

**TOWN OF WINCHENDON  
BOARD OF SELECTMEN MINUTES  
EMERGENCY MEETING  
THURSDAY, DECEMBER 15, 2011 – 6:00 P.M.  
Town Hall, 4th Floor Robinson-Broadhurst Conference Room**

Present: Elizabeth R. Hunt, Vice-Chairwoman                      James M. Kreidler, Jr., Town Manager  
            Keith R. Barrows                                                              Linda A. Daigle, Executive Assistant  
            C. Jackson Blair                                                              Sarah Fearing, Animal Control Officer

Absent: Robert M. O’Keefe, Chairman

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List of Documents Presented at Meeting:

- Webster Police Dept. Incident Report dated 12/14/11 (filed)
  - Winchendon Police Dept. Incident Report dated 12/15/11 (filed)
  - Applications for Criminal Complaint by ACO Sarah Fearing (filed)
    - Against Derek Yatko dated 11/22/11
    - Against Kathy Yatko dated 9/8/11
  - Rabies Vaccination Certificate from VCA Lancaster Animal Hospital (Buddy) (filed)
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Vice-Chairwoman Elizabeth Hunt became the acting Chairperson in Robert O’Keefe’s absence. She called the emergency meeting to order at 6:09 p.m. to consider a vicious dog complaint. The Town Manager informed the Board that Town Counsel has recommended the following motion be read right away to the Board for their consideration and testimony from the Animal Control Officer (ACO) could then be heard. Kreidler read the motion:

I move that the Board make a preliminary finding that the dog believed to be owned by the Yatkos is a nuisance by reason of vicious disposition based on complaints that said dog has bitten and injured at least three people, and because said dog poses an immediate threat to public safety, that the Animal Control Officer be ordered to immediately seize said dog, through any lawful process required, and confine it in a secure location until such time as the Board can convene a hearing with a proper notice, at which time the Board will make such order concerning the permanent restraint or disposition of said dogs as it deems necessary.

Blair so moved; Barrows seconded. By roll call vote of all aye, the motion carried unanimously.

Sarah Fearing, the Animal Control Officer, gave background information on this issue. Yesterday, December 14<sup>th</sup>, she was contacted by dispatch regarding a woman named Kathy Yatko that had been bitten by a dog who showed up at a residence. The bite wound was shown to the person living at that residence who immediately called the ambulance to assist her because the wound was so deep and damaging. Fearing received further information that Webster Police, a few hours earlier, had dealt with her there because her dog had attacked a man who was taken by ambulance to treat the wound on his arm. He required several stitches. She was told the bites occurred because the dog was being protective; there was some altercation and the dog thought he was protecting the owner from this male party. It’s unclear how Kathy actually got bit by her own dog but that did occur, stated Fearing. At the scene in

Webster, Animal Control was involved. They were told by Mrs. Yatko that the dog's name was Buddy and it was not her dog. The information was not clear on whose dog it was. Mrs. Yatko couldn't provide proof of a rabies vaccine and finally gave the name of a Lancaster V.C. Animal Hospital. It was confirmed the dog's name was Buddy under Derek Yatko and the dog was vaccinated. After, she decided not to press charges and fled to Winchendon. That's when Fearing became involved. The party transporting her to Winchendon said the story given was not quite what had happened. It was her dog Zaria that bit her, not Buddy. Zaria has no proof of rabies vaccination. October 27<sup>th</sup>, Fearing brought her to court because she refused to license and vaccinate her dog. Both dogs were listed under her name at that time. When she went to court she stated she was separating from Derek and he would be assuming responsibility. Fearing followed up with a phone call and he had not followed through so court paperwork was filed. She had been chasing after them for a while to get them licensed. Back in 2010, she served a notice of quarantine to Derek when the dog had bitten him. Now, there are these two more documented cases. So far, Fearing continued, the aggression has been to the owners. She questions why it is instigated against them wondering if the dog is not properly cared for or doesn't feel safe. She's concerned it might attack anyone if feeling threatened. She is not sure where the second dog Buddy is that is owned by Derek Yatko. There was no one living at 236 Front St., Apt. 1. Mrs. Yatko dropped the dog off last night in the abandoned apartment. Fearing felt Mrs. Yatko's intention would be to come back for the dog when she got out of the hospital. Blair said you've been chasing this dog for a long time; when does it stop? There is a concern that this dog might be rabid. Sarah said by law a dog that bites is quarantined within ten days. If the dog dies, it's assumed it is rabid. If the dog needs to be seized and it's too aggressive to be housed, it is euthanized and would be sent to the state to be tested. Fearing stated she would not be able to pick up the dog tonight because she didn't have safe accommodations for the dog yet.

Barrows stated there are falsehoods in what has been supplied thus far by Mrs. Yatko and wants to make sure the motion read into the record at the beginning of the meeting gives Fearing the power needed to take the female unspayed dog Zaria. Fearing said if we seize her, she wouldn't be able to put in the population at the pound because of the other dogs there. Stress triggers her aggression and she would not be able to interact with her safely. Blair asked the Animal Control Officer what she proposed. She stated if someone didn't come forward that could house the dog safely and be a responsible pet owner and make sure she doesn't attack or bite anybody, without other options, she would have to recommend the dog be brought to a veterinarian to be humanely euthanized and that could only occur in the morning. She believed the dog is safely contained but she was concerned that the dog might disappear. Blair was concerned about leaving a dog in an apartment where it has no right to be there, the Animal Control Officer can't enter yet and the dog can't be taken to the pound. He was uncomfortable leaving the dog in an apartment where anyone could walk in. Fearing mentioned the option of going to Wachusett Animal Hospital with the dog if this is to be addressed tonight. They are open after hours and on call. Kreidler said if the Board's motion is for the Animal Control Officer to seize the dog and it is not turned over willingly, you would need to receive a court order, which could be done tomorrow. The Board was discussing what could be done legally this evening to protect the public when Mr. Sean Magee came into the meeting room at 6:24 p.m. He stated the apartment is not abandoned. The building the dog is in is not abandoned. He said Kathy and Derek also live there. He disclosed Kathy was his sister-in-law and she told him she was bit from another dog, not Zaria. He said the building is far from being abandoned. His in-laws live there but are in Florida. When asked by Blair who is legally responsible for the dog, Mr. Magee replied Derek and Kathy Yatko. Kathy is in the hospital, he said, and Derek is on his way to see what he can do. He said the dog is well taken care of and is a sweetheart. Blair asked if he will take legal responsibility of the dog and he replied he would. A discussion took place about who resided at that apartment. Mr. Magee said Kathy and Derek do but currently they are separated. They split up for a little bit. Kathy rents that apartment and his in-laws live upstairs. Fearing

told Mr. Magee she has a problem with his statements. When she went to court with Kathy recently, she had said she lived in Webster and was no longer living in Winchendon and she was not assuming responsibility with any dogs and that Derek would be responsible for licensing and vaccinating the dogs. Kathy also said they were splitting up, getting divorced and no longer living there. Now you say, as of yesterday, she's back in town going to be living there and has Zaria back. She claimed in Court that she no longer owned the dog. She lied yesterday saying the dog's name was Buddy but admitted to the driver yesterday that her own dog bit her. Fearing said she is trying to sort through all this information. Mr. Magee said this apartment is not abandoned. Fearing stated her concern is the dog's aggression. Barrows mentioned the reports received by the Webster Police Dept. and the several incidents with this dog. There is a concern about this dog that might get out of control of that family member and a responsibility of this Board to protect everyone. Magee said the Board should wait until Kathy is out of the hospital giving her the right to speak. Magee said the dog is currently being taken care of by his brother and sister-in-law upstairs. Fearing said she was told by a family member that they didn't want anything to do with it except to feed and let her go out to potty. She stated a muzzle order has been instilled. Barrows said the Police Report also said that the family does not wish to be involved. Hunt was concerned why Kathy has this dog; it appears she gave it up to Derek. Kreidler asked Mr. Magee what he meant by "Derek is somewhere seeing what he can do." He's trying to help Kathy out because this dog is all that she has.

Blair commented, Kathy who cares for this dog hasn't vaccinated or licensed this dog and said she doesn't own it and three people have been bitten by it. Mr. Magee responded he's not concerned about this dog; he's a pit bull lover. After Hunt's inquiry, Magee said he'd take the responsibility of this dog. Barrows confirmed with the Animal Control Officer, because a dog bite occurred and because we don't have confirmation on the vaccine status on the animal, the ten day quarantine applies. During that time, the Board could schedule a hearing and Kathy could be present. Hunt is concerned about the quarantine, not wanting neighbors to be at risk and seriously told Mr. Magee to care for the dog himself making sure to muzzle him when walked or the Board will have to take the dog. Magee agreed to feed the dog and walk her using a muzzle. Fearing doesn't want to put the dog to sleep but needs the dog to be safely managed and to not disappear. Blair asked Magee to be responsible for this dog and to see that nobody takes it and leaves town. Magee said he just came from home, he'll go right there after the meeting and if it's there...Blair said this dog has to be licensed and vaccinated and she needs to do it quickly. Fearing mentioned she has been chasing both Kathy and Derek to adhere to the law. She's concerned with her coming back in to the situation and continuing to make lies and put people, including herself, at risk. Magee said he will go there when he leaves here tonight and if she's there, he will walk her...Hunt questioned, "If she's there?" Magee said, well I don't know I came from home. Blair said if she is not at that apartment, you have the responsibility to let us know right away.

Kreidler wanted the record to reflect there is an active order from this Board authorizing the Animal Control Officer to seize this dog. Short of seizing the dog, the understanding is that Sean Magee is the family member being the responsible party during the ten day quarantine period and the ten day quarantine period will take place at 236 Front. Sean will see the dog is fed, given water, walked on a leash and muzzled if needed to go to the bathroom and that this Board will publicly give notice of a hearing within the seven days required by law, which could be as soon as Thursday, December 22, 2011 giving Kathy and/or Derek, whoever is claiming ownership of the dog, notice. If any condition of the quarantine has been violated, the Animal Control Officer has the authorization to seize the dog. Barrows moved to affirm the motion with conditions outlined by the Town Manager; Blair seconded. By roll call vote of all aye, the motion carried unanimously.

Barrows moved notice of a Public Hearing to be held on Thursday, December 22, 2011 at 6:00 p.m. in the 4<sup>th</sup> Floor Robinson-Broadhurst Conference Room of Town Hall. Blair seconded. By roll call vote of all aye, the motion carried unanimously.

Blair moved to adjourn; Barrows seconded. By roll call vote of all aye, the meeting adjourned at 6:44 p.m.

Respectfully submitted,

Linda Daigle  
Executive Assistant