



HEARINGS COMMITTEE (DOG HEARING)

Open Minutes

Meeting Date: Thursday 5 April 2018

Time: 2.00pm – 3.07pm

Venue Small Exhibition Hall
Napier Conference Centre
Marine Parade
Napier

Present Councillor Jeffery (In the Chair) Councillors Taylor and White

In Attendance Director City Services, Manager Regulatory Solutions, Team Leader Animal Control

Administration Governance Team

Apologies

Nil

Conflicts of interest

Nil

Public forum

Nil

Announcements by the Chairperson

Nil

Announcements by the management

Nil

AGENDA ITEMS

1. OBJECTION TO CLASSIFICATION OF DOG UNDER SECTION 33A OF THE DOG CONTROL ACT 1996

<i>Type of Report:</i>	Legal
<i>Legal Reference:</i>	Dog Control Act 1996
<i>Document ID:</i>	455696
<i>Reporting Officer/s & Unit:</i>	Richard Munneke, Director City Strategy

1.1 Purpose of Report

The Hearings Committee has been delegated, by Council, the power to hear, consider and decide objections made under section 33B of the Dog Control Act 1996 ('the Act').

An objection has been made in response to an animal being classified as a menacing dog under s33A of the Act, by Joe, Roliza and Devon Grobler, thus a hearing is required.

At the Meeting

The Chair introduced the attendees of the Hearing and provided an outline of the structure of the proceedings. The Manager Regulatory Solutions was then invited to present Council's case.

Council Officer's Report – Ms Hayleigh Brereton and Mr David Whyte

Ms Brereton spoke to the Officer's report, providing an overview of the incident on 15 September 2017 involving the dog "Rosie", whereby Rosie was off-lead in an on-lead area and attacked another dog "Sally", biting her on the shoulder.

The appellant Mr Joe Rountree joined the Hearing at 2.07pm

It was noted that "Rosie" was unregistered at the time of the attack, and was not registered until after the classification as menacing under the Dog Control Act 1996; the dog was registered in December 2017.

Prior to the attack, there were two instances of roaming recorded in February and May 2017. Rosie was impounded following the second instance of roaming; the animal control officer attempted to return her to her property but found no secure area to house her. It was noted that the instances of roaming are considered a contributor to the classification due to concerns around a possible attack if loose, but on their own would not be enough to trigger the classification as menacing.

The attack incurred an infringement notice for failure to control the dog; this remains unpaid and has now been referred to the Ministry of Justice.

It was noted that the attack was not immediately reported to Council. When reported, an attack matrix was completed, as recommended under best practice guidelines. The attack matrix scoring was reviewed by the Manager Regulatory Solutions and the Team

Leader Animal Control. Adjustments were made to two scores following this review and in light of further information then available. The Animal Control Officer had not interviewed the victim at the time of the original matrix scoring. The Team Leader Animal Control subsequently spoke to the victim and two scores were adjusted upwards: the victim impact and damages. The damages in question encompassed the vet bill incurred following the attack.

The appellant Ms Roliza Grobler joined the Hearing at 2.13pm.

The victim's representative Ms Toni Smithers joined the Hearing at 2.13pm.

The information presented to date was briefly reviewed for the benefit of the late attendees.

The Officer's advised that the area where the attack took place is an 'on-lead' dog walking area. Signage is in place at both entry points, and information on dog walking areas is available online and at the Council offices. It is the responsibility of all dog owners to ensure that they are clear on the expectations for each area where a dog may go.

It was advised that the owners of "Rosie" moved house in mid-2017 to a property with more secure fencing, following which no further examples of roaming have been noted.

The owners had advised that formal behavioural training would be undertaken with 'Rosie' but no evidence has been provided that this has occurred.

In response to questions from the Panel, it was clarified that when there has been an unprovoked attack on another dog, it is always a possibility that another similar incident will occur, depending on the level of reward the dog has experienced. Mr Whyte advised that of particular concern was the lack of control of "Rosie" by her owners.

Appellants – Ms Roliza Grobler and Mr Joe Rountree

At the invitation of the Chair, the Appellants made the following points:

- Mr Rountree and Ms Grobler accept the infringement notice and acknowledged that the attack occurred.
 - It was alleged that the victim's statement was not entirely true; that they had been very close behind 'Rosie', and had shaking or pulling away of the two dogs occurred that the smaller dog would have experienced much more damage.
 - It was admitted that "Rosie" is a young, under-socialised dog, but they do not believe she is menacing. She is a very friendly dog.
 - They are aware that the victim had been involved in an earlier very vicious dog attack and felt that this may have coloured her response to and reporting of the incident.
 - The Animal Control Officer had advised that in their view the incident was not a significant one and it came as a surprise when the classification was then received. However, it was also noted that the Animal Control Officer had passed on conflicting messaging around the severity of the incident which had been confusing.
 - Mr Rountree and Ms Grobler have not been able to afford formal behavioural training.
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- They acknowledged that they agreed it was best to keep “Rosie” muzzled in public but were concerned about the implications of the classification for her future.

In response to questions from the Panel, it was clarified that:

- There have been no incidents of roaming since they moved house to a property with better fencing.
- Although they cannot afford formal behavioural training, they have been working with Rosie themselves and using online guides.
- The vet bill has not been paid as they were waiting on the results of this Hearing. They had also had some concerns to confirm that the treatment provided were relevant to and only due to the attack; a full vet report had taken some time to be received.
- They had assumed that the beach was an off-lead area as they had seen other owners with dogs off lead, but acknowledged that they should have better schooled themselves on this matter.

In response to questions, the Team Leader Animal Control advised that:

- He had met the dog “Rosie” when visiting the property on an unrelated matter. He noted that the dog presented as friendly towards people; however, the matter under discussion was related to an attack on another dog.
- He noted that the owner was unable to control “Rosie” during that visit; “Rosie” moved out of the front of the house during the visit and did not respond at all to the owners calls to return.
- He advised that Animal Control Officer who had originally liaised with “Rosie’s” owners was no longer employed by Napier City Council.
- He had observed an abrasive wound by the neck of the dog “Sally”, but not puncture wounds.

Victim’s Representative – Ms Toni Smithers

At the invitation of the Chair, the Victim’s Representative made the following points:

- At the time of the attack she had been walking the dog “Sally” along the grassy strip above the foreshore beach. “Rosie” had come at speed over the rocks and bitten “Sally”. Ms Smithers grabbed ‘Rosie’s’ collar, was shaking her and yelling at the owners to remove their dog. It took them some time to climb the rocks as would be expected – it is quite a large embankment.
 - She did not scream before the attack but was certainly “quite hysterical” when the owners did arrive. She was very shaken and concerned about “Rosie’s” breed and whether she had locked on to “Sally”.
 - The incident happened extremely fast and was unprovoked. Both she and “Sally” had experienced high levels of stress in relation to the incident. “Sally” was scared of people and other dogs.
 - The dog “Sally” had been taken to the vet first thing on the morning following the attack; although concerned, the owner had not believed the injuries warranted an emergency vet visit.
 - There was no reason other than the attack injuries to take “Sally” to the vet. Ms Smithers noted that “Sally” is a long haired wire terrier and the hair around her neck may have helped protect her from worse injury but also made it difficult to see the extent of the wounds on the first evening.
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- Ms Smithers had paid the bill at the time of the visit, expecting that the total would be reimbursed by the owners of “Rosie” as had been indicated by them. She had provided her account details to Mr Rountree and Ms Grobler for this to occur.
 - It had been her expectation that the bill would be paid and that would be the end of the matter.

In response to questions from the Panel, it was clarified that:

- “Sally” was on a lead at the time of the attack.
- It had been an extremely stressful experience for the family. Ms Smithers was very sad that the matter required a Hearing; she had hoped that the vet bill would be paid and the matter would be closed as far as their involvement was concerned.

Council Officer’s Review

The Chair requested the Manager Regulatory Solutions to advise whether the statement of the Appellants had led to a re-consideration of council’s recommendation that the disqualification be upheld.

Ms Brereton noted that the appellants had themselves described the dog “Rosie” as being “big”, “bolshy” and “under-socialised”. They have also indicated that they believed a muzzle was required by “Rosie” in public, which is a requirement under the classification.

Ms Brereton stated that there was no new evidence presented today on actions taken by the appellants following the attack that would suggest the recommendation should be altered.

The Hearing moved into Deliberations at 2.58pm

Hearing Panel’s Resolution

Councillors Taylor / White

THAT the classification of ‘Rosie’ as a menacing dog under s33A of the Dog Control Act 1996 be upheld.

Carried

Deliberation Notes

In making its decision, the Panel gave consideration to the following:

- The appellants have acknowledged that the attack took place on 15 September 2017.
 - The appellants have stated that they do not feel confident for the dog “Rosie” to be in public unmuzzled.
 - Multiple instances of failure to control the dog “Rosie” have been noted.
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- While the Panel recognised that the owners of “Rosie” relocated in mid-2017 to a property with more secure fencing, and no instances of roaming have been recorded since that time, that no formal behavioural training has been undertaken with the dog.
 - The injured dog “Sally” required the application of topical antibiotics and the vet records noted that the dog was experiencing a raised temperature. The dog was not ill and the temperature was therefore attributed to the attack injuries.
 - The attack was unprovoked and no guarantees can be made that another similar incident will not occur.

Further Recommendation

The Panel further wish to recommend that the vet bill incurred following the incident of 15 September 2017 is reimbursed to Ms Toni Smithers as soon as practicable.

Right of Appeal

In accordance with section 27 of the Dog Control Act, the Appellants, having now lodged an objection under section 26, may appeal to the District Court against the decision of the Panel should they be dissatisfied with that decision. Any appeal must take place within 14 days of being notified of the Panel’s decision.

The District Court, in hearing the appeal, shall consider the matters specified in section 26(3) of the Dog Control Act, and any submission by the territorial authority in support of its decision, and may uphold the determination, bring forward the date of termination, or immediately terminate the disqualification.

The Hearing closed at 3.07pm

Approved and adopted as a true and accurate record of the meeting.

Chairperson

Date of approval