

# MINUTES

**TITLE:** Environment & Planning Subcommittee - Dog Control Act  
**DATE:** Thursday, 26 March 2009  
**TIME:** 11.30 am  
**VENUE:** Motueka Service Centre, 7 Hickmott Place, Motueka  
**PRESENT:** Crs M J Higgins (Chair) and T E Norriss

**IN ATTENDANCE:** Animal Control Officer/Animal Welfare Inspector (P Bergman), Regulatory Manager (Jean Hodson), Executive Assistant (Valerie Gribble)

## 1. T FOTHERGILL, PAH STREET, MOTUEKA – DANGEROUS DOG CLASSIFICATION – REPORT EP09/03/05

The owner has objected pursuant to Section 31(3) of the Dog Control Act 1996 to the classification of “Dangerous Dog” for her dog Sarge.

Ms Fothergill was in attendance and tabled letters in support of Sarge from Laura Frost and Ria, Brent and Hayley Temblett.

Ms Fothergill said the dog has never been witnessed being “aggressive”. He has been brought up with children but has never bitten anyone. She does not believe he is dangerous and believes the assessment of “dangerous dog” is unjust. She agreed that Sarge did bark a lot and makes a lot of noise.

Cr Norriss asked when you leave the property, how is he restrained.

Ms Fothergill said he is unrestrained and he would be in either the back yard or the front yard. He has chewed his way out of his kennel and then dug his way out through the floor.

Cr Higgins drew attention to the list of complaints received by Council about Sarge. (Ms Fothergill did not have a copy of the service requests regarding the complaints).

Ms Fothergill said she was not prepared to have Sarge neutered as she believed it would make him aggressive and would have him put down rather than have him neutered.

Mr Bergman said the dog will not become dangerous by being neutered. He said the Committee needs to decide on the classification of “dangerous dog”. We do not want to have the dog put down. There were two options for Council when the dog attacked the other dog. Had we taken action through the District Court, the Judge would have ordered destruction of Sarge, following conviction, along with a penalty. Why we decided to classify the dog as “dangerous” was to prevent that occurring, it simply places responsibility on the owners to prevent the dog offending again. The dog must be neutered, which is a proven tool to prevent the dog causing all sorts of issues and is non-negotiable on a “dangerous” classified dog.

Restraining the dog to a fenced off property is already in place and that has been improved and the dog has not got out for the last three weeks. We are happy with the containment of Sarge on that property now. The reasons for classifying a dog as “dangerous” is not only about attacking people, it is about protecting domestic pets, wildlife and stock. If the dog reoffends it will be seized and the matter can be referred to the District Court for not complying with the requirements of the classification.

Cr Norriss said Tracey advised that the attack on 26 January 2009 took place within their property. How do we know who attacked who?

Mr Bergman said the complainant was walking past and Sarge rushed from the property and attacked. However, it does not make a difference where it was attacked. Sarge has a problem with other dogs and if given the opportunity will attack a strange dog.

Cr Norriss asked; “Does he go straight out and attack or run up and grab?”

Mr Bergman said rushing up is defined as attacking. They do not have to bite for it to be deemed an attack. In this instance the other dog received punctures around the neck that I witnessed. The Bull Terrier was on a lead/harness when it walked past the property. It was this last incident that obliged us to take firm action to prevent a reoccurrence.

Cr Norriss asked if Mr Bergman was quite satisfied that conditions that Fothergills have now are adequate to keep him controlled, e.g. fencing?

Mr Bergman said that to comply with the classification, they meet the criteria.

Cr Norriss asked about the cost of neutering.

Mr Bergman said costs can vary and suggested the owner should shop around vets, but possibly around \$100.00 - \$200.00.

Ms Fothergill said it will cost double that because he is such a big dog.

Mr Bergman said Sarge will need a muzzle whenever he is off the property. There are all sorts of muzzle available.

Ms Fothergill said Sarge has had a full-faced muzzle and he sits and tries to rip it off. She said he does not go out in public. As for the attack, he has never rushed. The fact is, it is my word against hers. Her dog inflicted more pain on Sarge. There were no puncture wounds on his neck, because Sarge never bit him. He is not a dangerous dog.

Cr Norriss reiterated the position of the Committee. Either classify him “dangerous” which will require him to be neutered, or the other alternative is to put him down.

Cr Higgins, we will consider what Mr Bergman said and what you said and will make a decision.

Cr Norriss said you need to understand that as a Committee we only have two choices.

Ms Fothergill said she can not afford to pay all the costs so the dog will have to be put down.

The meeting adjourned at 12 Noon and the Committee visited the property.

## **2. T FOTHERGILL, PAH STREET, MOTUEKA – DANGEROUS DOG CLASSIFICATION – REPORT EP09/03/05**

**Moved Crs Higgins / Norriss  
EP09/03/10**

**THAT the classification of Sarge as a dangerous dog under Section 31(1) of the Dog Control Act 1996 has been upheld by Council at the hearing held on Thursday, 26 March 2009.  
CARRIED**

A summary of the effect of the classification is attached.

The Committee considered the history recorded as complaints regarding Sarge wandering and also the recent incident involving another dog. In her presentation at the hearing, Mrs Fothergill explained that it has been very difficult to keep Sarge contained and that he has been trained as a guard dog to protect the children.

The Committee considers that, in summary, the family have found it difficult to manage Sarge in an urban environment and because of that, the classification is appropriate to assist with preventing further incidents.

### **EFFECT OF CLASSIFICATION AS A DANGEROUS DOG**

Section 32, Dog Control Act

You are required:-

- a) within one month after receipt of this notice, to ensure that the dog is kept within a securely fenced portion of your property which it is not necessary to enter to obtain access to at least one door of any dwelling on the property; and
- b) not to allow the dog to be at large or in any public place or in any private way (other than when confined completely within a vehicle or cage) without –
  - (i) the dog being muzzled in such a manner as to prevent the dog from biting but to allow it to breathe and drink without obstruction; and
  - (ii) the dog being controlled on a leash (except in a designated dog exercise area); and
- c) to produce to the Tasman District Council, within one month after receipt of this notice, a certificate issued by a registered veterinary surgeon and certifying;
  - (i) that the dog is or has been neutered; or
  - (ii) that for reasons that are specified in the certificate, the dog will not be in a fit condition to be neutered before a date specified in the certificate; and

- d) Where a certificate under paragraph (c) (ii) is produced to the Tasman District Council, to produce to the Tasman District Council, within one month after the date specified in that certificate, a further certificate under paragraph (c)(i); and
- e) in respect of every registration year commencing after receipt of this notice, to pay dog control fees for that dog at 150% of the level that would apply if the dog were not classified as a dangerous dog; and
- f) not to dispose of the dog to any other person, without the written consent of the territorial authority in whose district the dog is to be kept.

You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with any of the matters in paragraphs (a) to (f) above. In addition, the Court must order the destruction of the dog unless satisfied that the circumstances of the offence were exceptional and do not justify the destruction of the dog.

A dog control officer or dog ranger may seize and remove the dog from you if you fail to comply with all of the matters in paragraphs (a) to (f) above. The ranger or officer may keep the dog until you demonstrate that you are willing to comply with paragraphs (a) to (f).

You will also commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you sell or otherwise transfer the dog, or offer to do so, to any other person without disclosing that the dog is classified as a dangerous dog.

As from 1 July 2006, you are also required, for the purpose of providing permanent identification of the dog, to arrange within 2 months after classification for the dog to be implanted with a functioning microchip transponder. This must be confirmed by the Tasman District Council. You will commit an offence and be liable on conviction to a fine not exceeding \$3,000 if you fail to comply with this requirement.

Full details of the effect of classification as a dangerous dog are provided in the Dog Control Act.

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**Date Confirmed:**

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**Chair:**