



Town of Adams Massachusetts 01220-2087

BOARD OF SELECTMEN

**TOWN HALL BUILDING
8 PARK STREET**

Thursday, November 17, 2022, 4:30 p.m.

**TOWN HALL, 8 PARK STREET, ADAMS, MA 01220
1st Floor, Board of Selectmen Meeting Room
Public Hearing**

RECEIVED-POSTED
23 APR -7 AM 9:00
TOWN CLERK
ADAMS MASS

CALL TO ORDER: On the above date, the Board of Selectmen held a public hearing at 4:30 PM at the Adams Town Hall. Chair John Duval opened the meeting. Present: Chair John Duval, Vice-chair Christine Hoyt, Members Howard Rosenberg, Richard Blanchard and Joseph Nowak. *Town Counsel Edmund St. John was absent.* Also present were Bri Hantman, Recording Secretary; Brian Rhodes, iBerkshires; La'chay Canada and Lionel Vega, Owner of Dog in question; Animal Control Officer Kim Witek, Adams Police Department; Susan Marshall, owner of deceased dog;

Public Hearing 6:00pm: Dangerous Dog Determination under Massachusetts General Law (MGL) Chapter 140 § 136A; MGL C. 140§§157-174 and Chapter 14 of the Adams Town Code

Chairman Duval stated that a very short hearing was held on 11/09, however there were several individuals not present, so the meeting was postponed until today.

Motion made by Vice-chair Hoyt to open the Public Hearing. Motion was seconded by Member Rosenberg. Motion passes unanimously.

We sent a letter to Mr. *Lionel Vega* and Ms. *La'chay Canada*. Chairman Duval read the letter that was sent to Mr. *Vega* and Ms. *Canada* on November 10 via certified mail. Bri Hantman in the Town Administrator's office did receive signed confirmation that *Vega* and *Canada* received the letters and enclosed information.

Chairman Duval asked if Mr. *Vega* had legal counsel present. He did not. Ms. *Canada* did not have legal counsel present.

Ms. *La'chay Canada*, Mr. *Lionel Vega*, Officer Kimberly Witek, and Ms. Susan Marshall all recognized that they were present with evidence or testimony regarding the hearing. All four individuals stated that they pledge to tell the truth, the whole truth, and nothing but the truth.

Kimberly Witek, Animal Control Officer presented her information. She stated with an incident reported on 8/17/2021 of an incident of a dog bite. An individual who lived on the road stated

that her dog ran into *Mr. Vega's* yard where the dog, Sully, was on a leash. Both *Mr. Vega* and the individual were bitten during the fight. According to *Officer Witek*, the fight happened because another dog ran into "Sully's" yard, and the dog was protecting his own yard.

On 1/06/2022 *Officer Witek* was contacted by the individual mentioned above stating that the dog, Sully, was in her yard and there was video evidence. Office Witek reviewed the video evidence, but it was not clear which neighborhood dog was being shown. There are a number of dogs in that neighborhood.

On 1/16/2022 *Officer Witek* received another video of dog in the same individual's yard, but it was not clear what dogs were present. *Officer Witek* was not on duty at that time and reached out to the individual on 1/18 when she was back at work. *Officer Witek* contacted *Ms. Canada* to inform her of the leash law. *Ms. Canada* discussed the possibility of installing an invisible fence on her property.

On 3/24/2022 *Officer Witek* received a call on her cellphone from the same individual mentioned above that *Ms. Canada's* dogs were on her property and trying to get to her dogs, which were in a fenced in section of the yard. *Officer Witek* advised both *Ms. Canada*, and this individual that they needed to keep control of their dogs and keep their dogs on their own properties.

On 4/03/2022 the APD received a call from the same individual mentioned above that her children were chased by *Ms. Canada's* dog, but they were able to make it inside safely. The caller stated that the dog did not leave the property.

On 09/08/2022, the three dogs that belong to *Mr. Vega* and *Ms. Canada* ran into the yard of 4 Phillips Hill, belonging to *Ms. Marshall*. *Marshall's* dog, "Winchester" was grabbed by Sully and shaken until he was deceased. Sully would not let go of the dog, even though *Mr. Vega* was attempting to have the dog let go.

On 10/25 *Officer Witek* attempted to contact *Ms. Canada* regarding the booster. A 4-month quarantine was issued because the dog failed to get the booster.

Officer Witek stated that something should have been done earlier regarding her dogs. *Ms. Canada* had asked if an invisible fence could be

Vice-Chair Hoyt asked if *Officer Witek* had checked to see if the dogs were licensed back in August when *Vega* and *Canada* were first issued leash law warnings? *Officer Witek* had noted that the dogs did have updated rabies vaccines at that time and had not gotten dog licenses because they had just recently moved to Adams.

A 10-day quarantine was issued at that time because it was unclear which dog caused the bites at that time and the rabies vaccines had lapsed.

Member Rosenberg asked if the incident in which the dog was attacked was the first incident in which the dog had left the property.

Chairman Duval asked if there had been any reports from Pittsfield where *Canada* and *Vega* had moved from. *Officer Witek* said that she can reach out. She had not called Pittsfield to check on that.

Vega: On the first incident, *Mr. Vega* had his dog on a leash on the stairs. His neighbor was back on her porch yelling that her dog was friendly. Her dog was 170lb English Mastiff. Her dog then lunged at Sully at which time, Sully bit the Mastiff.

Mr. Vega stated that he is the one who caused the damage to the house of *Ms. Marshall* during the incident in September. He lifted Sully off of the ground to remove any leverage that was being used while Sully had Winchester in his mouth. "It is very unfortunate and it saddens me that this happened." The police report that was made by *Officer Witek* states that *Mr. Vega* stated that he accidentally left the door open. *Mr. Vega* clarified that that is not true, and he had never made that statement. *Vega* and *Canada* had an animal in their sunroom that was there when he went to take the trash out. Sully proceeded to follow this animal out of the room. The animal got into the mudroom because a bear had broken their screen door. This animal ended up being a cat belonging to the same neighbor with the Mastiff that Sully had a previous altercation with.

Ms. Canada stated that she has video evidence of other dogs entering her yard.

Mr. Vega stated that *Ms. Marshall* and the other neighbor who has made several calls seem to be targeting his dog. *Ms. Marshall* and this neighbor walk their dogs on the property line of *Mr. Vega's* property.

Mr. Vega stated that they continue to let their dogs come into their yard.

Member Nowak: No questions at this time

Member Blanchard: Asked if *Vega* and *Canada* have the ability to fence in their yard as they own the property. *Ms. Canada* has contacted a contractor regarding building a fence around the yard.

Vice-chair Hoyt asked if they had considered an invisible fence, but it makes sense that they are preferring to consider a physical fence considering the cats, bears, and other animals that are consistently entering their property. An invisible fence would not prevent that.

Member Rosenberg asked for clarification. The owners do not deny that Sully did enter the yard of *Ms. Marshall* and kill a dog. *Vega* stated Sully was triggered by the neighbor's cat that was in *Vega* and *Canada's* house.

Member Blanchard asked if it was Sully that had bit the neighbor's dog during the 8/17/2021 event. When *Mr. Vega* stated yes.

Vega stated if the neighbor's Mastiff had not attempted to mount Sully, he would not have acted to protect himself. Sully is an intact male and considered the attempted act of domination to be aggressive.

Sully was triggered by the Neighbor's cat and then locked onto *Ms. Marshall's* small dog. *Mr. Vega* and *Ms. Canada* offered to show the additional videos of how Sully interacts with other dogs, people, puppies, and how he interacts in their yard. They also have videos of other animals entering their yard.

Vice-chair Hoyt asked if any of the three dogs that are owned by *Mr. Vega* and *Ms. Canada* have received professional training, puppy school, or professional socialization.

Ms. Canada showed various videos and images of Sully in the yard. *Ms. Canada* stated that Sully typically has a strong recall.

Member Rosenberg asked if the dog had received any training since the incident. It was clarified that Sully has a quarantine order, so bringing him to training is not an option until January of 2023.

Ms. Marshall addressed the board. She stated that the incident happened at 5:45am. She stated that since this incident, her dog has been on leash. She stated that her male dog was attempting to hide under the porch at which point Sully jumped over the driveway barrier and grabbed Winchester. *Ms. Marshall* stated that her female dog is now leashed whenever she goes off the premises. *Ms. Marshall* stated that she typically checks to make sure that the dogs belonging to *Mr. Vega* and *Ms. Canada* are not outside.

Ms. Marshall stated that, "unfortunately, I had to bury my dogs because they cannot control theirs. The only time I get to see my dog now is when I visit his grave, which is not where he should be. Maybe their dog did get scared or triggered, but it's not fair for me to have lost mine. I just want justice."

Chairman Duval opened the floor for questions from the Board.

Member Rosenberg: before the incident, did you have any cause for concern?

Ms. Marshall stated, "No, I have had Pitbull in the past. I have nothing against them as a breed. I have never had a concern with [Canada's] dogs. I've gone over and pet them. I have never had a problem with these people. Their dogs are beautiful dogs. I just want justice from this incident."

Vice-Chair Hoyt asked how old Winchester was at the time of his death. *Ms. Marshall* stated that he was 7.5 years old. Winchester and his sister are both from the same breeder. Winchester was an intact male. *Ms. Marshall* stated that she purchased Winchester after her husband of 20 years passed away (roughly 8 years ago).

Member Nowak stated that it is really difficult to be a selectman and that this was the second dog hearing he has been involved with in his 11 years as a Selectman. The first one, he couldn't bring himself to order a dog destroyed, but this one feels slightly different because an animal has had its life taken away. Dogs are really a reflection of their owners. *Member Nowak* asked if *Mr. Vega* has had the dog since he was a puppy.

Mr. Vega stated that he aided Sully's mom in the birth of her puppies, and has had Sully since his first moments of life.

Member Nowak stated that any dog is a protective animal. It is one of the only animals that will give up its life for its owner.

Member Nowak asked if Sully the most dominant of the two unneutered males on the property? When *Mr. Vega* stated confirmed that he is, *Member Nowak* stated that dogs are very reactive. Dogs will go for things to protect their owners. *Member Nowak* hypothesized that Sully saw something out of place. It probably perked Sully's intentions.

Member Nowak asked how many other dogs live in the complex. It was clarified that there is the Mastiff that was involved in the first incident, wherein the Mastiff attempted to mount Sully, and a Labrador that lives upstairs. *Ms. Marshall* stated that she has consistently urged her neighbor to put his dog on a leash. *Ms. Marshall* stated that the neighbor's cats are consistently on the property belonging to *Mr. Vega* and *Ms. Canada*. There are also two other dogs living in the building. *Ms. Marshall* stated that she is the only one in the area, besides *Mr. Vega* and *Ms. Canada*, who keeps her dogs on a leash.

Member Nowak asked if there is a lot barking that happens? *Ms. Marshall* stated that there is barking all the time, especially the two dogs that belong to the neighbor. They used the fenced in yard in the back behind complex.

Member Nowak asked *Ms. Marshall* what would constitute justice for her? *Ms. Marshall* said that she would prefer not to say.

Member Rosenberg asked *Officer Kim Witek* for her opinion on a professional animal control officer? *Officer Witek* believes that this could potentially happen again. Sully is still protecting his property as an unfixed male.

Vice-Chair Hoyt asked if neutering was supposed to help mitigate aggression and territorial behavior in dogs. *Officer Witek* explained that while it could potentially be helpful, the chance of it changing behavior falls after the dog is more than 2 years old.

Vice-Chair Hoyt asked if the other owners in the neighborhood have been cited. The owner of the Mastiff that attempted to Mount Sully (who is also the owner of the cats that are regularly on *Mr. Vega* and *Ms. Canada*'s property, and the owner of the cat that was in *Mr. Vega* and *Ms. Canada*'s home on the day that the incident with Sully and Winchester occurred) has been cited.

At this point, all parties stated that they had nothing more to state.

A motion was made by Member Blanchard to come out of the public hearing. The motion was seconded by Vice-chair Hoyt. Members Blanchard, Rosenberg, and Nowak voted in favor of coming out of the public hearing. Chairman Duval and Vice-chair Hoyt voted in favor of coming out of public hearing. The motion passed unanimously.

Chairman Duval called a close to the public hearing at 5:40 pm.

Vice-chair Hoyt requested a 5-minute recess.

Chairman Duval reconvened the meeting at 5:45.

Chairman Duval stated that the first step of action is for the board of selectman to determine if Sully is a Dangerous Dog. If the board decides that Sully is dangerous, there is a list of 7 actions that the board may take.

Vice-chair Hoyt made the motion to deem the dog sully, that lives at 12 Phillips Hill to be a dangerous dog. The motion was seconded by Member Rosenberg. The Motion passed unanimously.

Chairman Duval stated that there is a list of 7 potential actions that can be taken. The board can decide if any one action or combination of actions be taken. The list of actions are as follows, according to Mass General Law.

(i) that the dog be humanely restrained; provided, however, that no order shall provide that a dog deemed dangerous be chained, tethered or otherwise tied to an inanimate object including, but not limited to, a tree, post or building;

(ii) that the dog be confined to the premises of the keeper of the dog; provided, however, that "confined" shall mean securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run area upon the premises of the owner or keeper; provided further, that such pen or dog run shall have a secure roof and, if such enclosure has no floor secured to the sides thereof, the sides shall be embedded into the ground for not less than 2 feet; and provided further, that within the confines of such pen or dog run, a dog house or proper shelter from the elements shall be provided to protect the dog;

(iii) that when removed from the premises of the owner or the premises of the person keeping the dog, the dog shall be securely and humanely muzzled and restrained with a chain or other tethering device having a minimum tensile strength of 300 pounds and not exceeding 3 feet in length;

(iv) that the owner or keeper of the dog provide proof of insurance in an amount not less than \$100,000 insuring the owner or keeper against any claim, loss, damage or injury to persons, domestic animals or property resulting from the acts, whether intentional or unintentional, of the dog or proof that reasonable efforts were made to obtain such insurance if a policy has not been issued; provided, however, that if a policy of insurance has been issued, the owner or keeper shall produce such policy upon request of the hearing authority or a justice of the district court; and provided further, that if a policy has not been issued the owner or keeper shall produce proof of efforts to obtain such insurance;

(v) that the owner or keeper of the dog provide to the licensing authority or animal control officer or other entity identified in the order, information by which a dog may be identified,

throughout its lifetime including, but not limited to, photographs, videos, veterinary examination, tattooing or microchip implantations or a combination of any such methods of identification;

(vi) that unless an owner or keeper of the dog provides evidence that a veterinarian is of the opinion the dog is unfit for alterations because of a medical condition, the owner or keeper of the dog shall cause the dog to be altered so that the dog shall not be reproductively intact; or

(vii) that the dog be humanely euthanized.

Once *Chairman Duval* finished reading this list of items, the board began deliberation.

Vice-chair Hoyt thanked *Mr. Vega*, *Ms. Canada*, and *Ms. Marshall* for their testimony. *Vice-chair Hoyt* stated that she believes that there is some hope for this dog. He is a young dog who could benefit for training and veterinary help.

Member Nowak stated that he cannot vote to euthanize a dog and it's hard because *Ms. Marshall* has lost her dog. *Member Nowak* stated that he is abstaining from voting because his religion stated that he does not have the ability to deem to have the dog euthanized.

Member Blanchard would like to see *Vega* and *Canada* invest in a fence that is secure enough that the dogs cannot get through. He would like to see Sully Muzzled and Leashed until that can be done. With the dog being over two years of age, it is unlikely that fixing him will help (items i, ii, iii as listed above)

Chairman Duval stated that his leaning toward instituting strict restraints on the dog, a muzzle order, a 3ft leash order, (items i, ii, iii as listed above)

Member Rosenberg: When the animal control officer stated that this can happen again and now this dog knows how to kill. I cannot let the probability of this happening again continue. I would like to see this dog put down (item vii as listed above). It is my responsibility to protect this community. I do not enjoy doing this.

Vice-chair Hoyt made a motion to have physical fence installed at 12 Phillips hill; (item i as listed above); for Sully to go to obedience training once his quarantine order is up (item ii as listed above); that the dog is continued to be muzzled and on a three ft leash and that it is attended and under control at all times (item iii as listed above); that Sully also be neutered (item vi as listed above); that *Mr. Vega* and *Ms. Canada* get insurance in an amount not less than \$100,000 (item iv as listed above); and that *Ms. Canada* and *Mr. Vega* respond to us that this has happened within a 6-month time period (include plans for, not necessarily construction of a physical fence).

Chairman Duval seconds the motion.

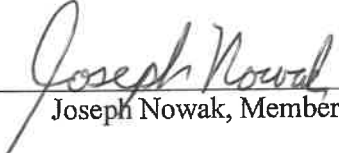
Member Nowak suggests that *Vega* and *Canada* purchase a new dog for *Ms. Marshall*. *Ms. Marshall* would consider a new dog purchased for her to be justice. Although the Board cannot order this to happen, *Ms. Canada* and *Ms. Marshall* decided to speak with each other about this possibility afterward.

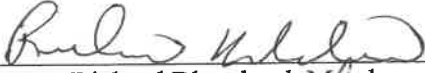
4 votes in in favor of the motion (Chairman Duval, Vice-chair Hoyt, and Members Rosenberg and Blanchard) and 1 abstention (Member Nowak). The Motion passes.


Bri Hantman stated the motion back to the board. She will send those order to legal council for review. Once review and written, letters will be sent to the appropriate party.

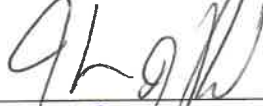
A motion to adjourn was made by Member Blanchard. The motion is seconded by Vice-chair Hoyt. The motion passed unanimously. The hearing adjourned at 6:14pm

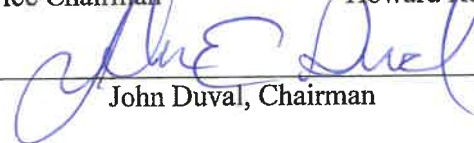
Respectfully submitted, Bri Hantman, Recording Secretary


Joseph Nowak, Member


Richard Blanchard, Member


Christine Hoyt, Vice Chairman


Howard Rosenberg, Member


John Duval, Chairman