peter Jung:

That's correct.

Thomas Camilli:

And on December 13, 2011 you were assigned as a patrol supervisor, is that correct?

Peter Jung:

That's correct.

Thomas Camilli:

And eventually you were dispatched to 2616 Springbrook Road, is that correct?

Peter Jung:

That's correct.

Thomas Camilli:

And can you tell us, and you may use your report as a reference, can you tell us why you were dispatched?

Peter Jung:

I was dispatched there for an animal at large complaint. When I got there, which was shortly after 3 p.m., I met with the complainants, Craig Hunt and Barbara Hunt in reference to an incident that had occurred approximately six hours earlier in the day on their property.

Thomas Camilli:

Can you tell us about that incident? What happened?

Peter Jung:

Well, they reported that Barbara had gone out to get the mail from the mailbox, and on her way back in she was approached by the neighbor's white pit bull named Casper in a threatening manner. She believes she was about to be attacked by the dog. Apparently Craig witnessing this thought she was also about to be attacked and shot at the dog three times with a shotgun. He had stated that he didn't know if he had hit the dog or not, but the dog left the area and that was it. They kind of waited, pondered what they thought they should do, and eventually they felt they needed to report it to the police.

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Thomas Camilli:

And at that time your report indicates that you advised Ms. Lay of the ordinance requiring dogs to be contained on the owner's respective property?

Peter Jung:

I attempted to make contact with the dog owner. They were not home. I believe I left a business card or something that night in the door and made contact the next day. And the next day, yes, she advised me that she heard a commotion, actually heard the gunshots, and then learned that her dog had gotten out. Apparently her dog had gotten hit by some of the pellets that were fired at him, and she took the dog to the vet. Yeah, the discussion was she was warned about the ordinance requiring dogs to be contained to their property.

Thomas Camilli:

Thank you, I have no further questions at this time.

Sheldon Seichter:

I have no questions either.

Thomas Camilli:

Thank you, sergeant. The Village calls Police Chief David Smetana.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

David Smetana:

I do.

Thomas Camilli:

Will you please state your full name and business address.

David Smetana:

David Brian Smetana, 8600 Green Bay Road.

Thomas Camilli:

And you are the Police Chief for the Village of Pleasant Prairie, is that correct?

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David Smetana:

That's correct.

Thomas Camilli:

And how long have you been serving as Police Chief for the Village?

David Smetana:

About five months.

Thomas Camilli:

And, Chief Smetana, part of your obligations as Chief of Police of the Village of Pleasant Prairie is to enforce the ordinances of the Village, is that correct?

David Smetana:

That is correct.

Thomas Camilli:

And with regard to the present case have you had an opportunity to review the incident reports of Officer Bonogofsky and the incident report of Officer Jung?

David Smetana:

I have.

Thomas Camilli:

And you've also had an opportunity to review the photographs taken by Office Bonogofsky as well as the other documents contained within the exhibit book?

David Smetana:

That is correct.

Thomas Camilli:

And in connection with your review of the reports that have been prepared you made a determination that the pit bull at issue in this case is a vicious animal, is that correct?

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David Smetana:

That is correct.

Thomas Camilli:

And I'll refer you now to what has been marked as Exhibit Number 1 in the exhibit book, and I'm going to show you Exhibit Number 1. Can you identify this document?

David Smetana:

That is a notification letter that I sent out to Ms. Amanda Lay in regards to my determination that her dog Casper was going to be classified as vicious.

Thomas Camilli:

And if you could explain to the Board why you made the determination that this dog should be deemed vicious under the ordinances.

David Smetana:

Well, I looked at a number of factors. I don't come about these situations or these decisions lightly. I try to take everything into consideration. I spoke with the victim personally as he came down to the police department. I witnessed his injuries both personally and in photographs. I noted the nature and severity of the injuries. I also looked at the fact that there was a prior incident with this dog, and the prior incident also involved the dog breaking containment of the yard. Even though they've got a fenced in yard the dog did get out somehow. So it's a reoccurring event. And at that time it was at least one of the neighbors thought it was a big enough threat or a large enough threat to fire rounds at the dog as it came after his wife.

The fourth reason that I looked at was some information -- I had spoken with other neighbors in the area who felt, and I'll quote one of them, Mr. Garvin, the dog was terrorizing the neighborhood, quote, unquote. The last item that I used was that the dog was cited for dog at large, again, a second incident. The first one we generally do give warnings to people who either don't know that their dogs are supposed to be contained in their yards or make a mistake and the dog gets out. That happened in the first event. The second event was much more serious. It involved a serious bite, a serious injury to which the individual is still recuperating.

Thomas Camilli:

Thank you, Chief Smetana. And as you've described those reasons for your determination, do you believe ultimately that your primary concern is the safety and security of the neighborhood?

David Smetana:

Yes, it is.

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Thomas Camilli:

And is it your opinion that the presence of this dog currently within the neighborhood is a danger to the community?

David Smetana:

I believe so, yes.

Thomas Camilli:

And is it for those reasons that you've recommended that this dog be deemed vicious and licensed as a vicious animal?

David Smetana:

That's correct.

Thomas Camilli:

Thank you, Chief. I have no further questions at this time.

Sheldon Seichter

I have one question. What is the definition of terrorizing the neighborhood?

David Smetana:

Well, it's subjective. But when I spoke with the individual I did put some weight behind the fact that he lives in the neighborhood. I don't. So when somebody uses an emotional description like terrorizing I don't take that lightly. To me that's very descriptive. I can't give you an absolute definition, but I can relay that there's been two incidents of the dog breaking containment and allegedly going after people outside of its yard. So that's what I used as a reference point when I heard him describe it as terrorizing.

Sheldon Seichter:

Okay, the first incident with the dog the gate was left open.

David Smetana:

Okay.

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Sheldon Seichter:

And we're not sure how. The second incident was my fault, but terrorizing, he's never done anything except bark a lot outside. I didn't know people were so scared of him. I never heard from any of the neighbors that they were scared of the dog. I have no further questions.

Thomas Camilli:

Thank you, Chief. The Village calls David Smielewski.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

David Smielewski:

I do.

Thomas Camilli:

Mr. Smielewski, would you please state your full name and your address.

David Smielewski:

David Smielewski, 9219 27th Avenue, Kenosha, Wisconsin.

Thomas Camilli:

Thank you, Mr. Smielewski.

David Smielewski:

Right.

Thomas Camilli:

I think I butchered that a few different times this evening. I apologize.

David Smielewski:

Everybody does.

Thomas Camilli:

Mr. Smielewski, you were involved in this incident which occurred on May 10, 2013?

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David Smielewski:

Yes, I was.

Thomas Camilli:

And I'd like you to describe for the Board in your own words what you were doing at the time of this attack.

David Smielewski:

On 27th Avenue it's a dead end street. And right at the beginning of the street where you turn down all our neighbors take nice care of their lawns, right? There's an area between Amanda's yard and the street which is all weeds in there. And I for years now I've been taking care of that. I've been killing the weeds and keeping the grass cut so when people turn down the street it looks nice. And I was going to put some Weed and Feed on it. And I had a fertilizer spreader walking down the street. And I got to almost the end of their yard by the house there. There's a dead end sign. And I was around there, I was going to turn around and make my spread.

I seen the dog as he always does, he's sense aggressive apparently, running back and forth and barking. On occasion, and I've seen this before, he will get up on the fence with his front legs like this hanging over and bark at you. He's done that before. I've seen it before so I didn't think too much of it. I just try to ignore the dog. I had just turned around and all of a sudden he came over the fence.

Thomas Camilli:

And did you ever approach or did you enter onto the property of Ms. Lay?

David Smielewski:

No, at this time I was on the street.

Thomas Camilli:

You were on the street.

David Smielewski:

Where I dumped the fertilizer is right by that sign, that dead end sign.

Thomas Camilli:

And do I understand you correctly that the dog actually jumped over the fence?

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David Smielewski:

Yes. He was hanging over like this. His front paws were over the fence which he's done that before. But he'd never gone over as far as I could see.

Thomas Camilli:

And after he jumped over the fence tell us what happened.

David Smielewski:

Well, I seen him come over, and he's headed straight for me. So I put my arm up like this and this is where he grabbed me. I swung the fertilizer spreader around and hit him and he let go. But when I came around he caught me in the leg. So then I swung it back, and I managed to keep that fertilizer spreader between me and him until Sheldon came out and grabbed the dog.

Thomas Camilli:

And I see you have some scars. Tell us about the injuries that you sustained. Tell us what happened. What did the dog do to you?

David Smielewski:

Well, he took a chunk out of my arm. Apparently when I hit him with the fertilizer spreader when his teeth pulled out it pulled part of the hide out, you know what I mean, the skin and this and that. And that was the worst. And then when I swung around he grabbed me here, and it looked like a 22 shot or something went in there. You could see the teeth marks. But he let go there. He didn't tear and that was what the injuries were.

Thomas Camilli:

So there were repeated bites?

David Smielewski:

Two bites, one on the arm, one on the leg.

Thomas Camilli:

And you required treatment?

David Smielewski:

Oh, yes, of course.

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Thomas Camilli:

And you went to Kenosha Hospital?

David Smielewski:

Right.

Thomas Camilli:

And did you require -- how long were you in the hospital?

David Smielewski:

Oh, I don't know, a couple hours. They stitched it up and they cleaned it up and bandaged it. And then I went back the next day to have the bandage changed because the blood was coming through yet. It was a big hole was what it was and it was bloody, you know.

Thomas Camilli:

Sure.

David Smielewski:

And then about a week later went back and had the stitches -- a couple of the stitches taken out, so.

Thomas Camilli:

Alright. And do you have concerns, Mr. Smielewski, regarding the presence of this dog in the neighborhood?

David Smielewski:

Yes, I do. If he went over that fence once he can get over the fence. Now we know it and he'll do it again. And my concerns are sitting back there in the back row. Those are my grandchildren which play on that street.

Thomas Camilli:

There were children in the neighborhood?

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David Smielewski:

Yes, Gary's got grandchildren. Those are my children. Bert and Gisla, Gisla likes to ride her bicycle up and down that street. She can't do that. I mean it's our street and she can't ride her bicycle because of that dog.

Thomas Camilli:

So there's fear?

David Smielewski:

Fear, yes.

Thomas Camilli:

Mr. Smielewski, are you aware as to whether Ms. Lay possessed liability insurance on the home?

David Smielewski:

We found out she didn't.

Thomas Camilli:

No insurance?

David Smielewski:

No.

Amanda Lay:

Can I comment on that?

Thomas Camilli:

Thank you, I have no further questions for Mr. Smielewski, so yes.

Amanda Lay:

Okay, I did have –

John Steinbrink:

Could you give us your name and address for the record.

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Amanda Lay:

Oh, I'm sorry. It's Amanda Lay, 2634 Springbrook Road, Pleasant Prairie, Wisconsin. I did have liability insurance. I pay my insurance through my escrow. I'm actually in the process right now of going back and forth between my mortgage company and my insurance company, because somehow a \$47 payment didn't get paid, and the mortgage company was notified. They claim they sent me a letter but they have no proof of the letter. So I'm just kind of going back and forth. Because on the first policy that I had I did have liability for my dogs and my cats. And then the policy that the mortgage company instated it's just for the house, that was it. They also claim that they sent me a letter regarding it but they have no proof of it either, so I'm kind of stuck in the middle with both of them pointing their fingers at each other. So there is still a possibility that the policy with the liability will get reinstated. It's just that they're going back and forth through their channels. So I did originally have liability for my animals and everything. And that happened in November. It's not as if it got dropped because of this. It happened in November when the policies were switched and changed. So I'm actually still in the middle of trying to sort that out. And I already talked to his insurance company, and in the event that it does get switched they will pick it up. It's just kind of like a he said, she said pointing game right now that I'm kind of trying to figure out, so.

Sheldon Seichter:

I only have a couple questions for you. How many times would you say you've been over to the house and been in the yard with us and the dog?

David Smielewski:

Oh, over the years I don't know, at least half a dozen probably.

Sheldon Seichter:

How did you get along with him then?

David Smielewski:

When I'm in the yard, when I've gone in there, your Uncle Ron is who I go over there to visit all the time, that dog is very gentle when I'm in the yard. But when you're outside the yard along that fence it's completely different.

Sheldon Seichter:

How would you feel if we put an extension on that fence? And I had no idea about the kids not feeling safe riding their bike either. But if we put another extension and made it at least seven foot tall would that make things a little better? Our mission is today is to --

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David Smielewski:

As far as I'm concerned you could put a ten foot fence up, but all it would take is leave a gate open. I mean for me, I'm sorry, I don't want that dog in the neighborhood. I mean I would take the risk of having -- I just don't want him. That's up to the Board.

Sheldon Seichter:

Alright.

David Smielewski:

I'm scared of him.

Sheldon Seichter:

I understand. We're sorry that did happen to you.

David Smielewski:

Well, so am I.

Sheldon Seichter:

No further questions.

Thomas Camilli:

The Village has no further witnesses at this time. However, I do understand that there are a number of residents from the community that would like to comment with regard to a public comment section perhaps. Also, after Ms. Lay presents her case I'd reserve the right to make my final argument at that point. But if the board would be willing to open it up to public comment I believe there are those here willing to speak.

John Steinbrink:

Well, this is a public hearing now I believe, is it not? So now would be the appropriate time. And all we ask is you come forward and please give us your name and address for the record.

Thomas Camilli:

Mr. President, the other option is if you'd like to have Ms. Lay present her case first, and then after all evidence is in we could withhold public comment until that time if you'd like to proceed that way.

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Amanda Lay:

I really just have -- my only concern is I understand everyone is scared. I mean I --

John Steinbrink:

Amanda, just for the record give us your name and address so the report know who's speaking.

Amanda Lay:

Okay, Amanda Lay, 2634 Springbrook Road. I do understand everyone's concerns. I don't discriminate at all with whomever, and I understand how he could be a nuisance to everybody. I believe my only -- the only reason why I'm here is to save his life. I understand that we're not going to have him back in the neighborhood. I understand that, and I don't disagree with anybody. But as Dave even said he's a sweet dog. He has certain behavioral issues. I took him from my sister who had no idea what she was doing with the dog. I have another dog who is of a larger breed, and he's perfectly fine, and I've raised him since he was small. I got him, I got Casper, the dog that's in question right now a few years later.

And he's fear aggressive, and that's one of the hardest things to work with on a dog. I've taken him light years away from where he was when I first got him. We couldn't even put a plastic bag around him because he would go after it or would cower and pee all over the floor. I couldn't tell you what my sister did to him because she won't tell me because she just doesn't want to admit that she did anything wrong. And I do apologize for scaring the hell out of everybody, pardon my language, with the dog. I really do. And I understand what type of breed he is and the responsibility that comes with that. But, as I said, my other dog is a large breed. He is not a pit bull, but he is of an aggressive breed, and he's one of the sweetest giants you'll ever meet. Now that Casper is not in the yard barking at everybody neither is he. They learn from each other. And I'm pretty sure you guys have seen him around. He's the big white dog. He doesn't chase you up and down the fence or anything. He doesn't have a high prey drive is what it's called. And I think that's part of what Casper's problem is as well. He has a high prey drive. That's what causes him to chase things up and down the street. My other dog doesn't have any of that. He's more lazy than anything.

I'm only asking that you spare his life and give him a chance maybe with a new owner who has a stockade fence that's six feet tall. He doesn't dig underground so it doesn't have to be ten feet underground, but I don't think that he deserves to die because of a human yard where someone wasn't in the yard watching him or someone didn't have him tied up or someone left the gate open. That I don't agree with because he isn't a bad animal. I mean he's good with kids. We've had him over at Jen's house with other dogs. He's good with dogs. It's that fence, that's part of his aggressiveness. And it's honestly been one of the most challenging things to work with him on.

I don't think that he should die because of it, because I think that with really good training and some time that he could be broken of that. But I also know that it would take the right owner to do that with him. And I understand everybody's concerns, I really do. I feel for everybody. I

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just don't think that he should have to die because of it. That's really all I'm here for. And I understand that nobody wants him back in the neighborhood and that's fine. I don't disagree. He is like one of my kids and I will dearly miss him, but I would also like to give him a chance with someone else who is going to be able to work with him. And finding someone overnight or even within the last month I have to make sure that it's the right owner. They have to have a stockade fence. They have to be able to deal with a dog like this. I can't just give him to someone else and let this happen again. It has to be somebody who is able to work with this dog because he is a special case. I just don't want to see him die because of it, that's all.

Thomas Camilli:

Ms. Lay, very briefly, you've described the dog as having behavioral issues --

Amanda Lay:

Yes.

Thomas Camilli:

-- and a high prey drive?

Amanda Lay:

Yeah, that's what they describe it as is a high prey drive. It's kind of where I can throw a ball and my dog that I have now will not go get it. I can throw a rock in my yard, I can throw a feather, and this dog that is locked up right now, Casper, will -- he'll chase anything. Yeah, I mean he chases -- he's like a cat in the house. He chases flies. I mean anything that moves in front of him, if you put one of those laser things my other dog doesn't react to it whatsoever. Casper chases it up the wall. That's what they call a high prey drive.

Thomas Camilli:

And you've indicated that you would be willing to transfer the dog out of the Village?

Amanda Lay:

Yeah, yeah I have no problem with that. For everyone's sake and for anywhere else that he goes he needs to go to the right owner. He can't go to just someone who's like, oh, it's cool to own a pit bull. And that's now how I am either. It's not that I think it's cool to own these dogs. I mean I understand that they're completely misunderstood. I even have pictures here. He's sleeping in bed with us. He's not a bad dog. He's laying on us. He has a high prey drive, and I have no problem giving him up. I just want to make sure that the home that he does go to is the correct home for him. He can't go to somewhere else where this is going to happen and they are going to kill him because then again that's another human error. This is human error that we're dealing with. It's not the dog's fault at all. He was raised by someone who had no idea what they were doing. I've tried to correct some of those behaviors and stop short of this.

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Thomas Camilli:

The dog is still aggressive. You would still describe the dog as aggressive toward outsiders?

Amanda Lay:

No, because even Dave's been in my home. I have had friends over. It's the fence. It's not that -

Thomas Camilli:

So only those outside of the fence he's aggressive toward?

Amanda Lay:

Anything on the other side of the fence. It's called fence aggression. I mean Dave's dogs have ran the neighborhood numerous times, and even my dog who isn't aggressive if you put two dogs on one side of a fence and two dogs on the other side you're more than likely going to have -- you're not going to have a fence fight, you're going to have dogs on the same side of the fence fighting each other because it's fence aggression. They're not going to try to fight each other through the fence. They're going to fight their own buddy who they live with, you know. And it's the fence that really drives him. I don't think that he's necessarily aggressive towards people or towards cars or anything like that. I think that he has a problem with the fence, and that's really his only issue at this point.

Thomas Camilli:

And have you taken any steps to investigate transferring the dog out of the Village?

Amanda Lay:

I have. I've contacted many humane societies and they're waiting for this hearing. Because either they need to know what he's going to be deemed as, which it's going to be ten times harder to place him into or outside of the Village alive if he's deemed vicious. It's going to take a lot more work to find somebody who's able to deal with him. If he is deemed vicious then you also have the -- you have to write the villages and stuff that he goes to. They said that it's one thing for him to bite a person and for him to be transferred because they can deal with that. But if he's bitten somebody and he's deemed as vicious it's almost ten times harder to place him.

Thomas Camilli:

Thank you. And just a point of clarification for the Board's benefit, I know Ms. Lay's concern is that the dog not be killed. The Village's position at this point is if the Board affirms the Police Chief's determination that this dog is vicious the options are either for Ms. Lay to license the dog as a vicious animal and comply with the terms of the ordinance pertaining to vicious animals, or she has the option to transfer it out of the Village in accordance with the ordinance. So just to

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clarify or disabuse anyone of any misconception, we're not seeking or we're not requesting the Board to euthanize the dog. We're asking the Board to enforce the ordinances to protect the community by either licensing the dog appropriately as a vicious animal or removing it from the jurisdiction entirely. So I just want to make sure that's clear. I have no further questions for Ms. Lay.

John Steinbrink:

Okay, then do we take our public comments now?

Thomas Camilli:

I think that would be fine.

John Steinbrink:

And, once again, this is the time to make your public comment. Just give us your name and address for the record and use the microphone. If you want to come up please raise your hand and we'll recognize you. Sir? You can use the microphone right up here if you want.

Burt Habel:

My name is Burt Habel, and I live at 9201 27th Avenue next door to Dave and three houses away from where this happened. I heard the word terrorize before, and I can agree with that. We were afraid of that dog. We always walk, including myself, I go for walks sometimes of the road, I walk on the other side of the street because the dog was constantly behind the fence running and barking and just, you know, vicious dog. And I hate to think even if they get the license for it what could happen if my wife with the grandchildren walked down the street and the dog would get loose. He's been over the fence now once, so that can happen again. And like Dave said what if for some reason the gate isn't latched. I don't think we should have the dog in the neighborhood anymore. I'm really serious about that. I don't now what would happen if something happened to my grandchildren or even my wife. She rides the bicycle down there, too.'

And then the other thing is, and I cannot stop anybody from taking the dog someplace else, but what if the dog is vicious and bites somebody else someplace. And we don't have no [inaudible] we got a good, friendly neighborhood. We'd like to keep it that way. But the other thing is, too, the fence, I don't know what the Village ordinances are, the fence is four foot high now. I measured it. I just wonder if it's not too low for any dog because they've had other dogs there before. And like Dave said the dogs get up on the fence and it looks like they could come over. So I think that's something to consider for any dog that the fence would be extended. That's all.

John Steinbrink:

Alright, thank you, sir. Anyone else wishing to comment. Sir?

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Gary Garvin:

My name is Gary Garvin. I live at 9230 27th Avenue. And first of all I'd like to ask a question. Would you feel the same way about this dog if he would have killed Dave? Would you still be against it being put down?

Amanda Lay:

I know the dog and I know his issues so yeah.

Gary Garvin:

No, my question is would you feel the same way?

Amanda Lay:

I guess. I mean --

Gary Garvin:

If your dog would have killed him you still would want that dog alive and --

Amanda Lay:

I don't have kids, he's like my son. Like if your son killed somebody would you want him killed?

Gary Garvin:

You still didn't answer the question. Does somebody have to die before we do anything about this? Even moving the dog to a different area, what if somebody did this and brought the dog to our area and it killed one of our grandchildren or our parent or grandparent? We would probably go after that jurisdiction, at the minimum the people. So to wait until the third, fourth, fifth offense to me is not a good thing to do legally, morally, ethically. And I truly believe the dog was trying to kill Dave. He didn't just bite him, he bit him again and again. If he wouldn't have had the lawn fertilizer with him he probably would have killed him. So if for liability reasons, whatever, I just don't believe that we should wait until somebody winds up dead and then we have to deal with it.

He's proven what he does. He's proven to me at least and everyone I've talked to in our neighborhood that he's not just a dog that runs up and down the fence barking. This dog is trying to get at you and kill you. You said you didn't ever hear anybody said anybody was being terrorized. People won't get their own mail, we won't get our mail unless we're in our car. Our grandkids don't go up and down that street just for the fear of him getting out. Again, it's not a dog running back and forth barking. This dog is trying to get at you. This dog claws the fence so

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bad that his paws bleed and leave blood on the cyclone fence trying to get at whoever's out there or whatever's out there. Do you disagree with that?

Amanda Lay:

My dog's never come inside with bloody paws ever.

Gary Garvin:

I've seen your dog's feet bleeding.

Amanda Lay:

No. The only time my dogs have ever bled from being at the fence was when Dave's dogs were out and they were smashing into the fence and that was it. And I wouldn't lie about it.

Gary Garvin:

I would ask that you ask other people here.

Amanda Lay:

It's not as if I'm trying to get the dog back.

Gary Garvin:

I would ask that you ask other people here because I'm not the only witness to that.

--:

When did he see the dog's feet bleeding?

John Steinbrink:

Alright, I think the point has been made. We'll move on from there.

Amanda Lay:

Yeah, that's fine.

Gary Garvin:

Okay, thank you.

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John Steinbrink:

Thank you. Anyone else wishing to speak? Anyone else wishing to comment? Hearing none I'm going to close the comment portion. We have more with the public hearing?

Thomas Camilli:

Mr. President, I just have a very brief summation. From the Village's perspective, Your Honor, from the perspective of the Police Chief of Pleasant Prairie the safety and the welfare of the community is at the heart of this case. A dog can be just as aggressive and just as vicious as any wild animal. And I think what we have here, and I think as what has been attested to by the neighborhood they are in fear of this dog in their neighborhood. Not only have there been past instances, the prior instance in 2011, but now we have someone who has suffered a very serious injury, who required hospitalization. And I think the public comments especially from Mr. Garvin are very telling. Residents should not have to live in fear because a dog is in their neighborhood and they're afraid to go get their mail.

We have a safety issue here, and I'm respectful of Ms. Lay's position. She obviously loves and cares for her dog, and I don't question that the dog is fine and delicate around those that it knows and trusts. But once you get beyond that fence I think it's very clear, anyone beyond that fence is a target. This neighborhood is a target. These residents are targets, and that's simply inappropriate in the Village. And it's because of that that the Police Chief has made this determination because it's his obligation to protect and defend this community from undue harm.

And it's for all of these reasons, it's for the testimony presented today that we would ask this Board to affirm the determination of the Village's Police Chief that this dog is a vicious animal as defined in Chapter 119 of the ordinances. We would ask that that determination require either Ms. Lay to license this animal as a vicious animal and keep it in accordance with the ordinances, or be afforded a reasonable amount of time to transfer the dog out of the jurisdiction also in accordance with the ordinances. Thank you.

John Steinbrink:

Thank you. With that I'll close the public hearing and open it up to Board comment and question. Mike?

Michael Serpe:

I have to give you credit for trying. I'm an animal lover, believe me. But when you have to have neighbors that have to have quick access to a shotgun because they're afraid that the dog might come out that's very scary. That is extremely scary. And I think the last gentleman that just spoke raises a good point. If you're able to find a community that will take this dog, and it's not in Pleasant Prairie that's for sure, that community has to be notified that this is a vicious animal.

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Amanda Lay:

Yeah, I was aware that you have to write them a letter or whatever, yeah.

Michael Serpe:

But here's the thing that's going to stick with me if we allow that to happen. What if that dog is unable to change its behavior and goes after somebody else in a vicious way? That's going to come back on us, it's going to come back on you. I don't want to see that. And sometimes there's human beings that just can't change their behavior. They're put in mental institutions because that's what we do to humans. There's animals that for whatever reason are vicious and maybe they'll never change and they have to be euthanized. Would you love to see that dog be in an enclosure, eight foot high stockade fence and never see the outside? That's not good. That's not good for that dog. If that's what the future of that dog has to see I would rather see the dog put down rather than face that kind of life. It's just not good. I hate to say that because I had dogs and I had cats. And it kills you to put them down.

Amanda Lay:

Especially when they're healthy.

Michael Serpe:

But in this case I honestly think that's the best method to resolve this issue. I really do.

Steve Kumorkiewicz:

I have to agree with Trustee Serpe. I'm a dog lover myself. I've had dogs all my life. The issue here is that transferring the dog to another community will transfer the problems. As Mike says if the same type of incident happens it comes to ours. I don't want to see that happen. I've got a big problem with that. In my opinion the dog is vicious, yes, definitely. It has been proven with the incidents that have been reported to us here. Now, I don't understand if you have a problem before why you didn't put a big fence in the beginning.

Amanda Lay:

He didn't jump the fence in the beginning.

Steve Kumorkiewicz:

But he was at the top of the fence. In my opinion when he was on top of the fence that's it. So I don't think that the option is transfer the dog is an option. In my opinion it's not.

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Michael Serpe:

I think we made our feelings somewhat been known, and I don't think you'd disagree with too much of what we had to say, at least I don't think you do. But we have to declare this dog either vicious or not vicious. And I think there's enough testimony and evidence tonight that the dog is vicious. And what happens after we declare that is -- what's the procedure if we declare the dog vicious?

Mike Pollocoff:

Well, if the Board determines that the dog is vicious Ms. Lay would need to comply with Chapter 119. The dog would have to be licensed as a vicious dog. If it's moved out of the Village it has to be so noted that it's a vicious dog before it moves out so that another community doesn't accept a dog that's been determined to be vicious. If the dog is kept at the same residence, along with all the other requirements we have for dogs, it has to have their shots and rabies and everything else like that. For the dog that's determined to be vicious there would be an insurance requirement, \$500,000 for property damage, \$100,000 the policy names the Village of Pleasant Prairie. It would be a separate license.

The dog would have to be tattooed with the license number so that wouldn't be lost. The dog would need to be kept in a suitable structure fenced either inside, and if it was inside the fence would have to be of sufficient height to make sure the dog couldn't get over it. A large fence could not be put in the front yard where the existing fence is, the zoning ordinance will not permit anything higher than a four foot fence in the front yard of the property. So it would have to be a pen or something in the back yard. The dog would have to be muzzled, chained. Those things would have to take place for the animal to be there. There would have to be postings on the property and the fence that would notify that there's a vicious animal warning people that could be there. And off the premises it would have to be muzzled with a non bite-type muzzle and restrained as to movement with a sturdy collar, harness or leash secured by and under the direct control of the supervision of a mentally competent adult person.

Ms. Lay could not sell or convey that dog without advising the person who is going to receive the dog that is, in fact, determined to be a vicious animal. No person may sell or transfer possession of a dog who is licensed as a vicious dog or found by the Village Board of Pleasant Prairie or presumptively found to be vicious by the owner's or keeper's failure to request a hearing by the Village Board. So basically it's the Board's decision, and I think a recommendation is and I believe that's what the Chief and counsel's recommending is the determination is the Board would consider the dog vicious or it's not. And if it is determined to be vicious they have to comply with the ordinance. It would be Ms. Lay's determination whether or not she's going to euthanize the dog. But if the Board makes that decision she has to comply with the provisions of the ordinance in short order.

John Steinbrink:

Thank you, Mike. Ms. Lay I understand your feelings for the animal. I appreciate what you've tried to do so far with the animal. It's unfortunate animals really can't be predictable. But what's

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been demonstrated so far was the attack on David and the fact that he's an adult, he was able to fend it off. He had a fertilizer spreader to put between himself and the animal. I think my biggest concern and probably everybody here is the fact that if that was a small child out there, that child had no defense it would probably be killed. And I couldn't put that on my conscious, and I'm hoping you couldn't do that either.

Amanda Lay:

No.

John Steinbrink:

And knowing and loving an animal is something, it's very hard to let go of that animal. But sometimes you have to look at what is the best thing not only for the animal but for the community. And I have to agree with the Chief's determination this dog has demonstrated vicious tendencies. So I have to agree with the Chief on this.

Michael Serpe:

John, I would make a motion to concur with Chief Smetana's recommendation and declare the dog's vicious.

Monica Yuhas:

Second.

John Steinbrink:

Motion by Mike, second by Monica. Any further discussion from the Board? If not, a motion is in order of verbal, or does this have to be a roll call?

Jane Romanowski:

Verbal.

John Steinbrink:

Call the roll.

SERPE MOVED TO CONCUR WITH POLICE CHIEF DAVE SMETANA'S DETERMINATION THAT THE DOG "CASPER" OWNED BY AMANDA LAY IS A VICIOUS ANIMAL; SECONDED BY YUHAS; ROLL CALL VOTE – STEINBRINK – AYE; YUHAS – AYE; KUMORKIEWICZ – AYE; SERPE – AYE; MOTION CARRIED 4-0.

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John Steinbrink:

With that I will adjourn this public hearing, and we'll be moving onto the next in just a few moments. We'll take a five minute break here to let everybody settle out.

Amanda Lay:

Are we done?

John Steinbrink:

Yes, the Chief will talk to you.

[Break]

John Steinbrink:

The Village of Pleasant Prairie Village Board is in session. We are on Item 3, public hearings, we're on Item B. The hour is 6:30.

B. 6:30 p.m. - Consider appeal filed by Victor Hayden of a vicious dog determination.

Thomas Camilli:

Thank you, Mr. President. Again, for the record, Thomas Camilli, Jr., appearing on behalf of the Village of Pleasant Prairie. Mr. President and members of the Board, this matter comes before the Board this evening based upon an appeal of Village resident Victor Hayden of a determination made by the Police Chief of Pleasant Prairie that Victor Hayden's bullmastiff is and should be deemed a vicious animal under Chapter 119 of the ordinances.

This incident arises from an attack which occurred on May 14, 2013 at 12137 Sheridan Road. At that time a young ten year old boy was viciously and suddenly attacked by Mr. Hayden's bullmastiff suffering severe injuries to the upper arms and to the right arm, injuries to the head as well as multiple deep punctures and lacerations.

What we're going to hear this evening is testimony from Officer Michael Prange and Village Police Chief Dave Smetana with regard to their investigation and the fact that this ten year old child was visiting a friend at Mr. Hayden's home. When the door was opened the dog ran out of the home and attacked this defenseless child causing serious injury.

Before we take testimony I do just want to remind the Board briefly of the legal standard as outlined in Chapter 119. Evidence that a dog has bitten another person is prima facie evidence of viciousness per our ordinance. Viciousness simply means dangerously aggressive. And what we're going to see this evening is testimony which indicates that this animal caused severe and very significant injuries to a defenseless child. I'm going to ask the Board after testimony is taken that the Board affirm the decision of Police Chief Smetana in determining that this dog is

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vicious and to require that this dog either be licensed in accordance with the ordinances or moved out of the jurisdiction.

This case is especially disconcerting because it involves a young boy. It involves serious injury. We have a dog that was not licensed, that did not have its rabies vaccinations current, and there have been prior instances as well, and the testimony will further illuminate that. Without anything further I would ask for Officer Michael Prange to approach.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

Michael Prange:

I do.

Thomas Camilli:

Will you please state your full name and work address.

Michael Prange:

Officer Michael Prange, and my address is 8600 Green Bay Road, Pleasant Prairie, Wisconsin.

Thomas Camilli:

And, Officer Prange, you're employed by the Pleasant Prairie Police Department?

Michael Prange:

That's correct.

Thomas Camilli:

What is your rank with the department?

Michael Prange:

Police officer.

Thomas Camilli:

How long have you been a police officer?

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Michael Prange:

For Pleasant Prairie?

Thomas Camilli:

For the Village of Pleasant Prairie.

Michael Prange:

Eleven years.

Thomas Camilli:

And were you an officer prior to joining the Village?

Michael Prange:

Yes.

Thomas Camilli:

Where was that?

Michael Prange:

For the Department of Natural Resources and part-time in Twin Lakes.

Thomas Camilli:

And were you on duty as an officer with the Village on May 14 of this year?

Michael Prange:

Yes.

Thomas Camilli:

And do you recall being dispatched to the Kenosha Memorial Hospital on May 14, 2013?

Michael Prange:

Yes.

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Thomas Camilli:

And what was your understanding of the reason for your visit to Kenosha Memorial Hospital?

Michael Prange:

There was a ten year old child there with a dog bite injury.

Thomas Camilli:

And I'd like you to describe for the Board what you observed when you arrived at Kenosha Memorial Hospital on May 14, 2013.

Michael Prange:

Ten year old boy in the ER. He had bandages around both of his arms, and they had just finished cleaning two fairly severe wounds on the back of his head.

Thomas Camilli:

And before you go any further, Officer Prange, I'm just going to stop you for a moment. All of the testimony that you're going to give was memorialized in a written report?

Michael Prange:

Yes.

Thomas Camilli:

And I'm showing you what's now been marked as Exhibit Number 4 or Item Number 4 in the exhibit book. Do you recognize this report?

Michael Prange:

Yes.

Thomas Camilli:

And is this a true and correct copy of the incident report that you prepared in connection with this investigation?

Michael Prange:

Yes, right.

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Thomas Camilli:

And for the benefit of the Board, again I'm referring to the evidence book for Case Number 13-7270, Exhibit Number 4. You may continue with your testimony on that issue, Officer.

Michael Prange:

Okay. I questioned the victim as to what happened. He stated that he was going over to visit his friend, Julian Hayden. And his mother dropped him off in the driveway. He exited the vehicle, approached the back door of the Hayden residence, knocked on the door. His friend Julian answered the door. And at that time the dog, Tyson, ran out the door and attacked him. Kyle's statement was that he thought he was going to die. And his mother who was still present exited the vehicle and attempted to get the dog off of Kyle, the victim. And then one of Mr. Hayden's other sons, I don't recall his name, but he came outside and grabbed the dog by the collar, and they were able to pull the dog off of the children.

Thomas Camilli:

So there was some effort to pull the dog off of the victim?

Michael Prange:

To my understanding yes.

Thomas Camilli:

And can you describe the type of injuries that the child sustained?

Michael Prange:

He had two fairly --

Victor Hayden-:

Objection, Your Honor. All those was hearsay. I mean that person isn't here.

John Steinbrink:

I'm sorry, sir, this is -- he's reading from the record here, his statement.

Victor Hayden::

But that's hearsay.

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John Steinbrink:

You'll have your opportunity to cross-examine.

Thomas Camilli:

Just to verify for Mr. Hayden this is not a court of law, this is a Board hearing. It's a quasi-judicial proceeding so the rules of evidence that apply in a court of law are not strictly applied here.

Victor Hayden:

So I can't object.

Thomas Camilli:

No, there are no rules of evidence. You'll have an opportunity to question Officer Prange after my examination, and you'll have an opportunity to present your evidence to the Board as well. Could you please describe the injuries that you observed on the child?

Michael Prange:

Yes. There were two fairly severe lacerations to the back of his head. And then the bandages that were around his arm the nurses did come in and remove the bandages to further clean the wounds and give whatever treatment was necessary. At that point I was able to photograph those wounds as well. And the left arm had severe punctures with large areas of flesh and muscle that were removed. The right arm had -- correction. It was the right arm that had the muscle and flesh removed. It was the left arm that had punctures and severe bite marks.

Thomas Camilli:

And did you have the opportunity to photograph the injuries that you observed on the child?

Michael Prange:

Yes.

Thomas Camilli:

And I'm going to direct you now to Exhibit Number 9 of the exhibit book which appear to be a series of photographs. Do you recognize what has been marked as Exhibit Number 9?

Michael Prange:

Yes.

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Thomas Camilli:

And there are several photographs I'd like you for the Board's benefit to simply take us through the injuries and what you've photographed on that day.

Michael Prange:

Okay. The first page the back of Kyle's head. You can see the hair is still saturated with a large amount of blood. And the second picture, the second page, the nurse is moving some of the hair to the side so that you could see the actual cut and lacerations to the flesh. The third picture he's still wearing the bandages around his arms. You can see some scratches and bruising on the next several pictures. One of them there's a few scratches to his back that are fairly minor and some bruising area to just like the armpit area. And, again, photographs of the back of the head, the lacerations to the back of the head. You can see that there are two there next to each other.

And then the photograph of the right arm where the large areas of flesh were removed. I mean it looks like possibly right down to the bone. I mean those look deep. And then just further pictures of the same wounds. And then we move onto the pictures of the dog. When we did go to remove the dog from the residence, and once animal control had the dog secured in the kennel in the back of their vehicle I did notice that the dog still had blood on the left side of his face so I photographed that as well. And just further pictures from different angles.

Thomas Camilli:

Thank you, Officer. In the course of your investigation you indicated the dog was taken and was impounded?

Michael Prange:

Correct.

Thomas Camilli:

And did you eventually make a determination to either Police Chief Smetana or Deputy Chief Mogensen that this dog may be a vicious animal?

Michael Prange:

Yes.

Thomas Camilli:

And in the course of your investigation did you have an opportunity to look at whether the dog was licensed?

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Michael Prange:

I did, and I learned that it was not.

Thomas Camilli:

It was not licensed. And can you tell us about the status of its vaccinations?

Michael Prange:

According to the veterinary hospital the shots were past due. I believe the dog was due for shots in December of 2012.

Thomas Camilli:

Thank you. And I note in your report you indicate that Julian Hayden informed you that the dog also tried to attack other people in the past?

Michael Prange:

I believe the same child in the past. It had gone after him before and actually jumped on him and hit the child in the nose with its front paw, and the child sustained a bloody nose from that at that time.

Thomas Camilli:

Thank you. I have no further questions for Officer Prange at this time.

John Steinbrink:

Mr. Hayden, could you give us your name and address for the record so the recording knows who is speaking here.

Victor Hayden, Sr.:

Victor Hayden, Sr., 12137 Sheridan Road, Pleasant Prairie, Wisconsin.

John Steinbrink:

Thank you.

Victor Hayden, Sr.:

Officer, when my son took Tyson out did he show any aggressiveness to you?

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Michael Prange:

No, he did not. I wasn't near the dog when he was initially brought out of the house.

Victor Hayden, Sr.:

Did he show any aggression to the person that was the dog catcher, did he show any?

Michael Prange:

I believe it was your family that was able to coax the dog into the kennel. Once the door of the kennel was shut then we approached but we let them --

Victor Hayden, Sr.:

Did he bark at you, did he make any noise while he was going out?

Michael Prange:

He did not bark. The demeanor that I witnessed he had his tail between his legs, his head down, and he had that kind of a cowering look that don't come near me.

Victor Hayden, Sr.:

He didn't show no viciousness?

Michael Prange:

Didn't bark, didn't growl but gave you an uneasy feeling.

Victor Hayden, Sr.:

These are my children, and I have two grand babies. Tyson walks all around. Kyle we didn't know he was coming to the house. His mother didn't call, didn't tell us that she was bringing Kyle. And I don't allow no visitors when me and my wife isn't at home, no visitors. That's the rule, no visitors while we're not at home.

Jane Romanowski:

Mr. Hayden, could you please speak into the microphone? Thank you.

Victor Hayden, Sr.:

I'm sorry, I'm sorry. There was an incident that Kyle came over, and the mother knew that we had a dog. And I don't understand why she didn't phone, call my wife, she usually calls my wife. She didn't do none of that and just brought the child over. And my children don't really open the

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door for strangers, but that's his friend, that's his best friend, so he opened the door. Tyson is always in the house.

Thomas Camilli:

Mr. President, I would ask if Mr. Hayden has specific questions for Officer Prange that he ask them. He'll have an opportunity to present his case after my evidence.

Victor Hayden, Sr.:

Pardon me? I thought it was my floor.

Thomas Camilli:

Sure, if you have questions for Officer Prange.

John Steinbrink:

This is your time to ask questions of the Officer. He is the person on the stand. In the end you will have a time to make your statement.

Victor Hayden, Sr.:

Pretty much I asked the questions. I just showed that when Tyson went out with him that he didn't show no viciousness.

John Steinbrink:

Alright, is this a question for the Officer, or at the end you will have --

Victor Hayden, Sr.:

He answered it already.

John Steinbrink:

-- afforded time to make a statement.

Victor Hayden, Sr.:

He already answered.

John Steinbrink:

This is your opportunity ask a question of the officer or cross-examine any testimony he has given.

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Victor Hayden, Sr.:

Right, right, I'm fine. No more questions.

John Steinbrink:

Alright, thank you.

Thomas Camilli:

The Village calls Police Chief Smetana.

Jane Romanowski:

Do you solemnly swear in the matter now in hearing to tell the truth so help you God?

David Smetana:

I do.

Thomas Camilli:

Again, would you please state your full name and address for the record.

David Smetana:

David Bryan Smetana, 8600 Green Bay Road.

Thomas Camilli:

And, Chief Smetana, you are the Police Chief for the Village of Pleasant Prairie.

David Smetana:

That's correct.

Thomas Camilli:

And in your capacity as Police Chief for the Village you have an obligation to enforce the ordinances of the Village, is that correct?

David Smetana:

That is correct.

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Thomas Camilli:

And in your capacity as Police Chief have you had the opportunity to review the incident reports and other documents prepared by Officer Prange in this case?

David Smetana:

Yes, I have.

Thomas Camilli:

And based upon your review of the documents you have made a determination that this bullmastiff is a vicious animal?

David Smetana:

That is correct.

Thomas Camilli:

And I'm going to direct you to what has been marked as Exhibit Number 1 of our exhibit book. Can you identify Exhibit Number 1?

David Smetana:

That is a notification letter I sent to Mr. Victor Hayden on May 16th advising him that I had made a determination to have the dog labeled as vicious.

Thomas Camilli:

And can you explain for the Board the reason behind your determination that this dog should be deemed a vicious animal?

David Smetana:

Certainly. I looked at a number of factors. As I've already said in other cases I don't come across these decisions lightly. When you're taking away somebody's pet and somebody's property you need to make sure that you consider all the facts. And that's what I tried to do in this case. I came to a number of conclusions. In reviewing all the photos, all the reports, I determined that it was an unprovoked attack on a young child. And I looked at the level of the injuries, and you can see from the photos the seriousness and the serious location of these injuries to the upper arms, there are vital arteries at that location, to the head, to the back, to the torso. I looked at the fact that there are other children on the property and in the house.

I looked at the fact that during the attack the dog made several bites. It wasn't just one bite and release and retreat. There was a number of bites to the individual, and it took several people to

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wrestle this animal who had breached containment. What I mean by breached containment was the child wasn't in the animal's house. It was off on the porch. The dog breached containment by coming through the front door and making that attack. And it took several people to pull the dog off at that point. I looked at the fact that the animal was not up to date on its shots which a responsible dog owner, as many of us are, keeps the dog up to date on their regular vaccinations.

I looked at the fact that in speaking with Mr. Hayden that there was no rental insurance on the property. So if something did happen with the animal that there was no coverage to help with that cost. And those are the factors I looked at. I also looked at the fact that we had cited the dog for dog at large and no license. The dog was also not licensed through the Village. So those are the factors that I took into consideration before I made the determination that I believe the dog to be vicious.

Thomas Camilli:

And the determination that you made was that also motivated by safety and security concern for the community?

David Smetana:

That's correct, yes it was.

Thomas Camilli:

And are you concerned that due to the nature of this particular attack that there's a possibility of this happening again?

David Smetana:

I am concerned. When people have access to your front door, whether it's a mail delivery person or somebody soliciting or just somebody coming up during the political season, they have access to your front door. And you've got to be able to contain that animal entirely on your property, and that was one of my concerns.

Thomas Camilli:

And as part of your investigation and the determination that you made you determined that the child did not in any way provoke or elicit the attack in any way.

David Smetana:

That was my determination from reading Officer Prange's report, yes.

Thomas Camilli:

No further questions for the Chief at this time.

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John Steinbrink:

Mr. Hayden, any questions for the Chief?

Victor Hayden, Sr.:

Yes, I have quite a few. The location where I live is it residential or is it commercial, what is it?

David Smetana:

I believe it's mixed. There's a mix of residential and commercial in that whole area.

Victor Hayden, Sr.:

It's mixed?

David Smetana:

Yes.

Victor Hayden, Sr.:

The closest house to my house is about how far?

David Smetana:

I don't know.

Victor Hayden, Sr.:

There's 71 acres in between me and the next yard. It's 35 acres from me to Buoy Storage. You have that adult bookstore. Down the street you have Ruffolo's pizza. How many break ins have there been around that area lately? I know of three.

David Smetana:

Okay.

Victor Hayden, Sr.:

So it's not really secure over where I am. Pleasant Prairie officers don't really patrol that area that tough. I know because I patrol it. Me and Tyson patrol it. Matter of fact, yesterday, last night down at the Citgo there was a guy messing with Jeff, the teller there. He was just standing out there hollering something, I don't know, but I had three girls with me, and they were naughty.

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That's why I have Tyson. Tyson is there to protect my children. Now as far as when he's in the house there's a cage for them for him. Did you go inside the house?

David Smetana:

No.

Victor Hayden, Sr.:

There's a cage in there. Now, my son had just walked him and brought him in the house, and he was about to put him in his cage. So there's a cage, there's a structured situation for Tyson. There's a structured situation there. I have a bunch of children, and I don't want nothing around my children that's vicious. Now, I really feel that Tyson was protecting my son. And that woman came over unannounced. And you don't know if that woman was provoking my dog. You don't know that. I don't know it either. But for some reason I got a funny feeling that woman provoked my dog and brought that baby to get some money. I really do. Me and my wife feel that way.

Thomas Camilli:

Mr. President, I'm all for affording Mr. Hayden the latitude to ask questions, but I don't think he's asking any questions.

Victor Hayden, Sr.:

But this has been stressful on me and my children.

John Steinbrink:

Alright, Mr. Hayden, direct your questions to the Chief. Once again, at the end you will have your time to make your statement.

Victor Hayden, Sr.:

Yes sir, yes sir. Did you look at the signs around the house?

David Smetana:

No.

Victor Hayden, Sr.:

There's a sign out there stating that there's a dog there, a guard dog. Now, as far as the homeowner's insurance you looked into that, right? You asked me about that?

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David Smetana:

Yes, I did.

Victor Hayden, Sr.:

The reason I don't have homeowner's insurance is because I didn't know if I was going to stay here in Pleasant Prairie due to the plant closing. I didn't know if I was going to move, go to Detroit. But me and the wife decided we going to stay here, and I took the job in Milwaukee, and we're trying to get jobs back here. So that's the reason. Now, since I'm staying here I'll get some homeowner's insurance.

John Steinbrink:

Any further questions for the Chief?

Victor Hayden, Sr.:

No further questions, no further questions.

John Steinbrink:

Thank you. Further witnesses?

Thomas Camilli:

The Village has no further witnesses at this time, Mr. President.

John Steinbrink:

Anybody you wish to call, sir?

Victor Hayden, Sr.:

You want to say something about Tyson? Does anybody want to say something about Tyson?

John Steinbrink:

Okay, swear him in.

Thomas Camilli:

Just say whatever you feel, how you feel about --

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John Steinbrink:

Okay, he's acting as a witness.

Michael Serpe:

Would this be better as a public hearing?

[Inaudible]

Jane Romanowski:

Okay, raise your right hand. Do you solemnly swear in the matter of the hearing today that you'll tell you the truth so help you God?

Julian Hayden:

Uh-huh.

John Steinbrink:

Alright, state your name and address for the record.

Julian Hayden:

Julian Hayden, 12137 Pleasant Prairie, Wisconsin.

John Steinbrink:

Thank you.

Julian Hayden:

I don't think he's a bad dog but he's barely around other people. So I don't know why he attacked him, but I feel that I didn't know why he was there at my house.

Victor Hayden, Sr.:

Was you happy to see your friend?

Julian Hayden:

Yeah.

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John Steinbrink:

Mr. Hayden, you're going to have to use the microphone also, otherwise we are not picking it up for the record.

Victor Hayden, Sr.:

Was you happy to see your friend?

Julian Hayden:

Yeah.

Victor Hayden, Sr.:

How do you feel about these pictures?

Julian Hayden:

Bad, and like it's my fault.

Victor Hayden, Sr.:

You feel that it's your fault?

John Steinbrink:

Mr. Hayden, once again please speak into the microphone, we can't hear.

Victor Hayden, Sr.:

I'm sorry. Do you feel that it's your fault?

Julian Hayden:

Yeah.

Victor Hayden, Sr.:

It's not, it's not, okay? It's not your fault. Okay.

John Steinbrink:

Anything further, Mr. Hayden?

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Victor Hayden, Sr.:

Nothing further. I just want to say one thing.

Thomas Camilli:

This is the opportunity for Mr. Hayden to present your case.

Victor Hayden, Sr.:

Okay. I feel bad, I really, really feel bad. There's been nights I can't even sleep. I can't even sleep. When I was at work and I got the phone call that Tyson had -- I just couldn't -- that just blew me away. I wasn't ready for that one. I was not ready for that one. And both me and my wife ever since this incident has happened it's really hurting us. And I've had this dog ever since he was two weeks, and I've been working with him and I've been working with him, and I see a good dog in him. I see a real good dog. I see someone that's going to -- I was looking at this dog to retire with. And whatever it takes to make it right and to make it safe in this community I will do that. I feel that he needs another chance. I really do. I feel that we both need another chance. That's all I have.

John Steinbrink:

Okay, thank you, sir.

Thomas Camilli:

Mr. Hayden, I believe you testified that you patrol the neighborhood with this guard dog?

Victor Hayden, Sr.:

Yeah, I mean if I see this officer down, and you know me, I'm an ex-marine, I feel like I'm a first responder. I mean there's been situations that have been happening around the house that the police department will come to me.

Thomas Camilli:

And you refer to the dog as a guard dog because it can be aggressive?

Victor Hayden, Sr.:

Well, I refer to him as a guard dog because I mean if something was to happen towards me or my family I feel that he's part of the family and he's going to do whatever it takes to help one of us. I mean do you have a dog?

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Thomas Camilli:

I'm not here to answer your questions. I'm going to ask you a question.

Victor Hayden, Sr.:

I mean anybody who has a dog if they got into a certain situation that dog is going to help that person.

Thomas Camilli:

Sure. Were you aware of the prior instances with your bullmastiff and the child, that instance?

Victor Hayden, Sr.:

When that happened I told -- I had a home meeting, and I told, you know, you cannot bring people around Tyson unless I'm around, new people, because Tyson is the type of dog that if you're not introduced he's going to think you're a stranger. That's how they are. If you're not introduced he -- if you're introduced it's fine. But if you're not he's looking at you, he's watching you.

Thomas Camilli:

So if there's anyone that your dog does not recognize your dog would deem it a threat?

Victor Hayden, Sr.:

That's a threat.

Thomas Camilli:

And your dog would target it?

Victor Hayden, Sr.:

Not really, not really. I mean if I'm walking my dog he's not going to just up and bite anybody. I mean anybody in this room could rub on him. But I mean if you go to call yourself going to hurt me and he sees aggressive towards me that's like any dog. I mean a police dog will protect his master.

Thomas Camilli:

Mr. Hayden, you've had some prior instances with animals, haven't you?

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Victor Hayden, Sr.:

Yes, I have.

Thomas Camilli:

And in September of 2008 you were charged with mistreating animals under the state statute, is that correct?

Victor Hayden, Sr.:

No, no. I'm going to have to bring my wife in on this one because -- I'm going to have to bring her in on this one. Because that dog that you're talking about wasn't my dog, it was her nephew's dog that was stationed over in Iraq. Okay. He just had twin baby boys, two boys, and his wife couldn't handle the two newborns and the Rottweiler. So she asked me to watch the Rottweiler until he came back from Iraq. I said okay. I couldn't control the dog. The dog would tear up everything. It got loose, and that's when I got involved with Pleasant Prairie on that dog. That dog wasn't even my dog. I was doing a favor for a veteran over in Iraq fighting for our country, and I got caught up.

Thomas Camilli:

I have no further questions for Mr. Hayden.

John Steinbrink:

With this I will close the public hearing and open it up to Board comment or question. Mike?

Michael Serpe:

Mr. Hayden, has your dog ever showed aggression to the victim prior to this incident?

Victor Hayden, Sr.:

He showed aggressive --

Michael Serpe:

Into the microphone.

Victor Hayden, Sr.:

I wasn't there. He came over to visit. I'm at work. My wife tells me Tyson scratched Kyle. And I said why is someone new around Tyson? So that's when I had the -- that was the only time, and the same child, the same child.

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Michael Serpe:

Has your dog ever showed any aggression to anybody else?

Victor Hayden, Sr.:

No.

Michael Serpe:

Never?

Victor Hayden, Sr.:

No.

Michael Serpe:

How old is it?

Victor Hayden, Sr.:

He's going on two. He's not two yet. And as far as those shots, I took him, and I was deemed to thinking he had a three year rabies shot. So I'm thinking he's up on his shots because they have a three year rabies shot, and when I took him in he got quite a few shots in one day. So I'm thinking he's up on his shots as far as the rabies, but he didn't have one set of rabies shots.

Michael Serpe:

Mr. Hayden, how many times has the victim come over to your house in the past?

Victor Hayden, Sr.:

You'll have to -- I've never seen the child over to our house. You'll have to ask my wife.

Michael Serpe:

If you would.

John Steinbrink:

Please come forward and use the microphone right in the center here and give us your name and address for the record.

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Donna Hayden:

Donna Hayden, 12137 Sheridan Road. Kyle has never come to stay or visit at the house. He's only come when his mother brings Julian back, because Julian they will pick him up from school, or she will call me in advance and say I'm here, I beat the bus to your house, the bus is turning around, coming around, can we take Julian with us and I'll bring him back tonight, and I'll say okay. This particular time no phone call, no text, no anything. And I wasn't even aware until she called me. Why is she at my house? And even Julian I said what was he doing here? Because normally the boys will make plans and then they'll tell us what they want to do. And then either I'll call her to confer or she'll call me and we'll try to work out our schedules. And then it's a plan for her to pick them up. She'll tell me I'll get them after school or her mother will pick them up or whatever. And that's fine. But she's never brought Kyle to the house to drop him off. She's brought Julian home and then they've dropped him off and that's it. But he's only been I think maybe twice that he's come to drop Julian off. And him coming over unannounced this time was just a total surprise to me.

Michael Serpe:

Thank you.

Thomas Camilli:

Before the Board makes its determination I did have an opportunity to provide a brief summation, and I would just ask for that opportunity before the Board is ready to make its final decision.

John Steinbrink:

We will do that. Mr. Hayden, you stated you patrol the neighborhood with your dog. Explain to me how you do that.

Victor Hayden, Sr.:

Well, Your Honor, when I come home my son, Jessie, works at Ruffolo's Pizza, and I usually walk my dog up and down Sheridan Road [inaudible] and just patrol. It's like a neighborhood watch. I know the neighbors. I have a couple of elderly people, and I watch their homes. It's just like --

John Steinbrink:

Is the dog on a leash?

Victor Hayden, Sr.:

Oh, yes.

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John Steinbrink:

Because you stated you have 70 acres on one side, 35 acres on the other side and you have no neighbors. That's why --

Victor Hayden, Sr.:

Sometimes I turn him loose and he likes to climb trees. On the right side of the home is a bunch of woods. I mean I now when to turn Tyson loose and let him stretch. I've been in that house over eight years.

John Steinbrink:

Why isn't the dog licensed?

Victor Hayden, Sr.:

I never knew that I had to license. I never knew that. And if I had to known I had to license him, I talked to the Police Chief, I didn't know I had to have a license. I thought the tag was enough.

John Steinbrink:

Okay, thank you. Any further questions or comments from Board members? If not?

Michael Serpe:

Just one more comment. I'm having difficulty with this one. I think any dog is going to do what Tyson did if he's going to protect his home. I mean I've been around dogs long enough I've got bit a couple times. And I don't see this dog as vicious even though Kyle got bit pretty bad, but he was coming into a home unannounced, and a dog is going to do that. I'm having a hard time with this. Unless somebody could tell me why I should look at this differently I can't see this as a vicious dog.

John Steinbrink:

I'm a little concerned the fact that there's no control of the dog if, say, what if a Girl Scout came to the door selling cookies unannounced and somebody answered the door? Reading the statement here you have somebody answering the door and I believe letting them into the porch and the dog attacking. And the fact that you're not always there to control the animal.

Victor Hayden, Sr.:

See, I have a 16 year old son there. He took the dog out and brought the dog in, and he usually puts Tyson in his cage. For some reason he didn't put him in his cage. Now, Julian isn't allowed to open the door. He's still in elementary. You don't open the door. You let Jesse open the door, someone. But he was excited to see his friend and he opened the door. And I don't believe Julian

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will ever do that again. I really don't. As far as Tyson he's got a massive cage down in the basement.

John Steinbrink:

Mr. Hayden with owning a dog like this, and I understand you're stating it's for protection of your family and everything else, with that comes responsibility.

Victor Hayden, Sr.:

Yes, sir.

John Steinbrink:

But unfortunately you haven't demonstrated responsibility. You have no shots for the dog that are up to date. You have no license for the dog and you have no insurance. Those are three big issues. If you're going to own an animal like this and have it in our community there are rules that you need to abide by. And the fact that you're disregarded all of those and you make a statement that you think it was a plot that they're seeking money from you by doing this bothers me. And it bothers me that someone, another innocent person, could be attacked by this dog because you're not there to control it at all times. And if that child had been killed what would your reaction be?

Victor Hayden, Sr.:

If the child had been killed?

John Steinbrink:

Would you still think it was a plot, or would you feel some responsibility for this?

Victor Hayden, Sr.:

I feel responsibility, Your Honor. But I also feel that that woman was plotting. That's how I'm feeling.

John Steinbrink:

Alright, than you very much. You wanted to make a statement?

Thomas Camilli:

Thank you, Mr. President. Viciousness simply means dangerously aggressive. And I think we have seen testimony from Officer Prange and Police Chief Smetana that this dog has natural aggressive tendencies. That is in a sense the nature of a guard dog, but this has gone so much farther. Because what we have here is a young child that suffered not one bite, not two bites, but

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multiple lacerations, deep lacerations. He lost a part of his arm, chunks of flesh. This is not give the dog one bite, two bites, okay. This is an attack. And had this dog not been wrestled from this child this child would be dead. This is serious.

And this is why the Police Chief has made this determination because he has a responsibility as the chief law enforcement for this community to make sure that this never, ever happens again. And I respect Mr. Hayden's feelings. Obviously he and his family care for their dog. They feel that it provides some sense of security for them and I understand that. The problem is in a situation like this if the dog doesn't recognize you, you are the target of the dog. And I don't put that so much on the dog but I put it on the training and the responsibility of the dog owner to make sure that that doesn't happen, and it happened. And thank God this child is not dead because I am particularly disturbed by the images I see here.

There is more than enough evidence to show that this dog is vicious, and there is a very good chance as indicated by Chief Smetana that this could happen again. I'm also concerned about this sense of vigilantism that's been expressed by Mr. Hayden where he walks his dog around the neighborhood to patrol. Again, I have grave concerns. And I just think that's part of the puzzle or part of the piece that goes into the overall picture here of a dog that really does need to be licensed as vicious. It needs to be properly maintained in accordance with the ordinance, or it needs to leave the Village. Something like this simply cannot happen again. And I would ask the Board to affirm the determination of the Police Chief of the Village that this animal is vicious, that it should either be licensed as such or it should be removed from the Village. I thank the Board for its time this evening.

John Steinbrink:

Further comment or question from Board members? If not, a motion is in order. I'll so move to concur with the Chief's determination. I'm kind of puzzled by your outlook on the neighborhood and the need to, and I guess the word vigilantism kind of fits my definition in there, too, the fact that you feel it's your responsibility to have an animal that's capable of doing this to protect your family. But also you're concerned about the neighborhood. And I think that's why we have a Police Department is to protect the neighborhood. And I'm not so sure that all your neighbors would probably agree with you in the fact that you're actually performing a service for them. It may fit within your own home, but when you take that outside your home then it becomes a risk to others. And that risk has been demonstrated by the photos I'm looking at here and the fact that this could have been much more serious. So I will make a motion to concur with the Chief's determination of a vicious dog.

Victor Hayden, Sr.:

Can I say something, Your Honor?

John Steinbrink:

We're still in the middle here. Is there a second? If not, motion dies for lack of a second. Is there another motion?

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Michael Serpe:

Is the motion to adjourn the proper motion.

John Steinbrink:

I'm not sure. Mr. Counsel?

Monica Yuhas:

I would like to ask Mr. Hayden one question if that's possible. Is it out of --

John Steinbrink:

It's still appropriate to do that now, yes.

Monica Yuhas:

Mr. Hayden, when you had the Rottweiler, how long was that Rottweiler in your care when your relative was overseas?

Victor Hayden, Sr.:

That Rottweiler was in my care for I want to say it wasn't even two weeks. I tried to keep the dog in the house. It chewed up all the door knobs. I tried to keep it in the garage, it chewed the door knob in the garage. And then it just barked and barked and barked. So I tried to put in in the kennel and it got out. It just got out the kennel. So I tried to put a chain around its neck out in the back yard, and it twisted and twisted and twisted and it got off. And that's when the dog catchers got it.

Monica Yuhas:

And that's when it was turned over to the humane society?

Victor Hayden, Sr.:

Right, right. I tried but I couldn't.

Monica Yuhas:

And have you owned any other animals since the Rottweiler?

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Victor Hayden, Sr.:

I had a Rottweiler that I brought back from Germany, and I had it for 13 years. And that's the reason -- he was 13 years old, had no problem. Had no problems. But when this female rott came that's when everything hit the fan.

Monica Yuhas:

Do you happen to get the Village newsletter on a monthly basis delivered to your home?

Victor Hayden, Sr.:

Yes, I've seen it.

Monica Yuhas:

Okay, and every year it lists in there about dog licensing and what the responsibility and the requirements are if you have a dog or a cat and you live in the Village. And for me the hard part is that I see from 2008 there was this incident with the Rottweiler, and you did explain that. Then I also look at these horrific pictures. I have never seen pictures this horrific from a dog. Being a dog owner and also being a parent I think of what if other children -- children are going to do things. People do things that are unexplainable, unexpected. And my responsibility, and this is what I'm struggling with, my responsibility is I was elected to do what's in the best interest of this entire Village. And my fear is, like President Steinbrink said, what if someone were to come up to your house and be selling something and, God forbid, that cage doesn't get locked.

And the one thing I want Julian to take away from this is it wasn't your fault. This had nothing to do with you. You didn't do anything wrong, and I hope you don't feel that way. And I know your friend was hurt. The responsibility is on the owner and the dog. And I keep going back to this 2008 and the lack of responsibility that was taken. The shots weren't up to date. The licensing wasn't done. I look at these pictures. We hire staff, we hired Chief Smetana back in January. We hired him because we trust his judgment. He has the experience, he has the knowledge, he's been doing this for a long time.

I also have to take into consideration what he is presenting to us because he's had a lot more experience with this type of issue than the majority of us have ever had. Since I've been on the Board this is only the third case that I've seen come before for a vicious dog. And I don't know how I can tell the residents that this isn't going to happen again. And when I look at his arm with pieces of meat missing or what if it happens to your children? And you're giving me every answer that you can to say it's not going to happen, but we never thought it would get to this point. And I --

Victor Hayden, Sr.:

I can't -- go ahead.

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Monica Yuhas:

And I'm going to second President Steinbrink's motion. Then I'll make the motion to declare this dog vicious based on the evidence presented.

John Steinbrink:

I will second that motion.

Monica Yuhas:

And I hope that you take into consideration all the verbiage, our opinions where we're coming from. No one up here wants to declare a dog vicious, but we have a responsibility to the taxpayers to protect their interests. And that's how I'm basing my decision so we have a motion and we have a second.

John Steinbrink:

Any further discussion on the motion and the second?

Steve Kumorkiewicz:

Yes, I have a question for Mr. Hayden. Thank you for the service you performed for the country. Also, I know that you're talking about patrolling, I mean you're familiar with that. I was ex-military same as Mike here. This is one of the most difficult cases I ever got. This is my fourth case that I've got here. I understand your reasons. But as Monica says we're responsible to the residents for the decision that we make. There's no question that you didn't comply with the laws that we have, the ordinance that we've got here in the Village concerning animals, dogs or cats. I'm concerned that I don't know what you are going to do to get this animal straight which is pretty hard at this age. Because you can train an animal the first year, the second year is pretty hard. So as an animal lover I have a problem with the fact that where are you going to go from here? What's your idea, sir? What are you going to do to avoid a the future an incident again? That's where I've got a problem with that.

Victor Hayden, Sr.:

Well, I love my dog and I love my family. And to get him right I'm just going to have to spend more and more time with him and do whatever it takes to be in compliance with the Village. Whatever it takes to be in compliance with the Village then that's what I'm going to have to do.

Steve Kumorkiewicz:

Do you have fence around your house?

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Victor Hayden, Sr.:

I have a partial fence. I mean the house is -- it's a partial fence. I had a full kennel but the dog catcher when he took the Rottweiler destroyed it, so if I have to put another one up I will. Whatever it takes.

Thomas Camilli:

I think the concern of the Board is obviously ensuring this never happens again. This was a serious incident. From the Village's perspective the best way and I think the only way that this Board can assure itself that it will never happen again to either comply with the provisions in our ordinance for licensing of vicious animals, that contains provisions for proper containment, proper insurance, proper handling of the dog, those are all of the things that Mr. Hayden says he needs to work on. Well, if he complies with the ordinance he'll have an opportunity to do that. But I think the ordinance has to be our guide. And I think if this Board licenses or affirms the Police Chief that it is vicious it will force Mr. Hayden to comply with that ordinance.

And, again, we're not asking the dog to be destroyed. We're simply asking that proper protective measures be taken by Mr. Hayden to prevent this very scary, very terrorizing incident from happening again. And I think our ordinance, our Chapter 119 for the licensing of vicious animals encompasses all of those concerns that have been raised by Trustee Kumorkiewicz and Trustee Yuhas. There are provisions for the proper handling, the containment of the dog and for proper liability insurance, all of the things that have been lacking which resulted in a very, very serious unfortunate situation.

Again, I'm sensitive to Mr. Hayden's concerns about his dog. He says he wants to make the dog better. I think the only way to do that realistically is to enforce the ordinance to affirm the Police Chief that this dog is vicious. And if Mr. Hayden is serious about making those changes he'll have an opportunity to do so by complying with the ordinance accordingly. And that best protects the public, and I think that is really in the best interest of the community at large.

John Steinbrink:

Thank you, and I think that was the intent of the motions here is concurrence with the Chief's determination. And then the onus falls upon Mr. Hayden to either make it right or have to do what it takes. It's some hard decisions on your part. But for us the evidence says only one thing to me, and basically just looking at the pictures, listening to the testimony that's what I base my decision on. Mr. Serpe?

Michael Serpe:

What happened to that little boy is unfortunate. I feel bad about that. But if somebody were to enter Mr. Hayden's house at two o'clock in the morning and that person didn't live there and that dog attacked that intruder we'd be recognizing that dog for a job well done. We wouldn't be charging or trying to declare the dog a vicious animal because he did exactly what he was

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supposed to do to protect that property. Unfortunately the dog can't determine a person that doesn't belong there at two o'clock in the morning and somebody coming to the front door who the dog doesn't know either. He's looking at both of those people in the same way. This person doesn't belong here and this is my house. That's why I'm having a hard time with this.

It isn't that the dog was in the back yard jumping a fence going after somebody. That didn't happen. And nothing against the Police Department. God, they did their job, they had to do this and I understand it. I've been there enough times before, I know what they're going through. But I'm just looking at this case in particular. There's no history with this dog being an attack dog. It's the one incident on the little boy and he was severely hurt and that's unfortunate. But, again, if a person entered that house at two o'clock in the morning that dog would chewed the hell out of him and rightfully so. That's the only reason I'm having a hard time with this because the dog was doing what dogs are going to do. They're going to protect their property.

John Steinbrink:

I guess the question is would the dog be in the cage at two o'clock in the morning, and this wasn't two o'clock in the morning, and the pictures demonstrate what happens to somebody that enters the house and it isn't two in the morning. And a dog can't make that determination I guess. Mike?

Mike Pollocoff:

I understand where Trustee Serpe is coming from. And I think what differentiates this from a situation where you look at a dog that was defending its home and something that I think everybody has a right to expect if they have a dog that they allow that dog to bark or do something when somebody comes in the home. I think from the Village's standpoint and how we base our judgment on these and as we look at weighing the liability to the Village for making sure that we make a proper consideration of the safety of the Village as it respects this dog, and I think the concerning parts are even if you were to say the young child shouldn't have been there, every dog owner in this community has certain responsibilities whether the dog is vicious, whether the dog's going to bite somebody, whether a dog is well behaved or unbehaved they have to be licensed, they have to have their shots.

And people should have insurance so that even in the case when their dog does something that people are able to be made whole in that as a result of that. And that to me appears to be the most mitigating factor in this is that everything leading up to the fact that this dog took this action or the dog bit somebody Mr. Hayden hadn't met his requirements. And I think the fact that he hadn't met his requirements and said he didn't know or he thought he was insured or he thought he was going to be leaving or whatever, if you're going to house an animal that you're relying on guarding your house and will attack somebody, I think it's only prudent that all those tests be followed in order to have that. I think if that had been the case here, I mean maybe it makes a little more sense that Mr. Hayden is responsibly acting, he's got this dog licensed, he's got this dog licensed, he's got his shots, he's insured, if somebody comes in his house something like that is going to happen. But I think in this case he's admitted that hasn't happened, and I don't believe his reasons for this things not having happened are reliable.

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The Village has previous experience with the dog that was there before. The Village ended up having to pay \$4,800 in storage bills for the dog because nobody assumed the responsibility for the upkeep of that dog. So I think to take the totality of this that's my concern is that had Mr. Hayden acted responsibly and met his obligations along the way maybe there is that room for justification. But I think given the seriousness of the bites and I think what led up to that or what Mr. Hayden didn't do, our responsibility for public safety I don't think he's helped his case in that. I think if, in fact, the Board decides to determine the animal is vicious, that gives him another window of opportunity to do those things. Granted, it's going to be some tough decisions and it's going to be a hard climb, but everything he says he wants to do under the vicious animal ordinance he would have the opportunity to do those things that he should have been doing before.

John Steinbrink:

We have a motion and a second. There's no further discussion? Call the roll.

YUHAS MOVED TO CONCUR WITH POLICE CHIEF DAVE SMETANA'S DETERMINATION THAT THE DOG "TYSON" OWNED BY VICTOR HAYDEN SR. IS A VICIOUS ANIMAL; SECONDED BY STEINBRINK; ROLL CALL VOTE – STEINBRINK – AYE' YUHAS – AYE; KUMORKIEWICZ – AYE; SERPE – NAY; MOTION CARRIED 3-1 WITH SERPE DISSENTING.

John Steinbrink:

That concludes Item B.

4. ADJOURNMENT

YUHAS MOVED TO ADJOURN THE MEETING; SECONDED BY KUMORKIEWICZ; MOTION CARRIED 4-0 AND MEETING ADJOURNED AT 7:45 P.M.