



SOUTH WAIRARAPA DISTRICT COUNCIL HEARINGS COMMITTEE MINUTES

5 May 2017

Minutes of a Hearings Committee meeting held on Friday 5 May 2017, commencing at 9:00am in the South Wairarapa District Council Chambers, 19 Kitchener Street, Martinborough. The meeting was conducted in public between 9:00am and 11:30am except where expressly noted.

Committee: Mayor Vivien Napier (Chair)
Cr Colin Olds
Cr Brian Jephson

In Attendance: Andrew McEwan (Bylaws Officer)
Shane Sykes (Team Leader, Environmental Services)
Murray Buchanan (Planning and Environment GM)
Suzanne Clark (Committee Secretary)

Rachel Bartlett (Objector)
Jenny Keeton (Objector Support)
Jedd Bartlett (Objector Support)

HEARING OPENING

The Chairperson welcomed attendees to the hearing of an objection lodged by Rachel Bartlett against the issuing of a menacing dog classification relating to the dog known as "Kea" pursuant to the provisions of Section 33C(1) of the Dog Control Act 1996.

The Chair acknowledged additional information tabled; that being a GIS map of Kea's house and location of attack on Regent Street, a report prepared by K9 Wise on Kea dated 19 April 2017, photos of Kea's containment pen built, and letters in support of Rachel Bartlett's objection from Orton Lodge Kennels, James Pittard the Dry River Vineyard Manager, and from employees of Dry River Vineyard.

SOUTH WAIRARAPA DISTRICT COUNCIL – TEAM LEADER ENVIRONMENTAL SERVICES

Shane Sykes, Team Leader Environmental Services presented background to the menacing dog classification status served on Kea from a Council officer's perspective and asked the Hearings Committee to uphold Council officers' recommendation.

In response to questions from the Panel Mr Sykes stated that it was Council officers' position that Kea does pose a risk to the public, however the legal requirement is for the word 'may' to be used and that an alternative resolution was sought in this case to contain the risk. The deadlines for compliance to the alternative resolution measures and the time when the menacing status was applied were clarified. It

was noted that Kea's residence, Dry River Vineyard, was defined as a public space and Kea was required to wear a muzzle at home as well as in public.

OBJECTOR – RACHEL BARTLETT

Ms Bartlett stated K9 Wise had on two occasions been unavailable, that it wasn't made clear by Council officers what type of assessment was required, that financial constraints before Christmas lead to delays in compliance, that the containment pen was in place prior to the 28 February deadline, and that she held concerns about the temperament of the dog Kea was first credited with attacking which may have been a contributing factor.

Ms Bartlett stated that Kea was classified as menacing between the 28 February and the 7 March due to miscommunication between herself, Council officers and K9 Wise.

Jedd Bartlett stated that four dogs were involved in the first incident and that the situation was intense with multiple dogs growling. Mr Bartlett believed that the Council officers' report to the Hearings Committee was not accurate as Ms Bartlett did what she could to make sure Kea was kept contained and was prepared to do more.

Jenny Keeton spoke in support of Ms Bartlett's explanation of miscommunication between 28 February and 7 March, and in support of Kea's temperament. Ms Keeton believed Rachel had behaved responsibly in taking steps to improve Kea's behaviour and supported the removal of Kea's menacing classification.

In response to a query from the panel, Rachel Bartlett said she first engaged K9 Wise before Christmas but did not believe the details of the assessment requirement were clearly explained. Ms Bartlett had met once with K9 Wise and subsequent visits were arranged by Ms Bartlett for the purposes of training Kea.

The panel queried whether Ms Bartlett believed the K9 Wise assessment was a true reflection of Kea and whether Ms Bartlett would be committed to providing continued training to assist Kea. Kea had attended puppy school, Ms Bartlett was committed to continued training and agreed with the K9 Wise assessment.

In response to a query from the panel, Rachel Bartlett said she was not clear on dog control legislation but was aware of owner responsibility regarding licensing and dog containment.

In response to a query from the panel Ms Bartlett advised that a containment pen had been completed in February 2017 but that Council was not immediately advised. Ms Bartlett had not immediately been convinced that the containment pen was the right solution for Kea.

The panel queried whether Ms Bartlett was concerned about potential future attacks causing injury. Ms Bartlett would feel bad but did not believe Kea would initiate another attack. Council officers stated that dog attack statistics suggested that Kea could attack again. Kea's trigger points were unable to be pinpointed and the attacks were random.

The panel and Council officers agreed that Rachel Bartlett was a good dog owner.

PUBLIC EXCLUDED

THE HEARINGS COMMITTEE RESOLVED (HC2017/01) that the public be excluded from the following part of the meeting.

The general subject of each matter to be considered while the public is excluded, the reason for passing this resolution in relation to each matter, and the specific grounds under section 48(1) and section 48(2) of the Local Government Official Information and Meetings Act 1987 for the passing of this resolution are as follows:

Report/General Subject Matter	Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
Deliberation of a hearing conducted under the Animal Control Act	Good reason to withhold exists under section 1(d) and section 2(a)(i)(ii)	Section 48(1)

This resolution is made in reliance on Section 48(1)(d) and Section 48 2(a)(ii)(iii) of the Local Government Official Information and Meetings Act 1987 and the particular interest or interests protected by that Act which would be prejudiced by the holding of the whole or relevant part of the proceedings of the hearing in public are as follows:

Reason for passing this resolution in relation to the matter	Ground(s) under Section 48(1) for the passing of this Resolution
d) that the exclusion of the public from the whole or the relevant part of the proceedings of the meeting is necessary to enable the local authority to deliberate in private on its decision or recommendation in any proceedings to which this paragraph applies.	Section 48 1(d)
a) any proceedings before a local authority where: i) a right of appeal lies to any court or tribunal against the final decision of the local authority in those proceedings or ii) the local authority is required, by any enactment, to make a recommendation in respect of the matter that is the subject of those proceedings.	Section 48 2(a)(i)(ii)

Moved (Cr Brian Jephson/Cr Colin Olds)

Carried

The *HEARINGS COMMITTEE RESOLVED* (HC2017/03) to move out of the public excluded section of the meeting.

Moved (Cr Brian Jephson/Cr Colin Olds)

Carried

HEARING COMMITTEE DECISION

The *HEARINGS COMMITTEE RESOLVED* (HC2017/02) to defer the decision of confirming the classification status of Kea for a period of one month from receipt of notification of this Committee’s decision by Rachel Bartlett.

Moved (Cr Colin Olds/Cr Brian Jephson) Carried

The Committee determined that Council officers should write to Rachel Bartlett and advise her that a review of status for her dog Kea was deferred for a period of one month. The Committee was concerned that the containment fence provided by Rachel Bartlett was not of a suitable height to adequately contain Kea. The Committee was also concerned that the area provided for Kea was too small. The committee also considered that Kea was prone to carrying our unpredictable (random) attacks on other dogs and that this had caused distress and trauma to other dog owners. The committee consequently considered it had a duty to ensure that the risk of any such future events was absolutely minimised.

Consequently the following interim decision was made; “that within one month of receipt of the Committee’s decision by Rachel Bartlett, Kea’s menacing dog status would be reviewed and finally determined taking into account the degree of compliance with the following matters; that Rachel Bartlett show to the officers satisfaction that, “Kea has been provided with a suitable and approved (by Council officers) containment area in a location that prevents escape, separates Kea from public areas and that provides for her wellbeing and welfare. In addition the committee resolved that Rachel Bartlett must fully comply, to the satisfaction of Council officers, within one month, and that failure to comply would be taken into account when the committee makes its final decision on the status of Kea”

The Committees further decisions, which must also be complied with were:

1. That Kea’s place of residence, Dry River Vineyard, was correctly assessed as a public place and when out of containment on the property Kea must be muzzled while her classification status was menacing.
2. That if Kea’s menacing status was to be revoked, Rachel Bartlett must agree in writing that Kea is kept on lead when being walked off property.
3. That Kea and Rachel Bartlett undertake an annual refresher behavioural training course from K9 Wise.
4. That should any future attacks by Kea occur this would be viewed extremely seriously.

The Chair declared the hearing closed at 11:30am.

Confirmed as a true and correct record

..... (Chair)

..... (Date)