



THE CORPORATION OF
HALDIMAND COUNTY

SPECIAL COUNCIL MINUTES

DATE: August 31, 2015

TIME: 4:00 p.m.

PLACE: Cayuga Municipal Administration Building, Council Chambers

PRESENT:

Council	K. Hewitt	Mayor
	L. Bartlett	Councillor
	F. Morison	Councillor
	T. Dalimonte	Councillor
	R. Shirton	Councillor
	B. Corbett	Councillor
SMT	D. Boyle	Chief Administrative Officer
	C. Manley	General Manager, Planning & Economic Development
Staff	R. Charlton	Manager, Building & By-law Enforcement
Clerk	J. Shaw	Deputy Clerk

CALL TO ORDER

Mayor Hewitt called the Council meeting to order.

ROLL CALL

The Mayor and all Members of Council were in attendance except Councillor Grice who was absent due to personal reasons.

DISCLOSURES OF PECUNIARY INTEREST

None.

NEW BUSINESS

In accordance with the provisions of the *Statutory Powers and Procedure Act*, R.S.O. 1990, Ch. S. 22, and the County's Animal Control By-law 1396/13, a hearing of the County's Appeals Committee commenced with respect to an Appeal of a Notice to Muzzle issued to Phil and Renata LeRoux by the Welland and District SPCA under Section 110 of said By-law.

The items were presented as evidence in the hearing:

- 1) Welland and District Humane Society Incident # 10006, Dangerous Dog Appeal Brief

- 2) Letter of Appeal dated June 11, 2015 from Appellants, Phil and Renata LeRoux
- 3) Notice of Hearing dated August 19, 2015
- 4) Haldimand County Animal Control By-law 1396/13
- 5) PowerPoint Presentation from Randy Charlton, Manager, Building & By-law Enforcement dated August 31, 2015

(b) Hearing Procedure

- 1) Overview of Hearing Procedure – Randy Charlton, Manager, Building & By-law Enforcement
- 2) Randy Charlton – Presenter of Facts

Mr. Charlton noted that this is the first appeal that has been held under the County's current Animal Control By-law 1396/13, which was enacted in 2013. He outlined the procedure for the hearing in terms of presenting evidence and asking questions, and highlighted the relevant provisions in the by-law relating to the subject appeal. Mr. Charlton advised that in accordance with the By-law, Council has the responsibility to deliberate on the matter and make a decision on how the matter should be addressed, which includes determining whether an attack occurred and if so, whether the dog should be muzzled.

- 3) Presentation from the Witness, Robert Bennett

Mr. Bennett identified his address as 709 Concession 1, South Cayuga. He is the owner of two dogs, one Jack Russell Terrier (thirteen years old) and one Shih tzu (three years old). He noted that both dogs are currently licensed with the County and both have been attacked in the past by the appellant's dog, which lives next door to him at 729 Concession 1, South Cayuga. Mr. Bennett advised that a total of three attacks occurred on his dogs last summer resulting in injuries to his dogs that required treatment by a veterinarian. The subject fourth attack on his sister's dog, which was the most severe, occurred within a foot of his neighbour's property in May of 2015. Mr. Bennett voiced concern that the neighbor has not taken steps, to date, to prevent their dog from attacking his dogs, although no further attacks have occurred since the Muzzle Order was issued.

- 4) Questions from Staff, the Appellant and Council

Mr. LeRoux questioned Mr. Bennett on Mr. Bennett's location at the time of the subject attack and whether his dogs bark when the LeRoux's go outside. Mr. Bennett advised that he was not certain on the location of the attack until a property survey was completed which confirmed that the attack took place on the tree line between the two properties. Mr. Bennett confirmed that his dogs do bark at the LeRoux's when they are outside of their house.

Committee members asked Mr. Bennett to confirm the locations of the other three attacks which are not the subject of this hearing. Mr. Bennett advised that both the first and second attacks took place behind his house. The third attack happened on the roadway near the LeRoux's driveway at which time the LeRoux's dog 'jumped' his dogs. Both his dogs were leashed at the time.

In response to further questioning by Committee, Mr. Bennett confirmed that the LeRoux's have not paid for any vet bills for his dogs to date and that he believes their dog to be a vicious dog.

5) Statement and Evidence of Animal Control Officer, John Hoadley with Respect to Service of the Muzzle Order

Mr. Hoadley introduced himself as an Animal Control Officer with the Welland and District SPCA. He noted that his officers became involved in the matter in July 2014 after the third attack occurred. At the time, no enforcement action was taken and the LeRoux's agreed to potentially rehome their Shepherd. No incidents prior to this were reported. In June 2015 he issued the subject Muzzle Order after another attack and advised the LeRoux's of their right to appeal. The conditions to the Muzzle Order were provided to the LeRoux's. Mr. Hoadley indicated that upon visiting the LeRoux's residence, their dog did not display aggression toward himself and he does not believe the dog is aggressive toward humans although it has been deemed dangerous under the County's By-law. He advised that to his knowledge, the LeRoux's dog has not displayed aggression towards any other dogs adding that the dogs that have been bitten have all been small dogs. Mr. Hoadley confirmed that he is not aware of any precautions having been taken by the LeRoux's to control the dog. Since the Muzzle Order's issuance there was a report that it was not being followed but there has been no evidence presented to support this. In his opinion, Mr. Hoadley noted that Shepherds are large breed dogs and the LeRoux's dog could have done considerably more damage than what it did.

6) Questions from Staff, the Appellant and Council

The LeRoux's questioned Mr. Hoadley on why there had been no consultation with them as part of the investigation and why Mr. Hoadley had not used the evidence that Mr. Bennett beat their dog in front of their eleven year old daughter. Mr. Hoadley advised that consultation with the LeRoux's is not part of the investigation process adding that the threshold for evidence was met. He noted that it is very difficult to prosecute someone for beating a dog.

Committee members questioned Mr. Hoadley on his experience with dangerous dogs. Mr. Hoadley stated that he has been an Animal Control Officer for six years working in municipalities through Niagara Region in addition to Haldimand County. He advised that the distinction between a Dangerous Dog verses a Vicious Dog depends on the interpretation of such in the municipality's by-law. He confirmed for Committee that two incidents involving the LeRoux's dog had been reported to the SPCA. There have been no complaints of Mr. Bennett's dogs trespassing onto the LeRoux's property.

In response to further questions from Committee members, Mr. Hoadley commented on the difference between a leash and a muzzle, adding that a muzzle is an independent device that is designed to prevent a dog from biting another dog. It cannot be removed by the dog, but still allows it to breathe and open its mouth.

7) Presentation from the Appellant, Phil and Renata LeRoux

Ms. LeRoux informed Committee that her family has lived at 721 Concession 1, S. Cayuga for the past six years during which time she has witnessed Mr. Bennett's own two dogs coming onto their property several times. Ms. LeRoux advised that Mr. Bennett has one dog that does not bark (Jack Russell Terrier) and one dog (Shih Tzu) that barks aggressively toward her dog. She noted that the first two incidents happened on her property and denied Mr. Bennett's assertion that her dog 'jumped' Mr. Bennett's dogs during the third attack on the road.

On the day of the subject fourth incident she confirmed that her dog got out of the house through a rip in a screen on the back door and acknowledged that she had forgotten to shut the glass door to prevent an escape. After hearing her daughter screaming outside she ran out to find Mr. Bennett on top of her dog, which was on their property. She asserted that if her dog was aggressive, it would have bit Mr. Bennett at that time. Her daughter saw both of Mr. Bennett's dogs as well as his sister's dog come onto their property and was traumatized by the sight of Mr. Bennett beating their dog on the head in front of her.

Ms. LeRoux stated that, like all Shepherds, her dog is a protective dog and that she has tried to rehome the dog but was turned down by rescue organizations. She accepts responsibility for the fourth attack but does not believe her dog should be muzzled or put in a kennel as these changes are hard for a dog of eight years of age to adapt to.

8) Questions from Staff and Council

Committee questioned Ms. LeRoux on whether she had considered an invisible fence for her property. Ms. LeRoux advised that this is something she would be willing to invest in but that it was not permitted under the conditions of the Muzzle Order.

9) Summation by the Appellant

Ms. LeRoux commented on the conditions of the Muzzle Order and the hardship they have created. She noted that the muzzle is very distressing to her dog and prevents the family from walking the dog off their property. She advised that the soil conditions prevent them from burying the required kennel under ground and that the dangerous dog signs will intimidate anyone that comes onto their property such as hydro and gas workers. She added that her dog has never bitten anyone and that she would like to see the Muzzle Order modified to give the dog more freedom. She confirmed that there was once a chain link fence separating the two properties which belonged to her family but that it was removed by Mr. Bennett. She is in agreement to installing an invisible fence but is opposed to installing another chain link fence as this would be quite cost prohibitive due to the large size of the property.

10) Recommendation – Randy Charlton

Mr. Charlton summarized the evidence before Committee, noting that there have been a number of attacks and there is speculation that the subject fourth attack may have occurred on the LeRoux's property. He noted concern that rescue organizations did not want to take in the LeRoux's dog when they attempted to rehome it.

In light of the evidence provided and the additional information provided by the Witness, the Animal Control Officer and the Appellant, Mr. Charlton recommended that the Muzzle Order be upheld as is or until such time as the LeRoux's can ensure that the dog will stay on their property through such measures as, for example, the installation of an invisible fence.

(c) Council Deliberation

At this time, members adopted a procedure to adjourn the hearing at 5:10 p.m. in accordance with the *Statutory Powers and Procedures Act* in order to deliberate the evidence presented by all parties to the appeal. The meeting was reconvened at 5:20 p.m. Members Bartlett and Morison left for the remainder of the meeting.

Prior to rendering their decision on the matter of the Appeal, the Mayor highlighted Council's expectation that both the LeRoux's and Mr. Bennett would install an invisible fence within the parameters of their property to deter further attacks. Both parties have agreed to this undertaking.

(d) Decision

Resolution 188-15

Moved By: Councillor Corbett

Seconded By: Councillor Shirton

WHEREAS a Hearing was held on August 31, 2015 to consider an appeal by Phil and Renata LeRoux to a Notice to Muzzle issued on June 2, 2015 by the Welland & District SPCA with respect to a female black and tan Shepherd type dog known as "Josie";

NOW HEREBY BE IT RESOLVED THAT, after hearing the evidence presented, Council orders the dog be muzzled for 4 months until an invisible fence is installed and the necessary dog training occurs, after which time the muzzle order will expire.

CARRIED (Unanimously 4-0)

CONFIRMING BY-LAW

Resolution 189-15

Moved By: Councillor Shirton

Seconded By: Councillor Corbett

THAT the Confirming By-law be hereby introduced and given a first and second reading.

CARRIED (Unanimously 4-0)

Resolution 190-15

Moved By: Councillor Dalimonte
Seconded By: Councillor Shirton

THAT the Confirming By-law be hereby introduced and given a third and final reading, be signed by the Mayor and the Clerk, the corporate seal affixed thereto and numbered.

CARRIED (Unanimously 4-0)

ADJOURNMENT

Resolution 191-15

Moved By: Councillor Corbett
Seconded By: Councillor Dalimonte

THAT this meeting is now adjourned at 5:22 p.m.

CARRIED (Unanimously 4-0)

MAYOR

ACTING CLERK