

TOWN OF CHESTER
SELECT BOARD
Meeting Minutes
August 18, 2021

PRESENT: Arne Jonynas; Lee Gustafson; Heather Chase; Leigh Dakin; Julie Hance; Amie O'Brien

VISITORS: SAPATV; Chester Telegraph; Jack Cable; Carl Hurd; Caroline Ebelt; Barbara Bye; Eric A. Bye; Amanda Silva; Bill Lyndsay; Jill (unknown); Adam Trojanowski; Robert Nied; Anna (unknown); Tim Roper; Joy Slaughter; Judy S.; Gregg Nader; Patty Nader; Sharon Huntley; Cindy Ingersol

Meeting was held at the Town Hall and via Zoom.

1. APPROVE MINUTES FROM THE AUGUST 4, 2021 SPECIAL SELECTBOARD MEETING SELECT BOARD MEETING.

A motion was made by Heather Chase to approve the Minutes of the August 4, 2021, Select Board meeting as written. Seconded by Lee Gustafson. The motion passed.

2. CITIZEN COMMENTS/ANSWERS FROM PREVIOUS MEETING

No citizens comment.

3. OLD BUSINESS

Library heating issue: The library building has had issues with the heating system. Control Technologies is putting together a proposal to fix what has not been fixed yet.

Public Safety Building: Wayne Wickens from the Water/Wastewater Department is a master electrician. He helped the electrician working at the building finish a few things to be sure it passes inspection.

Planning Commission Meeting: Julie Hance attended the Planning Commission meeting to give clarification on what amendments to the bylaws have been requested. The meeting went well, and the Planning Commission is prepared to move forward.

Police Policies: The new policies covering processing of arrests and the new holding cells have been drafted by Chief Rick Cloud. The policies will be ready for adoption by October 1, 2021, and all officers will be given a copy.

Six Hours on Lovers Lane Run: The event had 54 attendees, a lot of donations from local businesses, and 4 volunteers. The event will happen every year going forward.

47
48
49
50
51
52
53
54
55
56
57
58
59
60
61
62
63
64
65
66
67
68
69
70
71
72
73
74
75
76
77
78
79
80
81
82
83
84
85
86
87
88
89
90
91
92

Slippery Slope Goats: The goats have been removed from the area behind the Academy Building. They removed a large amount of Barberry bushes from that area. The bridge is being designed with construction being completed before Fall Festival.

Town Fair: Julie Hance will attend Town Fair and can be appointed as the voting attendee for the town.

4. VICIOUS DOG HEARING; HORTON

A motion was made by Heather Chase to accept Exhibit A Notice to Owner of Vicious Dog Hearing dated 8/10/2021. Seconded by Lee Gustafson. The motion passed.

A motion was made by Lee Gustafson to accept Exhibit B Communication from Health Officer, Amanda Silva. Seconded by Leigh Dakin. The motion passed.

A motion was made by Heather Chase to accept Exhibit C Police Report. Seconded by Lee Gustafson. The motion passed.

A motion was made by Leigh Dakin to accept Exhibit D Complaint filed by Barbara Bye dated July 26, 2021. Seconded by Heather Chase. The motion passed.

A motion was made by Heather Chase to accept Exhibit E Health Officer Communication to Bye dated 7/23/2021. Seconded by Lee Gustafson. The motion passed.

A motion was made by Lee Gustafson to accept Exhibit F Health Officer Communication to Michael Horton dated 7/26/2021 and 6/30/2021. Seconded by Heather Chase. The motion passed.

A motion was made by Heather Chase to accept Exhibit G Anonymous Complaint Letter. Seconded by Lee Gustafson. The motion passed.

A motion was made by Heather Chase to accept Exhibit H Email from Ann & Michael Cefola dated 8/17/2021. Seconded by Lee Gustafson. The motion passed.

Arne Jonynas read Barbara Bye's complaint about the incident that happened on July 20, 2021. She was walking down Davidson Hill Road when Dutches came at her and bit her on the leg. Ann & Michael Cefola submitted a letter explaining an encounter they had with the same dog. Carl Hurd spoke about his family and a few of their encounters with Dutches not being leashed and coming into their yard. He called the police after the first incident. He would like the Select Board to see if the complaint is on file. Mitchell Horton was served paperwork giving notice of the Vicious Dog Hearing for his dog Dutches and was not in attendance. Amanda Silva explained she wrote letters to Mitchell Horton before the bite happened. She was able to speak with him one time and asked him to keep his dog on a leash. Dutches rabies shot was verified and is up to date, but the dog has not been registered with the town. Caroline Ebelt stated she is worried the owner

93 will not comply with any type of conditions and does not trust him. Adam Trojanowski is
94 Mitchell Horton's landlord and owner of the property where the dog lives. He stated
95 Dutches has been on the property since about April 1, 2021. He was contacted by
96 someone that was concerned about the dog and after, called the police station to see
97 about complaints. There were no complaints on record at that time. Gregg Nader asked
98 what the towns responsibility is if the dog stays on the property. Julie Hance explained
99 the town attorney advised if the dog owner does not follow through with the Select
100 Board's decision, any further incidents fall on the owner of the dog. Mitchell Horton does
101 not seem to be taking this matter seriously and Amanda Silva does not think he will
102 comply with conditions form the outcome of the hearing. Arne Jonynas stated the Select
103 Board must decide if the dog is a vicious dog or a potentially vicious dog.

104
105 A motion was made by Lee Gustafson to enter Deliberative Session at the end of the
106 meeting. Seconded by Heather Chase. The hearing was closed at 7:02 p.m.

107
108 5. WHITING LIBRARY BOARD OF TRUSTEES APPOINTMENT

109
110 A motion was made by Heather Chase to appoint Rosamund Conroy as Trustee to the
111 Whiting Library. Seconded by Lee Gustafson. The motion passed.

112
113 6. HAZARD MITIGATION PLAN REVIEW

114
115 Cindy Ingersol explained the Hazard Mitigation Plan was a five-year plan that expired in
116 2020. The plan is required to receive disaster grant funds from the federal government.
117 There must be certain criteria met for the plan to be approved. A committee was formed
118 which included Amanda Silva, Kirby Putnam, Rick Cloud, Matt Wilson, and Julie Hance.
119 The state will approve the plan and FEMA will provide a letter after approval. More
120 information has been included in the plan such as heat, wind, ice, drought, infectious
121 disease, and the Emerald Ash Borer. She suggested reviewing Table 12 of the plan.

122
123 7. CEMETERY DEEDS

124
125 The Select Board signed a Cemetery Deed.

126
127 8. NEW BUSINESS/NEXT AGENDA

- 128
129 • Joint meeting with Andover to discuss agreement for public safety services and
130 recreation, and the speed limit on Andover Road.

131
132 9. EXECUTIVE SESSION: CELL TOWER LEASE REVIEW, T-MOBILE

133
134 A motion was made by Lee Gustafson to enter Executive Session for the purpose of
135 discussing the T-Mobile cell tower lease. Seconded by Leigh Dakin. The Select Board
136 entered Executive Session at 7:26 p.m. Julie Hance was allowed in.

138 A motion was made by Heather Chase to exit Executive Session. Seconded by Lee
139 Gustafson. The Select Board exited Executive Session at 7:48 p.m.

140
141 No action was taken.

142
143 10. DELIBERATIVE SESSION: VICIOUS DOG

144
145 A motion was made by Lee Gustafson to enter Deliberative Session for the purpose of
146 discussing the Vicious Dog hearing. Seconded by Heather Chase. The Select Board
147 entered Deliberative Session at 7:49 p.m. Julie Hance was allowed in.

148
149 A motion was made by Heather Chase to exit Deliberative Session. Seconded by Lee
150 Gustafson. The Select Board exited Deliberative Session at 8:25 p.m.

151
152 A unanimous decision was made to impound the dog and require conditions of release.
153 See attached order.

154
155 11. ADJOURN

156
157 A motion was made by Heather Chase to adjourn. Seconded by Leigh Dakin. The meeting
158 adjourned at 8:29 p.m.

159 Amie O'Brien
Secretary of the Select Board

Lee Gustafson
Clerk of the Select Board

**VICIOUS DOG HEARING FINDINGS, CONCLUSIONS AND
DECISION/PROTECTIVE ORDER
Town of Chester Selectboard**

**In re: Dutchess
Complainants: Barbara L. Bye
Owners/Keepers: Mitchell Horton**

INTRODUCTION AND PROCEDURAL HISTORY

1. This proceeding involves a vicious dog complaint submitted by Barbara Bye (hereinafter "Bye") and received by the Town of Chester on July 26, 2021.
2. A public notice of a hearing on this vicious dog complaint was posted in the Chester Town Clerk's office, Chester Hardware, and the Chester Post Office, and was sent to each Chester Selectboard member on August 10, 2021. Public notice was also posted on the Town of Chester website and Facebook page on the same date.
3. On August 10, 2021, notice of this vicious dog hearing was personally served by the Chester Police Department upon Mitchell Horton (hereinafter "Horton") Owners/Keepers of Dutchess.
4. On August 10, 2021, notice of this vicious dog hearing was mailed to Bye, Complainant.
5. The hearing on the Complaint was set for, and held on, August 18, 2021. Present at the hearing were the following Selectboard members:
 - Arne Jonynas, Chair
 - Heather Chase
 - Leigh Dakin
 - Lee Gustafson
6. During the course of the hearing, the following exhibits were submitted and accepted by the Chester Selectboard:
 - Exhibit A Notice to Owner of Vicious Dog Hearing dated 08/10/2021
 - Exhibit B Communication from Health Officer
 - Exhibit C Police Report
 - Exhibit D Complaint filed by Barbara Bye dated July 26, 2021
 - Exhibit E Health Officer communication to Bye dated 07/23/2021
 - Exhibit F Health Officer communication to Horton dated 7/26/2021 & 06/30/2021
 - Exhibit G Anonymous Complaint
 - Exhibit H Email from Ann & Michael Cefola dated 08/17/2021
7. The following individuals provided verbal testimony under oath:
 - Barbara Bye; Caroline Ebelt; Carl Hurd; Adam Trojanowski; Amanda Silva; Jack Cable

FINDINGS OF FACT

Based on the evidence and exhibits submitted during the hearing, the testimony of witnesses at the hearing and other evidence of record, the Selectboard hereby makes the following findings of fact:

1. Dutchess is a domestic pet currently residing (renting) at 659 Davidson Hill Road with his Owner/Keeper Horton.
2. Dutchess is not registered in the Town of Chester.
3. The property identified as 659 Davidson Hill Road is owned by Adam Trojanowski and under the management of River Valley Property Management.
4. The lease of Horton expires on August 31, 2021.
5. On July 20, 2021, Bye was walking on Davidson Hill Road with her daughter and granddaughter when they were charged by Dutchess (a German Shepard). Bye was bit on her upper thigh.
6. During this incident, Dutchess was not controlled by a leash and was off the Horton residence property and in the right of way of Davidson Hill Road.
7. It has been determined that Dutchess is current on all rabies vaccinations.
8. An anonymous complaint filed with the Health Officer on July 22, 2020 (Exhibit G) described an additional bite by Dutchess.
9. Carl Hurd (hereinafter "Hurd") testified that he has experienced issues with Dutchess charging him and trying to bite him. Hurd was able to fend off Dutchess with a ski pole.
10. Email communication from Cefola (Exhibit H) indicates experiences with being "charged" by Dutchess.
11. Horton indicated to the Health Officer that Dutchess is a "service dog" and is "at his side at all times."
12. During all incidents testified to verbally and in writing, Horton was not present with Dutchess during the encounters.
13. The neighboring property owners of Davidson Hill Road have expressed their reasonable fears that if Dutchess is not under control and restrained AT ALL TIMES, she will again attack those walking on Davidson Hill Road.

CONCLUSIONS OF LAW

Based on the above stated Findings of Fact, the Selectboard concludes as follows:

1. Mrs. Bye, as Complainant, has filed a vicious dog complaint in connection with an incident that occurred on July 22, 2021 involving Dutchess, an unregistered dog, who attacked her while she was walking on Davidson Hill Road.
2. The Town of Chester has a duly enacted Ordinance for the Control of Dogs and Wolf-Hybrids that became effective as of August 18, 2015 (hereinafter "ordinance").
3. Under Section 12 A. of the Ordinance, when a dog has bitten a person on or off the premises of its owner or keeper and the person bitten requires medical attention, that person may file a written complaint with the Selectboard. If the Selectboard determines that the person has been bitten without provocation, the Selectboard may "make such order for the protection of persons as the facts and circumstances may require, including, without limitation, that the dog is disposed of in a humane way, muzzled, chained or confined." Ordinance at Section 12 C.
4. The Selectboard is similarly conferred with the express authority to investigate vicious dog complaints of unprovoked dog bites requiring medical attention pursuant to 20 VSA §3546 occurring off the premises of the owner. In this instance, the Selectboard concludes that the premises in fee where the attack occurred is owned by the Town of Chester and is a public right of way.
5. Dutchess is a "domestic pet" as defined by 20 VSA §3541(3) and a "dog" as defined by Section 3 A. of the Ordinance.
6. By its own terms, 20 VSA §3546(a) and (c) requires that any protective order be based on the biting of a "victim" who is a "person" without provocation. The facts in this case indicate that Dutchess' attack on Bye was on a "person" and "without provocation".
7. Pursuant to Section 12 of the Ordinance, the Selectboard concludes that Dutchess is a vicious dog which allows it to order any protective measures. Given the severity of the attack, the injuries sustained by Barbara Bye, and the evident animosity displayed by Dutchess toward walkers on Davidson Hill Road, the Selectboard concludes that every and all steps should to be taken to assure that Dutchess is, and remains at all times, restrained during any period in which Dutchess is present in the Town of Chester.

PROTECTIVE ORDER

Based on the foregoing facts and conclusions, the Selectboard hereby orders that the domestic pet named Dutchess, owned by Mitchell Horton, be immediately impounded in accordance with Section 11 of the Ordinance, with remedial actions as follows:

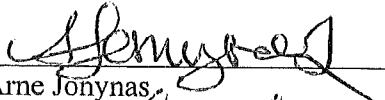
1. Dutchess will be immediately impounded by the Chester Animal Control officer or any officer of the Chester Police Department and held pending compliance with items 2 through 4, inclusive, as follows:
2. Registration with the Town Clerk's Office in Chester, Vermont.
3. Proof of installation of a secure chain and muzzle system at any property where Dutchess will be residing.
4. Behavioral assessment by a licensed professional indicating that Dutchess is safe to return to a residential area.


In accordance with Section 11 of the Ordinance, if remedial actions 2 through 4 above are completed and Dutchess is returned to Horton, the following will apply:

5. At all times that Dutchess is not controlled inside the Horton residence, she shall be muzzled, securely leashed, and under the direct physical control of Horton.
6. Unless Dutchess is securely leashed and under the direct physical control of Horton, she shall not be chained or secured in any way that is visible from Davidson Hill Road.
7. In the event Dutchess is at any time found by others to be loose or at large, they will immediately contact and alert the Chester Police Department.
8. In the event that Dutchess is found to be loose or running at large, she shall be immediately impounded by the Chester Animal Control officer or any officer of the Chester Police Department and held pending further hearing and order by the Chester Selectboard or any court of competent jurisdiction.

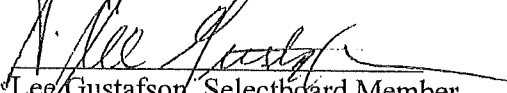
Failure to comply fully with the conditions set forth in this Protective Order shall subject the Owners/Keepers to any and all penalties and remedies as provided by law and the Ordinance including, but not limited to, the domestic pet known as Dutchess being humanely destroyed.

This decision/order was approved by the Chester Selectboard on August __, 2021


Arne Jonynas,
Selectboard Chair


Heather Chase, Selectboard Member


Leigh Dakin, Selectboard Member


Lee Gustafson, Selectboard Member

NOTICE: This decision may be appealed to the Vermont Superior Court Civil Division within 30 days of the date of this decision, pursuant to Rule 75(c) of the Vermont Rules of Civil Procedure.