

**MINUTES OF THE NUISANCE DOG HEARING**  
**Tipper**  
**June 29, 2010**

**BOARD OF SELECTMEN**

**TOWN OF CHARLEMONT**

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Chairman Jean Brisson called the hearing to order at 8:30 P.M. Also attending the hearing were Winston Healy and Paul Fantucchio. Ms Brisson explained the rules of the conduct for the hearing and that anyone recognized must state their identity before speaking. All who wished to give testimony were sworn in. A sign in sheet was circulated and is attached.

Ms Brisson explained that the purpose of the hearing was to hear testimony about the impoundment and ultimately decide what the Town should do with the dog named Tipper. Mr. Healy read a history of the events leading up to this hearing.

Mr. Healy disclosed a possible reason for his own recusal, including a disclosure concerning a threat he received from Jason Betinis. Ms Brisson disclosed that she is an abutter and that she is also a complainant.

Ms Brisson stated that the Town has three options concerning the future for Tipper, the dog the Town now owns. The options stated were: dispose of the dog, find it a new home, or return the dog to the owner with conditions.

Jason Betinis, East Hawley Road, former owner of the dog, submitted a petition calling for the release of the dog, for the Selectmen to rescind their previous decision, and to return the dog to the original owner (himself). Mr. Betinis stated that the rationale for the petition is that the dog is not a nuisance.

Mr. Fantucchio stated that there is a leash law and the petitioners probably do not know what the Town and the ACO has done to try to get the dog owner to comply.

Mr. Healy stated that the petition for release does not state anything about whether the petitioners are aware that the dog has been officially deemed a nuisance. (Mr. Michael Kane, 25A Thunder Mrn. Road, was asked if he was aware of the complete history of the dog when he signed the petition. Mr. Kane stated that he did not.)

Mr. William Harker, 73 East Hawley Road, stated the he has never seen the dog loose and that he did not know the history of the dog. Mr. Harker is only interested in the welfare of Mr. and Mrs. DiBenedetto and does not agree with putting the dog down but would like to see the dog given to Mr. and Mrs. DiBenedetto.

Patricia Harker, 73 East Hawley Road, asked who the people are that complained. Mr. Healy replied that historically a number of people from Berkshire East, neighbors, and himself have complained.

Mr. Betinis stated that Mr. Fantucchio told him the Board would allow the dog to return if a fence was built and the ACO approved the fence. The fence is up and he is still waiting for it to be reviewed by the ACO. Mr. Fantucchio reminded Mr. Betinis that he had suggested that to demonstrate good faith, he might build a fence and then come to the Board with what they have done.

Mr. Fantucchio further stated that he has also complained as he has seen the dog loose on State property (Shun Pike picnic area) and that Mr. Betnis was written a citation by a Charlemont Police Officer for having a dog on State property.

Mr. Healy stated that a responsible person in another Town would like the dog and an elderly couple in Town would like the dog.

Cecilia Lear, 10 Thunder Lane, stated that she does not have proof of a leash law in Charlemont and that she has seen lots of loose dogs around Town. Ms Lear questioned the Board if the leash law only pertains to Tipper or to every dog in Charlemont.

Mr. DiBenedetto stated that he is willing to be responsible for the dog and guaranteed that the dog will never run at large again. He is also willing to get the dog vaccinated, licensed and set up an agreement stating such.

Neal Lear, 10 Thunder Lane, stated that he is willing to assist Mr. DiBenedetto with the dog.

Mr. Healy reviewed the conditions of the agreement with Mr. DiBenedetto:

- Sign an agreement stating that the dog will be leashed, in the house or kenneled at all times.
- Agree to pay all fees for kenneling, rabies vaccination, and to license the dog.
- If the dog is found at large, the Selectmen will revert to their decision of May 20, 2009.

Mr. DiBenedetto agreed.

Mr. Kane asked if the dog was in good condition which was affirmed.

The Selectmen unanimously voted that the ACO, Officer in Charge Bellows, Mr. Lear, and Mr. Harker will meet at the property on Wednesday, June 30, 2010 at 7:00 P.M. to inspect the kennel. It was also voted that the ACO will bring the dog to the veterinarian

The Selectmen unanimously voted that Mr. Healy will draft the agreement based upon the verbal commitment noted above and forward it to Mr. DiBenedetto for his signature.

The Board unanimously voted to select Mr. DiBenedetto as the new owner of the dog named Tipper, subject to the agreed conditions and the mutual inspection of the fence.

The hearing was adjourned at 9:30 P.M.

Respectfully submitted

Approved by:  
Charlemont Board of Selectmen

Kathy A. Reynolds  
Executive Secretary

This document is to be considered a draft until approved and signed by the Board of Selectmen.