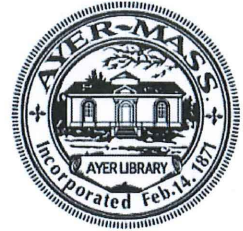


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TOWN OF AYER  
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Town of Ayer  
Ayer Select Board  
Ayer Town Hall – 1<sup>st</sup> Floor Meeting Room  
Ayer, MA 01432



*Broadcast and Recorded by APAC*

**Tuesday, August 31, 2021**  
**Dangerous/Nuisance Dog Public Hearing**  
**Open Session Meeting Minutes**

**SB Present:** Shaun C. Copeland, Chair; Scott A. Houde, Vice-Chair; Jannice L. Livingston, Clerk

**Also Present:** Robert A. Pontbriand, Town Manager  
Carly M. Antonellis, Assistant Town Manager  
Attorney Gregg Corbo, KP Law, Town Counsel  
Police Chief Brian Gill  
Julie Thomas, Animal Control  
Officer Casey Scott, Ayer Police Department  
Estevan Ortiz, Owner of "Roko" and "Bella"  
Margarita Ortiz, Owner of "Roko" and "Bella"

**Call to Order:** S. Copeland reconvened the Select Board at 6pm from an Executive Session which had commenced at 5:45pm.

**Public Hearing – Nuisance or Dangerous Dog (G.L. c. 140, Section 157):**

The Select Board conducted a Public Hearing in accordance with the provision of G.L. c. 140, Section 157 to determine as to whether the dogs known as "Roko", and "Bella" kept at 23 Atherton Street, Ayer, MA are nuisance dogs or dangerous dogs in accordance with Massachusetts General Laws, Chapter 140, Section 157.

S. Copeland stated that the Select Board will first hear from Police Chief Gill, Animal Control, and the Town's witnesses and then will hear from the dogs' owner(s) and then anyone from the public wishing to speak on the matter. He further advised that all testimonies will be under oath.

S. Copeland swore in Police Chief Brian Gill.

Chief Gill testified that there was a serious incident involving the dogs "Roko" and "Bella" on July 31, 2021, in which Ayer Police Officer Casey Scott was seriously bitten by "Roko" on the inner thigh and upper bicep area (Chief Gill submitted official Police Reports to this effect including photos of Officer Scott's bite wounds) and has been out of work since. Ayer Dispatch had received a call that there were dogs (rottweilers) loose in the vicinity of "Lazy Mary's" on Littleton Road and that a patron at "Lazy Mary's" had been bitten on the hand by "Roko". When Officer Scott arrived at the scene "Roko", and "Bella" were running around a group of people who were attempting to feed them, and they went into a car. When the Ayer Police Department spoke with Mr. Estevan Ortiz (owner of "Roko" and "Bella") he was unaware the dogs had got out and that the rear door of the house was left open by a family member. He was apologetic. The Animal Control Officer, Julie Thomas ordered that "Roko", and "Bella" be quarantined for ten days based not only on this biting incident but that the dogs have a history of being off leash and loose. The quarantine order also required that the dogs be muzzled when in the back yard for the ten days.

Chief Gill further testified that the Ayer Police Department would later learn that on July 31, 2021, in addition to Officer Scott a total of three people were bit that day by "Roko". Additionally, Animal Control learned that the rabies certificate for "Roko" had expired as of July 19, 2021, prior to the July 31, 2021, incident. These dogs also have a documented history of running at large which the Animal Control Officer can speak to, but one incident involved the

dogs being picked up on Route 2 in which a woman had the dogs hop into her care and "Roko" bite. It appears that both dogs have a history of getting loose and running at large and that "Roko" has a history of biting people. It appears that there is no evidence of "Bella" biting anyone.

S. Copeland asked when the Route 2 incident occurred?

Chief Gill advised that it occurred on November 14, 2020.

J. Livingston stated that Route 2 is at least two to three miles from their residence and a considerable distance for these dogs to be loose.

S. Copeland swore in Julie Thomas, Animal Control Officer for the Town of Ayer.

J. Thomas stated that she is aware of "Roko" and "Bella" as they have a history of being loose. She advised that there are six formally documented incidents of "Roko" and "Bella" being loose dating back to June 23, 2020, and including separate incidents on November 14, 2020; January 31, 2021; April 17, 2021; May 12, 2021; May 12, 2021; and the July 31, 2021, incident. Citations were given in the last five instances.

S. Houde asked what the fine for a citation was.

J. Thomas stated that the fine is \$15 per day per incident and all fines were paid in this matter.

J. Thomas further stated that in her professional opinion these instances have been escalating and that in the case of "Roko" he is the dog that bites. In addition to the formal citations issued, J. Thomas stated that she advised the owners that "Roko" should be muzzled when outside. After the July 31, 2021, incidents, I advised the owners to the importance of keeping these dogs inside and that Mr. Estevan personally take "Roko" out as he is a strong dog and should be always under control on a leash with a muzzle. She also stated that she is aware of a lot of "chatter" on social media regarding the owner and these two dogs including that there was another man that was bitten before the call on the day of July 31, 2021.

J. Livingston asked if "Bella" has ever bitten anyone?

J. Thomas advised that to her knowledge, no.

J. Livingston stated that it appears "Roko" is the aggressor and "Bella" seems to be a follower and just along for the ride.

Attorney Gregg Corbo asked J. Thomas to state her qualifications as Animal Control Officer for the record.

J. Thomas stated that she has been the Animal Control Officer for the Town of Ayer for five years. She has completed the Massachusetts Animal Control Training and is up to date on her required continuing education credits for the position.

G. Corbo asked J. Thomas if she would consider "Roko" to be a dangerous dog.

J. Thomas stated yes.

G. Corbo asked J. Thomas if she thought that "Roko" would most likely bite again.

J. Thomas stated yes.

G. Corbo asked J. Thomas if she thought that training for "Roko" would cure this biting.

J. Thomas stated that she was unsure. She also stated that she does not believe Mr. Estevan Ortiz "gets it" in terms of how dangerous "Roko" can be.

G. Corbo asked J. Thomas if she knew how many people lived with the dogs.

J. Thomas stated that in addition to Mr. Ortiz and his wife she believes that they have two teenaged boys who live there.

G. Corbo asked J. Thomas if the yard where the dogs live is fenced in.

J. Thomas advised that it is a fenced in yard. There is a stockade fence and a chain link fence.

J. Livingston stated that she thinks that "Bella" could be trained. She is a "follower". She is following "Roko" around and to get in the car.

S. Houde asked for clarification on the quarantine order issued.

J. Thomas stated that the order requires "Roko" and "Bella" to remain on the owner's property, preferably inside and to be muzzled.

S. Copeland swore in Ayer Police Officer Casey Scott.

Officer Scott provided an overview of the July 31, 2021, incident which he responded to involving "Roko" and "Bella" referencing his Police Report for that day as submitted to the Select Board. He stated that when he reached for "Roko's" collar to put on a leash he growled and bit my left upper thigh close to my groin. When I attempted to get away the dog then bit my right bicep. I was able to pull my taser out and kept it pointed at the dog. The dog then calmed down and walked away.

Attorney Gregg Corbo asked if Officer Scott wrote the police report submitted to the Select Board.

Officer Scott stated yes.

S. Copeland asked if prior to the July 31, 2021, incident, were you familiar with the dogs?

Officer Scott said no.

J. Livingston asked how "Bella" acted during this event.

Officer Scott stated that she was fine.

S. Copeland asked if the people at the scene were familiar with the dog.

Officer Scott stated he did not believe so.

Officer Scott referenced the photos of his injuries and stated that he has a large bruise and scratch on his left upper thigh near his groin as well as teeth marks and a lump in his arm (right bicep). He has not been able to return to work and at this time he is waiting to find out if he will need rabies shots.

S. Copeland swore in Mr. Jonathan William of 5 Willard Street, Ayer.

Mr. Williams stated that on July 31, 2021, he was tending his garden and went inside to get water. When he came back outside there were two dogs ("Roko" and "Bella") in his backyard. They seemed friendly and playful. I left them smell my hand. I wanted to keep them out of the road. I reached for the collar on "Roko" to see if there was any identification and I was bit on the hand. It happened so fast, and I was bleeding. I yelled at the dogs to get away.

Attorney Corbo asked Mr. Williams how far Atherton Street is from his house on Willard Street.

Mr. Williams stated less than a mile.

Attorney Corbo asked if he had ever seen these dogs before or since the incident.

Mr. Williams stated no. He further stated that he did not seek medical attention for the bit.

S. Copeland asked if there were any other witnesses for the Town. There were not.

S. Copeland swore in Estavan Ortiz the owner of "Roko" and "Bella"

Mr. Ortiz stated that he was very sorry for what happened. He was not aware that the dogs had gotten out as he works third shift and was sleeping until there was a knocking on the door and it was Animal Control and an Ayer Police Officer. He has a chain link fence and stockade fence. Before the chain link fence there was just the stockade fence and the dogs had dug under that near the pool, that is we put in the chain link fence. They are good dogs and our kids have played with them. We have done everything possible, but they do get out.

Attorney Corbo asked if the fence and/or the pen have any holes and for clarification about the 3-season porch on the hours.

Mr. Ortiz advised that there had been holes in the stockade fence which were fixed and then the chain link fence was installed because they would dig out. The three-season porch is open to the house but has an outside door.

Attorney Corbo stated to Mr. Ortiz, you have heard the testimony, how do you explain it?

Mr. Ortiz stated that he never had any issues like this with them. It depends on the mannerism toward the dogs. He has reached for dogs at Petco, and they can snip.

Attorney Corbo asked for clarification about the dogs ages and rabies status.

Mr. Ortiz advised that "Bella" is three and "Roko" is four. Roko is greeting the rabies vaccination on Saturday.

Attorney Corbo asked if "Roko" or "Bella" have had a formal training.

Mr. Ortiz stated just by him.

There were no other witnesses for the dog owners.

The Select Board entered deliberations at the meeting.

Attorney Corbo provided an overview of the Select Board's options under the law and advised that generally the deliberations are a two-part process: first, determine if each dog is either a nuisance or dangerous dog and then secondly determine a remedy.

J. Livingston stated that "Bella" should have to wear a muzzle as a precaution. She is not dangerous but more of a nuisance. She has not bitten anyone and seems to just be a follower to "Roko". She is also spayed so that is good.

S. Houde state that he agreed with J. Livingston and that "Bella" is a nuisance dog but not a dangerous dog.

S. Copeland also agreed that "Bella" is a nuisance dog but not a dangerous dog.

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to designate “Bella” as a nuisance dog. **Motion passed 3-0.**

J. Livingston stated that she is very concerned about “Roko’s” escalation of behavior and that he bites.

S. Houde stated that he is not only concerned that “Roko” tends to go into cars but that he is aggressive and bites.

S. Copeland stated that “Roko” bit Officer Scott twice just on July 31, 2021, alone and they were sever bites.

J. Livingston stated that “Roko” is not safe around people, especially the public who he does not know.

S. Houde also stated that he is very concerned that “Roko” gets out so much and the owner does not seem too concerned, especially given “Roko’s” aggressive behavior.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to designate “Roko” as a dangerous dog. **Motion passed 3-0.**

Attorney Corbo advised that the options the Select Board has under the law for remedies are as follows:

- Restrain the dog(s)
- Confine the dog(s)
- Muzzle/chain the dog(s)
- Require the homeowner to carry up to \$100,000 in insurance
- Owner chip the dog(s)
- The dog(s) be fixed
- The dog(s) undergo certified training
- The dog(s) be euthanized

S. Houde stated that the root casus of this is that that dogs escape. They should be confined to the premise, restrained, and muzzled.

J. Livingston stated they should undergo training as well. S. Houde agreed.

S. Copeland stated that the dogs need to be muzzled.

Attorney Corbo suggested that those dogs also be muzzled when on the 3-seaons porch.

S. Houde stated that the training should be stipulat4ed with an assessment to the Town for dangerous dog training.

S. Copeland stated that he also likes the insurance stipulation as well as the neuter option for “Roko” since he is not fixed.

The Select Board defined the following conditions of the order for “Roko” and “Bella” as follows:

1. The owners have fourteen days to identify a certified dog trainer to conduct an assessment on “Roko” and “Bella” and provide that information to the Animal Control Officer.
2. The dogs must complete the training within thirty days after approval by the Animal Control Officer.
3. The training plan and completion of must be submitted to the Animal Control Officer.
4. The training plan must be completed, and the Animal Control Officer has some flexibility to update the plan as needed.

5. The owners must ensure that the current pen has the sides imbedded into the ground.
6. The inner door to the kitchen from the 3-season porch must have an automated spring/closing mechanism.
7. The outer gate must have an automated spring mechanism.
8. The dogs are to be always muzzled and to be walked by Mr. Ortiz only.
9. The owners must provide proof of \$100,000 in insurance coverage for the dogs within 30 days.
10. "Roko" must be neutered within 60 days.
11. "Roko" and "Bella" must be fully vaccinated, and the vaccinations must be kept current.

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to issue the above stated remedies in a formal order to the owners of "Roko" and "Bella". **Motion passed 3-0.**

**Motion:** A motion was made by J. Livingston and seconded by S. Houde to close the Public Hearing. **Motion passed 3-0.**

**Motion:** A motion was made by S. Houde and seconded by J. Livingston to adjourn. **Motion passed 3-0.**

The meeting adjourned at 7:49pm.

Date Minutes Approved by SB: 10/5/2021

Signature Indicating Approval: 