

SPECIAL MEETING:

The La Cygne City Council met on Wednesday, September 23, 2020 at the Community Building, 204 Commercial Street, La Cygne, KS. Council Members present were: Danny Curtis; James Thies; Jerome Mitzner; Thomas Capp; and Logan Smith

Others in attendance included, but not limited to: City Clerk Jodi Wade; City Attorney Burton Harding; Police Chief Tina Fenoughty; Corporal Kurtis West; Linn County Newspaper Tony Furse; Richard Teagarden; Adam and September McCool; Kelly Osborn; Travis Reed; and Amber Friend.

MAYOR DEBRA WILSON CALLED THE SPECIAL MEETING TO ORDER AT 6:00 p.m.

The Purpose the Special Meeting was called for:

❖ **PUBLIC HEARING FOR VICIOUS ANIMAL**

Mayor Wilson asked Chief Fenoughty to proceed with conducting the hearing. Chief Fenoughty reviewed the police report regarding an incident which occurred on September 17, 2020 at 930 E Market Street, La Cygne, KS at 4:21pm. Chief Fenoughty was advised by the City Clerk of a call from a patron that a dog bite had taken place and there was a neighbor who was getting his gun to dispatch the dog. Dispatch called Officer Haley who was on duty also so Chief Fenoughty reached out to Officer Haley to advise him she was en route to the call with him. Upon arrival, Richard Teagarden, resident at 930 E Market, was pointing towards the west where a large size mostly brown with some black on it dog behind the residence located at 920 E. Market St. Another male was standing in the backyard near 930 E. Market holding a shot gun which Richard Teagarden described as his neighbor. Richard Teagarden had been bit on the hand by the dog. Officer Haley indicated at one point the dog began barking and growling in an aggressive manner and started sprinting towards his location. Officer Haley pulled out his taser and activated the arc feature to distract the dog and immediately the dog backed away but continued to pace back and forth. Eventually with assistance from the owner of the dog, the situation got under control and the dog was taken into the house. The owners assisted with loading the dog to be taken to the La Cygne Kennel to be boarded, the dog was friendly during transition. The next morning Chief Fenoughty proceeded to water and feed the dog at the kennel and she was not able to get close to the kennel or enter the kennel due to the aggressive behavior shown by the dog. Chief Fenoughty contacted the owner to come down to the kennel to take care of the dog and the dog was transferred to the vet clinic in Drexel, MO to be boarded and held for the 10 day rabies observation. The veterinarian reported on 9/23/2020 the temperament of the dog has been non-aggressive and no signs or symptoms of rabies.

Discussion from the Floor

Mayor Wilson advised the patrons present to state their name prior to speaking and to keep their presentations precise and brief.

Adam McCool (940 Market St.) described (3) separate incidents which occurred with the dog belonging to Kelly Osborn (920 E Market St). Each incident involved the dog exhibiting aggression towards and each time Adam had to find a way to get some type of barrier between him and the dog.

Richard Teagarden (930 E Market St.) described (3) separate incidents which occurred with the dog owned by Kelly Osborn. The first incident took place while trimming the bushes around his yard. Richard stated he had nothing in his hand and was walking back to begin trimming on the bushes again when the dog came at him and proceeded to bite his hand. Richard kicked at the dog and the dog bit towards his leg but the cell phone in his pocket blocked the bite. The second incident occurred when Richard was in his garden and the dog came at him. A girl came out of the house at 920 E Market and yelled for the dog and the dog proceeded back home. The third incident was reviewed in the police report presented by Chief Fenoughty dated 9/17/2020.

Kelly Osborn was recognized to speak on behalf of the incidents which occurred. She indicated she was not aware of the prior incidents which Adam McCool had indicated. Kelly did state she was aware of the situations with Richard Teagarden. Kelly said she raised Elliot (City dog tag 134) from a pup and has never had issues with the dog in the house with various people coming in and out of the house. She is not sure why the incidents occurred with the dog outside of the home and referred to the dog being possibly territorial or protective. She has made effort to keep the dog in the house or on a leash when she takes it out but the kids in the household have unfortunately allowed the dog to go in and out without being on a lead.

Corporal West advised the Mayor of (1) incident of Adam McCool was addressed by the prior Chief West with Eric Taylor, a prior resident of 930 E Market St.

Council Discussion

Mayor Wilson advised the Council the hearing today is to determine if the dog is to be deemed either not vicious animal or vicious animal. Chief Fenoughty did have a conversation with the owner about the dog being housed by a different family member in a different City and suggested this as an option to the Council with a recommendation the dog not be able to be brought back in to the La Cygne city limits.

Council Member Curtis asked City Attorney Harding if the city would be liable if the dog was deemed vicious and then sent to reside in another city and another incident occurs. City Attorney Harding stated every city has different definitions for a vicious animal and different regulations regarding the handling of a vicious animal, therefore a city can't hold another city liable.

City Attorney Harding reviewed the requirements in Chapter 2, section 2-213 of the City Codes for the owner if the dog is deemed a vicious animal. Travis Reed asked the City Attorney Harding if he built an enclosed box for the dog which is locked with a padlock so the kids could not allow the dog out without adult supervision and if let out it would be muzzled and on a lead would they be able to keep the dog in La Cygne. City Attorney Harding confirmed this would meet the code requirements. Kelly Osborn indicated they may still have the dog spend some time with the other family member in a different city before bringing it back to La Cygne.

❖ Motion

Council Member Capp motioned to deem the dog owned by Kelly Osborn to be a vicious animal. Council Member Smith seconded. Passed 4-1. (Nay – Thies)

Mayor Wilson asked if there were any further questions or concerns regarding the situation. The Council asked Chief Fenoughty to immediately begin work on updating/revising the City Codes pertaining to Vicious Animals.

Record of the Proceedings of the Governing Body

SPECIAL MEETING

Page 3 of 3 Pages

September 23, 2020

Amber Friend owns a pitbull and revisited the efforts to remove breed specific codes pertaining to pitbulls and asked the Council to consider not specifying certain breed when revamping the codes. Chief Fenoughty said any breed can be considered a vicious animal and her revisions would not pertain to breeds but rather actions and incidents.

Adam McCool asked if another incident would occur with this same dog which has now been deemed vicious could the patron hold the city negligent. City Attorney Harding advised Adam McCool he could not answer that question since the city is his client but advised Adam to reach out to a lawyer for legal advice.

ADJOURNMENT:

❖ **Motion**

Council Member Mitzner moved to adjourn the meeting. Motion seconded by Council Member Capp, passed 5-0. Time 6:27pm.

I, _____ La Cygne City Clerk, do hereby declare
(Jodi Wade) the above to be true and correct, to the best of my knowledge, and do hereby subscribe my name on this 23rd day of September 2020.