

**HARRIS COUNTY BOARD OF COMMISSIONERS
APPEAL HEARING OF CHARLES T. "TOM" HASKELL
REGARDING CLASSIFICATION OF DOG
AS DANGEROUS DOG**

December 2, 2014

6:00 PM

Commissioners Present: J. Harry Lange, Joey Loudermilk, Becky Langston, Jim Woods. Absent: Martha Chewning. Staff Present: Greg Wood, County Manager; John Taylor, County Attorney; Nancy D. McMichael, County Clerk.

CALL TO ORDER. Chairman Lange called the Hearing to order, said that it was regarding the "dangerous dog" classification of a dog owned by Charles T. "Tom" Haskell, and asked John Taylor, County Attorney, to conduct the hearing.

HEARING. Mr. Taylor said that this is an appeal hearing under the Animal Control Ordinance regarding the "dangerous dog" classification of a dog under the Ordinance. He explained the procedures and definition of a dangerous dog.

Mr. Taylor submitted as evidence Exhibits A-F, and then swore in Clyde Geter, III, Animal Control Officer, and Charles T. "Tom" Haskell. (Exhibits can be found in "Miscellaneous Documents" file as MD# 14-20.)

Clyde Geter, III, Animal Control Officer, in response to questions from Mr. Taylor, explained that the complaint made by Candice Kruszka, dated September 12, 2014, had been investigated by his former Animal Control Assistant Natalie Setka; that Ms. Setka is no longer employed by the County; that the complaint indicates that a dog, owned by Mr. Haskell, bit Ms. Kruszka's son and that it bit her older son a year ago; that Sandy Wilson, with the Health Department, verified that the same dog was involved in both bite cases; that the Health Department gets involved when a person's skin is broken by the dog bite; that based on what Ms. Setka determined, a notice was sent to Mr. Haskell classifying his dog as dangerous; and that the dog is a bull breed, which is anything from a Boston terrier to a boxer.

Mr. Taylor asked Mr. Haskell if he had any questions for Mr. Geter. Mr. Haskell asked Mr. Geter if he was sure that the same dog was involved in both bites, to which Mr. Geter said that he was based on the information provided by Sandy Wilson.

There being no questions from the Board, Mr. Taylor asked Candice Kruszka to take a seat at the table and swore her in. He then asked her to explain what led to the complaint about Mr. Haskell's dog.

Ms. Kruszka said that a year ago, her 13-year-old son, came home from the bus stop saying that he had been bit by the dog, Rex; that she filed a report; that she did not follow through with anything because she likes Mr. Haskell's son, Charlie; that in September of this year, her 8-year-old son, came home and told her about five hours later that he had been bit by Rex; that she has another son, who is autistic, and she doesn't want to take the chance of him being bit; that in order to get to the bus stop, her children have to go by Mr. Haskell's house; that the dog runs and barks at people when they are in front of the house, in the street. In response to questions Ms. Kruszka said that some of the children throw rocks and sticks at the dog, because he runs at them; that she has two dogs that do not run free; that she found out about her 8-year-old's injury about 10 at night, since he delayed telling her when it happened around 5:00 PM; that she lives across and down the street from Mr. Haskell; and that her children, to the best of her belief, have not thrown sticks or rocks at the dog or provoked the dog.

There being no further questions from the Board, Mr. Taylor asked Mr. Haskell if he has any questions for Ms. Kruszka. Mr. Haskell asked Ms. Kruszka if she was positive that the same dog was involved in both incidents, to which Ms. Kruszka replied that she was sure.

Mr. Taylor then asked Mr. Haskell to tell the Board his version of what happened. Mr. Haskell said that Rex had bitten Ms. Kruszka's older son last year, for which he offered to pay medical and replacement clothing expenses; that there is another dog in the neighborhood that looks exactly like Rex; that his wife has observed the neighborhood kids throwing rocks and sticks at his dog; that many dogs in the neighborhood run free; that in September of this year, his son saw Rex knock down Ms. Kruszka's 8-year-old son, but he wasn't aware of a bite; that Rex was quarantined in both incidents for 10 days; that Rex is normally very gentle and weighs 56-58 pounds; that his wife keeps Rex inside until about 7:30 or 8:00 AM and then puts him in the back yard on a run; that the back yard is

surrounded by a four-foot fence; that the run is rated for 250 pounds; that they keep Rex under control; that if he has to meet the requirements for keeping a dangerous dog, he'll have to put Rex down; that Rex is not allowed to run free; and that Rex has slipped past him and his wife on occasion at which time they catch him.

At this point, Commissioner Langston asked Mr. Geter about the requirements for keeping a dangerous dog. Mr. Geter said that the requirements include an area where the dog cannot dig under or jump over, the wearing of a distinctive orange collar with a numbered identification tag, the posting of a \$15,000 insurance policy or surety bond, the posting of a sign to let others know there is a dangerous dog on the property, and registration of the dog for a \$30 fee on an annual basis.

In continuing to respond to questions, Mr. Haskell said that during the two incidents, the boys were not on his property; that he hasn't seen any of what has been described because he goes to work early and gets home at dark; that his wife has observed Ms. Kruszka's children throwing rocks and sticks at the dog; that he got Rex in 2009 and is about five and a half years old; that Orbit Street ends in a circle (cul-de-sac) and his house is before you get to the circle; that there is about 80 to 90 acres of undeveloped land behind his property; and that since the September incident, Rex has slipped past him one time, but he called Rex and he returned.

There being no further comments or questions, Mr. Taylor asked Mr. Haskell if he wanted to submit his wife's written statement into evidence, to which Mr. Haskell responded that he did. Mr. Taylor said that the written statement would be marked "R-1" and submitted as evidence. He then asked Mr. Haskell if he had any closing statements. Mr. Haskell said that he would like to have the appeal granted; that if the grant is denied it will make it difficult to keep the dog; and that they keep Rex in the house or in the back yard and under supervision as best as possible. (The aforementioned evidence can be found in "Miscellaneous Documents" file as part of MD #14-20.)

Mr. Taylor asked Mr. Geter if he had any closing statements, and Mr. Geter said that he did not.

There being no further comments, Mr. Taylor reminded the Board that it could deny the appeal and uphold the dangerous dog classification or grant the appeal. He then reviewed the requirements for owning a dangerous dog.

Chairman Lange closed the hearing and delayed asking for a motion until he and Commissioner Woods had an opportunity to read the written statement of Mrs. Haskell, which had been submitted and reviewed by Commissioners Langston and Loudermilk. After a short while, Chairman Lange asked for a motion.

Commissioner Loudermilk said there have been many hearings over the years and it is usually pretty clear one way or the other; that this is one of the closest cases based on the evidence; that he sympathizes with Ms. Kruszka's situation and does not want any child bitten by dogs; and that in this situation there is hearsay evidence as far as provocation, which we usually don't have. He then made the motion to grant the appeal. The motion was seconded by Commissioner Woods.

Chairman Lange said that he shares Commissioner Loudermilk's opinion; that this is not an open and closed case; that children in the neighborhood have perhaps thrown sticks and rocks, which is provocation, but whether at this particular incident or not, he does not know; that dogs do remember things; that it is hard to teach children sometimes that there are consequences to their actions; that on the other hand, a dog uses the only thing they know do to when they have been attacked or provoked, and that is with their claws and teeth; that this is a tough decision. There being no further comments, he asked for a vote on the motion to grant the appeal.

The motion to grant the appeal passed with three in favor (Loudermilk, Woods, Lange) and one opposed (Langston).

Commissioner Loudermilk advised Mr. Haskell that the appeal has been granted, but another incident cannot happen again; and that if it does, the result will be different next time. Chairman Lange said that this was two strikes and only because of questions as to provocation, but the third time will be it.

ADJOURNMENT

Attest:

J. Harry Lange, Chairman

Nancy D. McMichael, County Clerk