

**Selectboard  
Meeting Minutes  
June 28, 2023  
Town Offices  
Hybrid Session via Zoom  
5:30 pm**

The open session of the Selectboard of the Town of Whately was called to order on June 28, 2023, at 5:30 pm by Chairperson Fred Baron. Present was Selectboard member Julie Waggoner via Zoom and Selectboard-elect member Joyce Palmer-Fortune. Town Administrator Brian Domina and Town Clerk Amy Lavallee were present. Police Chief James Sevigne and Animal Control Officer Richard Adamcek were present. Residents Denise Donahue, Chris and Colette Olanyk, Cynthia Allen, Kevin Schnell, Christine Strzegowski, Helena Farrell, Roger Lipton, Michael Mason, Esti McCoy, Mary Shanley-Koeber were also present.

Note: Joyce Palmer-Fortune has been re-elected and is currently out of the country and unable to be sworn-in, making her ineligible to vote on Selectboard matters. On the advice of counsel, Joyce did not participate in the public hearing.

**1. Dog Hearing Pursuant to M.G.L. Chapter 140 § 157: To conduct a public hearing to determine whether a dog owned or kept by Denise Donohue at 100 Haydenville Road, Whately, MA is a nuisance dog or dangerous dog as defined in the statute and Whately General Bylaw Chapter 65 Article 1: Dogs**

Prior to the start of the meeting, Town Administrator Brian Domina provided Ms. Donohue with all written material that was submitted to the Selectboard for the hearing record.

Selectboard Chair Fred Baron opened the meeting at 5:31 pm with a statement regarding the purpose of the hearing and set ground rules for hearing decorum. He explained that the hearing was due to a letter sent to the Selectboard regarding a dog named Miles owned by Denise Donohue at 100 Haydenville road.

Fred called on Chris and Colette Olanyk, the authors of the letter submitted, to state their case. Each witness who spoke during the hearing was sworn in by Town Clerk Amy Lavallee.

Colette Olanyk, 21 Laurel Mountain Road, stated that approximately 1 year ago their 7-year-old son was playing outside when the dog, with a leash attached to it, presented to their son in an aggressive manner. She stated that the dog's owner Denise Donahue of 100 Haydenville Road, had a hard time recalling the dog and appeared to have no control over it. She explained that there was a second incident on April 7, 2023, in which Denise let the dog go onto the Olanyk's property at 21 Laurel Mountain Road and again was not able to recall the dog. Colette stated that she got out of her car, grabbed the leash of the dog and brought it to the owner who did not come onto the property. When Colette tried to hand

the leash to Denise the dog jumped on her, scratching her in several places. She did not seek medical attention. She stated that these are two examples of an ongoing issue and that her children are afraid to play outside because of the dog. Denise responded that she told Colette not to get out of her car so she could retrieve her dog, that the dog is sound sensitive due to an accident, and it is protective of her and was fine until the dog thought Colette was a threat to Denise when she went to hand the leash over. The Olanyks provided additional written testimony from their neighbors to the Selectboard. (Town Administrator Brian Domina provided copies of the written testimony to Ms. Donohue).

Fred called on Richard Adamcek, Animal Control Officer, for testimony regarding the dog. Rick informed the Board that he has received several complaints over the last couple of years. It is his opinion that the owner cannot control the dog on or off of the leash. He does not consider the dog aggressive, however it is large and intimidating. He stated that he has tried to work with the owner on other methods of control or equipment to help with control. Denise stated that she does not have the money for professional training but that the dog has been doing better since he was a puppy. She stated that all of the incidents that were referred to were over a year ago.

Fred called on Police Chief James Sevigne for testimony regarding the dog. Chief Sevigne stated that the incidents being brought forth are not isolated to one specific neighborhood and that the Police have received complaints from neighboring towns regarding the behavior of the dog and owner. Chief Sevigne informed the Board that the owner has stated several times to him that she cannot control the dog to the court and to other police officers. The police log, provided by Chief Sevigne contains 82 calls since March 2022 that involved Denise and her dog. Chief Sevigne considers the dog a nuisance due to the lack of control by the owner. Denise responded that she has a new collar on him to help better control him.

Fred opened the hearing up for additional public comment.

Cynthia Allen, 28 Laurel Mountain Road, stated that 2 ½ weeks ago she came home and found Denise and the dog coming from the back side of her house. Cynthia's spouse asked Denise several times to leave and Denise refused, stating that if she left "the dog would bite him." Cynthia stated that 2 months ago the dog ran through the back of her property unattended and growled and jumped on her spouse and would not respond to verbal commands.

Kevin Schnell, 33 Laurel Mountain Road, stated that the dog has been on his property several times unattended. He spoke with Denise who stated that she could "let the dog off of the leash whenever she wants." Denise also stated to him when confronted about the dog if he "would like to let her dog off the leash." Which he perceived as a threat.

Christine Strzegowski, 39 Laurel Mountain Road, stated that she was picking her daughter up from a hiking trail and the dog ran up to her and jumped and scratched her and she was

unable to get back to her car. She stated that Denise made no attempt to recall the dog. Denise stated that that day was very icy, and she was trying to get to the dog but struggling because of the conditions.

Helena Farrell, 26 Grass Hill Road, stated that she has had 4 separate incidents with the dog entering her property and even entering her home. She stated that she feels the owner uses the dog as a tactic of intimidation.

Roger Lipton, 9 Laurel Mountain Road, stated that he has had Denise at his back door twice asking if he had found items of hers. He stated that the dog was passive. Roger stated that he asked Denise to leave, and she stated that "the dog would come at him if she let go of the leash." He asked if the Board had a legal definition of a nuisance dog. Fred stated that they have one from Town Counsel. Denise responded that these incidents happened last year and that his property is a trailhead so that's why she was looking for items.

Michael Mason, 88 Conway Road, stated he has had several incidents with Denise and the dog on his property. In one incident she let the dog go into his home when his daughter answered the door. She stated to him that she could not control the dog and that it goes where it wants to. He stated that he has told her numerous times that she is not allowed on his property, but she keeps coming back. He stated that he considers the dog dangerous. He does not want the dog euthanized. Denise stated that these incidents happened over a year ago and that the property owner at one point pointed a gun at her and she hasn't been on his property with the dog since.

Esti McCoy, 4 Strippe Road, stated that she has had several incidents with the dog. It jumped on her and scratched her twice. She has seen the owner and dog on her security cameras on her property several times. She stated that her children are afraid to play outside.

Mary Shanley-Koeber, 12 Grass Hill Road, stated that Denise knocked on her back door and stated that her dog was chasing a cat and she couldn't get him back. Mary went onto the back deck where the dog jumped up on her and pushed her back onto her deck railing and would not let her get back into her house. She stated that she felt the dog seemed anxious and unsure.

At 6:52 pm Fred closed the public comment portion of the public hearing.

Fred and Julie discussed the evidence and testimony provided at the public hearing.

Fred stated that based on the totality of the evidence, written and oral, he would move that the dog be declared a dangerous dog. Julie stated her opinion that oftentimes people don't understand how other people perceive their animals and oftentimes what pet owners think of as rather harmless behavior is actually quite scary and intimidating for others. Fred made a motion that the dog Miles owned by Denise Donohue be deemed a dangerous dog within the meaning of the statute because the dog behaves in a manner that a reasonable person

would believe poses an unjustified imminent threat of physical injury or death to a person or to a domestic or owned animal.” Julie seconded the motion. All in favor. Julie – yes, Fred – yes.

The Board discussed remedial actions that it could take to address the behavior of the dog. Fred and Julie discussed possibly fixing the dog in an attempt to lower its aggressiveness and discussed whether the property at 100 Haydenville Road was of sufficient size for the dog to be restricted to the property. Fred made a motion that the dog Miles be “confined to the property at 100 Haydenville Road” in order to prevent Miles from threatening or being perceived to threaten other people in the community. Julie seconded the motion. All in favor. Julie – yes, Fred – yes.

Town Administrator Brian Domina will write up the Order for the Board to sign and then send it to Ms. Donohue.

Motion to Adjourn at 7:10 pm. Motion seconded. Hearing adjourned.

#### Document List

1. *Olanyk Complaint received May 31, 2013*
2. *Farrell Complaint received June 5, 2023*
3. *Allen Complaint received June 12, 2023*
4. *Lipton Complaint received June 13, 2023*
5. *Memorandum from Police Chief dated June 12, 2023*
6. *Town of Whately – Dog License Records (License # 215 for Miles) (Owner – Denise Donohue, 100 Haydenville Road, West Whately, MA 01039*
7. *Animal Control Daily Log with relevant entries from 03/19/22, 03/22/22 (x2), 11/19/22, 01/26/23, 01/27/23 (x2)*
8. *Notice of Dog Hearing – Issued June 14, 2023*
9. *M.G.L. Chapter 140 §§ 157, 157A*
10. *Whately General Bylaws – Chapter 65 – Animals, Article 1 – Dogs*
11. *Animal Control Daily Log with relevant entries from 4/05/23, 4/07/23, 4/20/23, 6/12/23*
12. *Collette Olanyk medical record*
13. *Carol Ryan Statement*
14. *Christine Strzegowski Statement*
15. *Heather & Henry Frechette*
16. *Lola Stone – Statement*
17. *David Chez – Statement*
18. *Allen Steele – Statement*
19. *Mike & Shelby Liebenow Statement*
20. *Kristina & Rob Libon – Statement*
21. *Roger Lipton – log of visits by Denise and her dog*
22. *KP Law Handouts – Nuisance and Dangerous Dogs*

