

MINUTES

TITLE: Environment and Planning Delegated Committee
DATE: Thursday, 26 May 2011
TIME: 2.30 pm
VENUE: Tasman Council Chamber, 189 Queen Street,
Richmond.

PRESENT: Crs T E Norriss (Chair), S G Bryant, C M Maling

IN ATTENDANCE: Dog Control Officers (J & P Bergman), (A Humphries)
Executive Assistant (V M Gribble)

1 **CLASSIFICATION OF A DOG AS MENACING UNDER SECTION 33A(1) B(1) DOG CONTROL ACT 1996**

Mr and Mrs A Neuman were in attendance.

The hearing related to a complaint received by Council about an attack by a dog which resulted in the dog being classified menacing.

Mr Humphries said Council has classified Spot as a menacing dog which Mr Neuman has appealed. The panel can look at evidence that formed the basis of the original application, any steps Mr Neuman has taken and the reason he has appealed. Spot cannot be at large in a public place unless he is muzzled. Mr Neuman needs to provide a vet's certificate showing that Spot has been neutered. If Spot had been classed as a dangerous dog, there would be an additional fee on registration of 50% each year and classified on the national dangerous dog register.

1.1 **A Neuman**

Mr Neuman objected to the classification and the handling of the process by Tasman District Council. From the beginning of the incident, he has complied with everything the Council requested. He apologised to the person and paid her medical expenses. He believes that because he has complied with everything he was asked to; the menacing dog classification should now be removed.

Mr Humphries said as a dog owner you are legally required to keep your dog under control.

Mr Neuman said he has done everything in his power to satisfy the Council so there's no danger to the public. Once we have complied and Council is satisfied then the whole menacing thing should go away. He didn't know about other complaints that Council had received about Spot rushing another dog. There was no letter writing about the first attack.

Mr Bergman advised he thought he had told Mr Neuman about the previous attack and that that was the reason why he had contacted him. With the latest attack Mr Neuman has put things in place.

Mr Neuman said the Council must notify a dog owner about any complaint that has been made against them. He did not get anything in writing from Council, but acknowledged he was approached by Mr Bergman but he is sure he never knew that there had been an attack.

Mr Bergman said the reason Spot wasn't classified as a menace on the first occasion was because it was doubtful that the person who complained would be willing to give written evidence. When we visit the property we introduce ourselves and say why we are there.

Cr Norriss said if Council had to pay a visit or write a letter to every complaint, some of which are frivolous it would take a lot of time and money.

Mr Neuman said the first case should not be considered.

Cr Norriss said you have admitted the dog has bitten someone, and whether it is the first or second time, this process would have been implemented.

Mr Neuman said had he known about the first incident he would have taken measures back then to prevent the second incident.

Cr Norriss said if it happened again next week and Council was aware it had bitten before and it hadn't done anything and Spot was not listed as a menacing dog then we haven't fulfilled our obligations under the Act. If he's listed as menacing Council is seen as fulfilling its obligations. He said there is no debate over whether Mr Neuman has done everything he can to control Spot.

Mr Neuman said the dog was declared menacing and we've done everything we can which would show the public that Council has done everything. There is no point in keeping the menacing classification for life.

Cr Norriss said with Council's obligations under the Dog Control Act, we have not got a choice about taking it off.

Mr Humphries said he doesn't believe Mr Neuman is a bad dog owner, but he has got a dog that has caused him a problem. He apologised for misunderstanding Mr Neuman's letter. You've done everything you can to keep Spot under control. Council is convinced that you will do what you say, however we don't have the ability to say the dog is not menacing because you're a good owner.

Cr Norriss said under the Act we don't have the ability to remove a menacing dog classification once it is made.

Mr Bergman said we classify the dog and the owner has the right to appeal which is what is happening today.

Cr Maling said there is a real issue about dog control and dogs biting people. There have been so many bad dog attacks on children and there are reasons behind the legislation.

Mr Neuman agreed and understood.

Mr Bergman said Mr Neuman has done all the things we asked and he needs to make sure Spot doesn't get off the property.

Cr Norriss asked what would happen if Spot bit someone next week.

Mr P Bergman said when we consider the classification in almost all cases of dog attacking people, Section 57 is used. In Mr Neuman's case we used failing to control which is the minimum we can do. If we thought the dog was a risk from here we would have impounded it.

Cr Maling said it leaves you with your dog for the rest of his life as long as he behaves.

Mr Neuman said they travel overseas and will have difficulty getting kennels to accept their dog with the menacing dog classification.

Mr Humphries explained that they would have to explain to anyone looking after the dog that there are requirements such as muzzling and containment, however, they would not necessarily have to tell them that the dog was classified as menacing.

**Moved Crs Norriss/Maling
EP11-05-05**

**THAT the Environment and Planning Delegated Committee confirm the menacing dog classification on Spot, a smooth black/tan Collie, owned by Mr Alfred Neuman, 86 Totara View Road, RD 1, Wakefield.
CARRIED**

The hearing concluded at 3.35 pm.

Date Confirmed:

Chair: