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# BOARD OF SELECTMEN

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Kimberly J. Conway, *Chairman*  
Andrew N. Deslaurier, *Vice Chairman*  
Edward J. Giroux, *Secretary*  
George J. Simolaris, Jr., *Member*  
Michael S. Rosa, *Member*

## DANGEROUS DOG HEARING FRIDAY, APRIL 27, 2018

A dangerous dog hearing was held on April 27, 2018 at 12:00 p.m. at the Town Hall, 365 Boston Road, Billerica, MA, in the Thomas H. Conway, III Hearing Room.

Present at the hearing was Selectman Kimberly Conway, Chairman, Selectman Edward Giroux, Secretary, Selectman Michael Rosa, Member, Town Manager John Curran. Absent from the hearing was Selectman Andrew Deslaurier, Vice Chairman, and Selectman George Simolaris, Member.

Also present at the hearing was Police Chief Daniel Rosa, Animal Control Officer, Christine Gualtieri, Town Counsel Mark Reich, Nicole J. Farina (Mother of the Victim), Patrick and Morganna Lemelin, Owner's of the Dog.

Chairman Conway called Hearing to order at 12:07 p.m.

All parties were sworn in.

Attorney Reich asked to have the legally posted meeting notice and notifications to the parties involved read into the record.

Police Chief Daniel Rosa came to the podium and gave details of on the incident per MGL, Chapter 140, Section 157, Nuisance or Dangerous Dogs.

On March 28, 2018, at approximately 8:00 a.m. Richard DiPerna, a 15 month old child, was being held in the arms of his Aunt, Angela DiPerna of 29 Arcadia Road, Billerica, MA at a school bus stop, when Wyatt, a male 2 year old unlicensed Rottweiler, attacked Richard unprovoked, biting him resulting in injuries.

*America's Yankee Doodle Town*

**Chief Rosa added to the record the report from Animal Control Officer, Christine Gualtieri, as well as statements from witnesses, and the report from the Behaviorist.**

**Billerica Animal Control Officer Christine Gualtieri came to the podium and read her report on the incident to the Board and others present. Officer Gualtieri pointed out to the Board a Scribner's error on the first page of her report. It should read 3/28/18 instead of 2/28/18.**

**Chief Rosa asked if Officer Gualtieri had gone to the dog's home after the incident for evaluation.**

**Officer Gualtieri responded that she had to the Lemelin home on April 26, 2018 and found Wyatt muzzled and did not bark or growl. Officer Gualtieri found the dog to have no abnormal behavior.**

**Chief Rosa asked Officer Gualtieri if she had unmuzzled the dog, and if not, was she afraid too.**

**Officer Gualtieri responded she did not unmuzzle the dog and she was not afraid.**

**Chief Rosa asked Officer Gualtieri if she had read the behaviorist report and were there any concerns.**

**Officer Gualtieri responded she did and outlined her concerns; i.e., the expert only knew what she had been told, did not have the police report or photos. Officer Gualtieri had a concern that the opinion might have been different had the expert had that information.**

**Chief Rosa asked Officer Gualtieri about her qualifications as the Animal Control Officer for the Town of Billerica.**

**Officer Gualtieri outlined her qualifications and experience to those present.**

**Chief Rosa had a concern about the discrepancies in the report, if there was a guarantee short of euthanasia if a child would be attacked again.**

**Officer Gualtieri stated she could not provide a guarantee that Wyatt would not attack another child.**

**Selectman Rosa asked Officer Gualtieri questions on specific areas of the report. He outlined discrepancies between the Animal Control Officer's Report and the Behaviorist's Report.**

**Officer Gualtieri responded to Selectman Rosa's questions.**

**Selectman Giroux asked if Officer Gualtieri's follow up visit was unannounced.**

**Officer Gualtieri responded no.**

**Selectman Conway asked if the Storm Door was fixed.**

**Officer Gualtieri responded that she did not check the door.**

**Selectman asked if the gate was up.**

**Officer Gualtieri stated that it was.**

**Selectman Conway asked Mr. Lemelin about the use of the Electric Collar as a form restraint.**

**Mr. Lemelin responded that it is used as a secondary form of restraint.**

**Selectman Conway asked if he had used it on other dogs he had previously.**

**Mr. Lemelin replied that he had not.**

**Selectman Conway voiced her concerns regarding Mr. Lemelin asking Ms. DiPerna to "don't move". She also had a concern over whether the owner had control of the dog, when he repeatedly had to tell him to come.**

**Nicole Farina, mother of Richard DiPerna, came to the podium and explained why she thinks the dog should be euthanized.**

**Ms. Farina explained that the child is now petrified of dogs and frightened of loud noises. Richard had gotten another infection from his injuries and received another round of antibiotics.**

**Selectman Conway asked Ms. Farina if the dog was familiar with the baby's aunt, Ms. DiPerna.**

**Ms. Farina responded that she was not sure if Ms. DiPerna had ever interacted with the dog.**

**Ms. Farina was asked why Ms. DiPerna was not present to testify today.**

**Ms. Farina responded that she was babysitting Richard, and gets very emotional over the incident.**

**Chief Rosa asked Ms. Farina about the photos she took of the baby's injuries.**

**Ms. Farina went through each photo and explained what each one was.**

**Attorney Mark Reich asked if these photos were true and accurate copies .**

**The photos were supplied to Mr. Lemelin's attorney, Mr. James Hartounian.**

**Attorney Reich asked Ms. Farina about the photos of the baby's wounds. He asked if there were any wounds depicted in the photograph that were there prior to the incident.**

**Ms. Farina replied there were none. The only thing would be some eczema.**

**Attorney James Hartounian representing Mr. Lemelin came to the podium. He passed out copies of MGL, Chapter 140, Section 157 as well as copies of information on the Lemelin family and recommendations from the Behaviorist and other individuals.**

**Mr. Lemelin came to the podium. He first apologized to the family of Richard DiPerna.**

**Mr. Lemelin then explained what happened on the day of the incident and the discrepancies between the reports of the Animal Control Officer and the Behaviorist.**

**Mr. Lemelin explained the recommendations of the Behaviorist and how he was implementing them. His daughter no longer walks the dog. The dog is walked in the back yard only with a leash and a muzzle. There is a fence being installed with a mantrap as well as a new front door. Mr. Lemelin explained to those present what a mantrap was. The dog takes 40 milligrams of Prozac per day. He will have behavioral training as well as signs on premise regarding the dog. He is also in the process of putting a gate on his slider leading out to the deck.**

**Mr. Lemelin stated that the dog likes and is around company.**

**Mr. Lemelin explained that Wyatt came to live with June of 2017 at the age of 13 months. There were no prior incidents since June of last year. They got him from a breeder/rescue. Wyatt was originally bred to be a show dog, but was surrendered because of issues that would prevent him from being a show dog.**

**Mr. Lemelin had previously owned two other large dogs with no incidents.**

**Selectman Rosa stated that it would have been more impactful if the individuals who had provided the written recommendation had been present to testify.**

**Mr. Lemelin stated that everyone who comes in contact with the dog loves him.**

**Mr. Lemelin was asked why he did not bring the dog with him to the hearing.**

**Mr. Lemelin stated he was advised by the Animal Control Officer not to bring the dog.**

**Officer Gualtieri confirmed that statement because it could be very traumatic to the baby's family . Also with so many people present at the hearing, something could go wrong.**

**Selectman Rosa stated that the Board needs to make a decision in the best interest of the citizens of Billerica. One of the outcomes could be to have the dog banished from Town.**

**Attorney Reich stated that the statute stated that the Board could not banish the dog.**

**Selectman Rosa asked about the statement about the Baby Doll, which Mr. Lemelin stated he used for Wyatt to get used to babies.**

**Mr. Lemelin stated he did not have a baby doll and never made such a statement.**

**Officer Gualtieri stated that she understood that they had a doll for that purpose.**

**Mr. Lemelin was asked about his statement about Wyatt being rescued from a neglectful home.**

**Mr. Lemelin stated that he had his facts wrong.**

**Selectman Rosa asked about Wyatt being diagnosed with fear and aggressive tendencies when faced with a threat. He asked how much of a threat a 15 month old baby could be.**

**Mr. Lemelin responded that Wyatt did not perceive the baby as a threat. He was trying to protect the baby.**

**The Board had concerns with "what if" scenarios".**

**Mr. Lemelin was asked why the dog responds better to his daughter .**

**Mr. Lemelin replied that the dog had bonded very strongly with his daughter.**

**Selectman Giroux asked if the dog was bred by the rescuer.**

**Mr. Lemelin replied no. He was just rescued by her. The dog was surrendered by previous owner because it could not show.**

**Chairman Conway had concerns with Mr. Lemelin stating to the people at the bus stop "don't move", and the "baby doll" statement". She also asked why the dog wears Electric Correction Collar if he is so well behaved.**

**Mr. Lemelin stated it was recommended by the trainer as a secondary option. He also stated that in regard to the "don't move" statement, the words just came out of his mouth.**

Selectman Rosa asked how many trainers the dog has had.

Mr. Lemelin replied there was just one trainer.

Selectman Rosa asked where the trainer's report was. Selectman Rosa also asked why the trainer was not present. He was the most important person and his presence would have been more impactful.

Selectman Rosa expressed a concern regarding "don't move" statement. He stated that is what you do when an aggressive animal is involved.

Selectman Rosa asked what would have happened if the baby was in a carriage.

Mr. Lemelin replied nothing would have happened with the baby. He would have gone after the first person if he was attacking.

Mr. Lemelin was asked by Chief Rosa about a play date with a neighbor's dog when Wyatt did not want to go into the house. Chief Rosa asked if Mr. Lemelin shouted "don't move" to the neighbors at that playdate.

Mr. Lemelin replied that he did not. The small dog that was part of the play date was picked up and Wyatt went into the house.

Chief Rosa stated that Mr. Lemelin had to get out of the car three times to try to corral the dog.

Mr. Lemelin stated it was twice.

Chief Rosa asked Mr. Lemelin if he travels for work and how often.

Mr. Lemelin replied that he travels 8 days per month. In his absence his wife and brother are in charge of the dog.

**Chief Rosa stated that was a problem.**

**Attorney Hartounian outlined the recommendation the law provides for incidents such as this for the Board's recommendations and the actions the Lemelin's are taking to provide that this never happens again. Mr. Lemelin can supplement this report s and will continue to cooperate.**

**Selectman Rosa asked Officer Gualteri if she thinks the dog is dangerous.**

**Officer Gualtieri replied yes.**

**Selectman Rosa Rosa asked her if she thinks the dog should be euthanized.**

**Officer Gualtieri replied that it could be a recommendation based on the behaviorist's report.**

**Chief Rosa stated that he felt there was more than sufficient cause for the Board to find that this dog is dangerous.**

**Attorney Reich clarified the definition of a dangerous dog as opposed to a nuisance dog per the statute.**

**Selectman Rosa stated he felt that there had been ample testimony that the dog is dangerous.**

**Selectman Giroux, seconded by Selectman Rosa, made a motion to declare Wyatt a dangerous dog is Billerica based on testimony and exhibits.**

**It was voted:**

**3 – In Favor**

**0 – Opposed**

**2 – Absent (Selectmen Deslaurier and Simolaris)**

**Chief Rosa made a recommendation that the Board make a motion to euthanize Wyatt. If the Board did not support that recommendation, Chief Rosa indicated that he had further recommended actions.**



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**Town Manager John Curran stated he fully supports public safety officials' recommendation that the dog should be euthanized.**

**All members of the Board present stated that they agreed with Chief Rosa's recommendation based on the evidence and did not know what could be done to prevent this from happening again.**

**Selectman Giroux, seconded by Selectman Rosa to support Chief Rosa's recommendation that the dog be humanely euthanized.**

**It was voted:**

**3 – In Favor**

**0 – Opposed**

**2 – Absent (Selectmen Deslaurier  
and Simolaris)**

**Chairman Conway adjourned the hearing 2:00 p.m.**