



MINUTES
Animal Control Hearing

Thursday, June 8, 2017
The Intracoastal Room at Palm Coast City Hall
Community Wing Entrance
160 Lake Avenue, Palm Coast, Florida 32164

A. Call to Order and Pledge of Allegiance.

The meeting was called to order at 11:09 A.M. by Nicole R. Turcotte, Esquire, followed by the Pledge of Allegiance. Ms. Turcotte outlined the rules and procedures for the meeting. She noted that public comment will not be heard.

B. Swearing-in of Staff and Respondents.

City Staff: Barbara Grossman, Luis Mendez, William Doonan
Respondents: Jaqueline Sorrentino, Barbara Kraese
Complainants: Jody Davis, Dave Hertle, Diane Colucci

C. June 6, 2017 Minutes Approved.

D. Case Heard

CASE NO. 2017030311

Acct. #662808

City of Palm Coast vs. Jacquelyn Sorrentino and Barbara Kraese

18 Cherry Tree Court "Biscuit"

*Palm Coast Code Section 8-30(b)(a) Animal Running at Large – 2nd Offense/Animal
Creating a Nuisance – 2nd Offense*

CASE NO. 2017030311

Acct. #662808

City of Palm Coast vs. Jacquelyn Sorrentino

18 Cherry Tree Court "Biscuit"

Palm Coast code Section 8 40 Appeal of Dangerous Dog Classification

SYNOPSIS:

Ms. Turcotte, Hearing Officer, and Ms. Nix, City Attorney, concluded that the two cases noted above will be heard separately.

The City will present their evidence regarding Animal Running at Large and Creating a Nuisance. Staff will present the issue of running at large and nuisance animal and Ms. Nix will present the dangerous dog appeal case.

Ms. Turcotte: Ms. Kraese stated her name and address. It was explained to Ms. Kraese that only the running at large and creating a nuisance will be heard first.

Bill Doonan, Animal Control Officer for the City of Palm Coast entered into evidence supporting documents testifying to the following:

- This case is regarding Biscuit, a male dog whose license and rabies are up to date. The violation is for running at large, second offense and creating nuisance, second offense. The first notice was mailed first class mail on April 7, 2016. The second notice was mailed first class mail. Citation was issued 3/10/17 and delivered. The hearing notice was posted 5/16/17 and mailed certified mail May 17, 2017 signed for, signature not legible. The City recommends the \$200 total on second offense be reduced to a first offense as the first citation was waived or withdrawn by the City.

Ms. Turcotte asked Mr. Doonan if he had testimony regarding this case.

Mr. Doonan stated there are three affidavits and three witnesses here regarding this case who are here to testify.

Mr. Doonan called Diane Colucci to testify.

Ms. Colucci – Ms. Colucci stated her name and address as 32 Cherry Tree Court. Ms. Colucci stated she was pet sitting for Dave Hertle of his two dogs and was taking them for a walk across the street from the Kraese's home. She stated she was at the empty lot across the street from the Kraese's. One of the dogs she was sitting for was doing his business in the lot and Biscuit ran over and jumped on the dog (Sadie) around the neck. She (Sadie) had a thick harness around her neck and Biscuit had it in her mouth. The other dog was a Jack Russell, 13 years old. The Jack Russell went over and bit Biscuit on the cheek. The Grandmother came out and yelled at Biscuit and the dog went over to her.

Ms. Colucci – Also a couple of weeks ago she was riding her bike down street with her husband, going back to her house, and her husband went on the other side of the street because Biscuit was coming down the street and the daughter had to hold on to Biscuit really hard to hold him back, he was actually lunging at them. She (the granddaughter) yelled at Biscuit and told him to leave us alone. She held him back. It was very scary. The daughters name is Jacquelyn.

Ms. Turcotte asked if there was any further testimony from Ms. Colucci.

Ms. Colucci stated there was nothing more she wanted to add.

The City called David Hertle, owner of Sadie to testify.

Mr. Hertle – David Hertle stated his name and address 70 Covington Lane, which runs parallel to Cherry Tree Court., separated by a canal. He agreed Ms. Colucci was pet sitting while they were away. He presented pictures of Sadie and the other dog. He stated when he got back from vacation Ms. Colucci explained what had happened and that she could not walk the dogs the way she usually did. We usually walk them at least

once and sometimes twice a day. He stated “the dogs are always on a leash and we always pick up after them and they go on empty lots. That’s all I know. I have walked the dogs on Cherry Tree Court and I have seen the dogs loose at times but the kids were playing in the driveway and the dog was outside and he did not come after me but he was loose in the yard and other times when I was walking or riding my bike. The kids are out in the yard with him.”

City – called Jody Davis

Mr. Jody Davis – stated name and address as 21 Cherry Tree Court – Mr. Davis stated “as Mr. Doonan knows, I was introduced to him, and unfortunately Biscuit, probably a year and a half ago. I will tell you conservatively that I have witnessed Biscuit loose off the property dozens of times and I am saying this under oath of course. Biscuit has charged my 6 pound 13 ounce mini dachshund three times. I have had to pick her up. Fortunately she is that size so she was not attacked or hurt. But he charged her. I have been threatened by this family, about a week ago the most recently. Mr. Doonan is quite familiar with me from the number of times that we have seen each other personally, spoken on the phone, and from my emails. He may be in receipt of an email chain that has been going around through the City about the threats and the dangerous dog. “

Ms. Turcotte reminded Mr. Davis that this is not the dangerous dog case and to try to keep his testimony to the running at large and nuisance case.

Mr. Davis – “this past weekend I saw him off the dog property off the leash again.”

Ms. Sorrentino – was sworn in and came to podium. Ms. Kraese came to podium as well.

Ms. Sorrentino – Ms. Sorrentino stated that a lot of the issues are because she is working and her grandmother took her in. She will be moving in a month and has money to fence in the yard so she won’t have the issues again. She stated she knows he has gotten out and goes across the street. But a lot of times he is off the leash on the property which as far as she knew is allowed. As far as this being a second violation, the first never was. Her grandmother came to the City to take care of the violation and when she went to the City they said there was no violation.

Ms. Turcotte stated that Ms. Sorrentino wasn’t present at the hearing yet, but the City had explained they withdrew the violation.

Ms. Sorrentino stated she knows that people are taking pictures of Biscuit. She has spoken to Bill Doonan, Animal Control Officer, several times.

Ms. Turcotte asked Ms. Kraese if she had anything she would like to say.

Ms. Kraese stated it is not her granddaughter’s fault. She stated she has been the one at home. She stated “It is my fault. These people don’t have young children at home. We have spoken to the children about it but they are just children and the dog is just a dog. He does get out. I never ever open the door and say to the dog to go out. That never happened and never would. Secondly, Mr. Davis is lying when he says his dog was

attacked. It never happened. Mr. Davis bends down and makes friends with every other large dog that comes around block. Biscuit does bark. He (Mr. Davis) doesn't like pit bulls."

Ms. Sorrentino stated that Biscuit barks a lot, and every time she comes home he barks. He will bark from the time she pulls into the driveway and until she comes into the house.

Ms. Kraese stated he does bark and runs across the street. She stated "I think just because he like to see other dogs. He gets along with other dogs and cats."

Ms. Sorrentino stated she brings him to the beach and out twice a week and he has never attacked another dog.

Ms. Turcotte reminded Ms. Sorrentino that we are addressing the running at large right now and will get into the dangerous dog in a while, but now we are just addressing the running at large.

Mrs. Kraese stated that "as far as me calling him names he is the one who started it.. ."

Ms. Turcotte stopped hearing testimony regarding personal issues and stating it is not pertinent to this particular issue.

Ms. Turcotte advised Ms. Kraese that if she had anything to say about the running at large and nuisance, that this would be the time. She stated she knows that some testimony will be repetitive but she will follow procedure.

Mrs. Sorrentino and Mrs. Kraese stated they had nothing to add to their testimony.

Ms. Turcotte discussed her Order. As to this violation, Agenda Item #1, and as Ms. Sorrentino still owns Biscuit, residing at 18 Cherry Tree Court, I am going to find that there was a violation, and again, this was based not only by the evidence and testimony provided by the City, but also by your own admission as heard in your testimony, that there was a violation of Section 8 – 30 (b) for running at large defined by City Code as "it is unlawful for any animal owner to allow, either willfully or through failure to exercise due care and control, his or her animal(s) to run at large". Based on that I am going to accept the City's recommendation that \$75 dollars is reasonable for a first offense as to each violation for a total of \$150 due within 30 days from the date of the invoice you receive in the mail. Do you have any questions? That will be the Final action which was Agenda Item #1.

Ms. Turcotte stated that next up is Agenda Item #2

CASE NO. 2017030311

Acct. #662808

City of Palm Coast vs. Jacquelyn Sorrentino

18 Cherry Tree Court "Biscuit"

Palm Coast code Section 8 40 Appeal of Dangerous Dog Classification

Ms. Turcotte asked the City Attorney to proceed.

City Attorney Nix presented her opening statement. “My name is Jennifer Nix. I am the Assistant City Attorney for the City of Palm Coast. I am here on the City’s behalf, and we are here for this particular hearing because the owner of Biscuit, the dog, requested an appeal of the City’s initial determination classifying Biscuit as a dangerous dog and imposing requirements. The City’s initial determination found sufficient cause to classify Biscuit as a dangerous dog, based on the City’s Code definition of dangerous dog and also State law. The City’s Code definition defines a dangerous dog as any dog that has, when unprovoked, chased or approached a person upon the streets, sidewalks or any public grounds in a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the animal services division. Based upon the personal Affidavit of Ms. Martin, detailing an unprovoked approach and chase, the City Animal Control Authority requested the classification of dangerous dog which was entered by the Code Enforcement Manager on behalf of the City. Their initial determination was supported by City Code as well as State laws. The initial determination provided for proposed appropriate penalties in accordance with City Code Section 8-43 which was revised and adopted in April 2017, and I will bring you evidence momentarily. This was done largely to keep up with the revised State Statutes which changed, as you know, in 2016. This initial determination was made after the City’s investigation. The City did not request or order that the animal be euthanized, but did impose penalties that are detailed in City Code and to specify, as there was no severe injury, the City reiterates that they are not asking for destruction of the animal. You may hear testimony from the owners or her witnesses as to who let the dog out, but you will find the facts are that the circumstances meet the definition of a dangerous dog under the City Code and State law and the City is requesting that you uphold the classification of dangerous dog and the proposed penalties according to City Codes and State Statutes.. I have exhibits to bring forward but I didn’t know if you want me to just provide my opening statement or go ahead with testimony.”

Ms. Turcotte: stated to go ahead and proceed with the case.

Ms. Nix – Requested to approach with evidence, Exhibits and Statutes tabbed, to make it easier to follow along for Ms. Turcotte as well as for the animal owner.

Ms. Turcotte replied affirmatively.

Ms. Nix requested the City’s exhibits be moved into the record. She stated for everyone’s knowledge, the index and their indications. She gave a synopsis of bullet points on what each one indicates.

Ms. Turcotte confirmed that no additional evidence is in the Exhibit package that she has not already reviewed.

Ms. Nix confirmed that Ms. Turcotte had been provided all the information in the Exhibit packet previously.

Ms. Turcotte stated all exhibits will be accepted.

Ms. Nix stated that the City has followed all procedural requirements related to dangerous dogs. Also included in the Exhibits is Chapter 767, State Law and City Code which was recently revised. As facts leading to the classification in this case, on 2/26/17 in the public street of Cherry Tree Court, on or near 18 Cherry Tree Court, where the owner resides with Biscuit, according to the records of the City, Biscuit endangered a human being on public property when the dog, unprovoked approached and chased Ms. Martin and her husband who were riding home on their bicycles. This was done in a menacing fashion or apparent attitude of attack. The dog chased Ms. Martin for approximately 25 yards. Biscuit then next approached and growled at a second person, her husband, also in a menacing fashion and apparent attitude of attack and this is provided for in a sworn statement of Ms. Martin in Exhibit 2a. The City would say this incident involved endangering a human being inasmuch as Ms. Martin was chased unprovoked as she attempted to safely ride down her street and she could have been hurt or injured. Ms. Martin stated that as she passed 18 Cherry Tree Court, Biscuit ran from the driveway out into the street barking at her and then hesitated a few feet from her bike after she yelled "No Biscuit." Then Biscuit headed back towards 18 Cherry Tree Court. Then Mr. Martin, the spouse, stopped the bike on the public road, and was next approached in a menacing fashion by the growling dog in an unprovoked manner. Biscuit got to within inches of Mr. Martin's leg and then growled. The grandchildren came outside and called Biscuit and the dog went back to the house. All of this is in Exhibit A, a sworn Affidavit. The dog was not confiscated and to our knowledge still resides at 18 Cherry Tree Court. There are multiple Affidavits provided and additional Exhibits are tabbed for easy reference throughout the hearing. However, bullet points will illuminate to the owner and City staff. While the City asserts that Biscuit meets the classification of dangerous dog, the additional Affidavits also provide circumstances and evidence. Just to touch on Affidavits that are included in the initial determination and was collectively based on Ms. Martin's Affidavit on 2/26, there is an Affidavit from Animal Control Officer Doonan requesting dangerous dog classification, the running at large pattern, the citation last year on 4/7/2016 and the Notice of Hearing along with other information that I won't get into quite yet, the reinspection report of 1/16 where Biscuit reportedly grabbed a dog "Sugar" with no injuries and was not reported, Exhibit H on May 10, 2016 where Ms. Kraese stated Biscuit did not get along with other dogs, Exhibit J from Diane Coluci's Affidavit of 3/14/17 regarding where Biscuit attacked Sadie that she was pet watching for, Exhibit K Affidavit from Mr. Hertle regarding Sadie getting attacked, Exhibit L on 3/9/17 about Biscuit attacking several dogs, Exhibit M also regarding Biscuit's aggressiveness towards other dogs, as well as the City Codes and Florida Statutes. So by definition, Biscuit is a dangerous dog. As I noted before, the City's definition states, and Biscuit approached "on a public grounds in a menacing fashion or apparent attitude of attack; provided that such actions are attested to in a sworn statement by one or more persons and dutifully investigated by the animal services division. or private property, including the owner's property other than in defense of the owner; or the owner's home, or the animal itself, in response to an action of the person injured or attacked; . . . The circumstances are attested to by an Affidavit from Ms. Martin and the City did dutifully investigate these circumstances. This was an unprovoked situation. The affidavits will show the victims were just riding down the road on their bicycles. The City Code definition states that the victim that had been conducting him or herself lawfully and was been menacingly bitten or chased or attacked by the animal. Both follow Florida State Law as well as city Code. To note for the record, Florida Statute 767.12.2 provides scenarios for which a dog cannot be declared dangerous, and the case before you does not apply. The Exhibits, including sworn Affidavits, support the City's classification of dangerous dog and should be upheld. As to the sworn Affidavit, it does provide that the definition is met. As far as those in the household say that the child opened the door, the fact of

the matter is that the dog is out of the house and is chasing people down the road in a menacing fashion and therefore the dog meets the requirements. The City respectfully requests that you uphold the classification of dangerous dog as provided in the initial determination based on the evidence and testimony provided today.

Ms. Nix called Animal Control Officer for the City of Palm Coast William Doonan and asked him if he had delivered the revised Notice of Hearing for today's date.

Mr. Doonan stated he did.

Ms. Nix stated that "generally speaking, you obtained Affidavits from several people on the road regarding the initial determination. Anything that you would like to add to the Affidavit that they may have told you regarding this issue?"

Mr. Doonan stated he would like to rely on their Affidavits of what happened when they were on their bicycles.

Mr. Nix asked Mr. Doonan if he spoke with the Martin's.

Mr. Doonan stated they told me exactly what is stated in their Affidavits.

Ms. Nix stated that regarding Biscuits interaction with other dogs, in the reinspection report, Exhibit H, it was noted in that reinspection report on the May 10th, 2016 incident, that Mrs. Kraese noted that Biscuit does not get along with other dogs.

Mr. Doonan stated that is correct.

Ms. Nix had no other questions for Mr. Doonan.

Ms. Nix called the next witness – Diane Colucci

Ms. Colucci stated her name and address.

Ms. Nix asked Ms. Colucci regarding Initial J, could she state basically, any other interaction with Biscuit, other than what is in her Affidavit.

Ms. Colucci stated "I used to ride my bike every day, now I just go with my husband. I only go once or twice now. We were going back to my house, she was walking the dog and the dog saw us and the dog was pulling her"..

Ms. Nix asked if the dog was muzzled.

Ms. Colucci stated "No. It was on a leash".

Ms. Nix asked if she would feel safer if the dog was muzzled.

Ms. Colucci stated "No, it can still lunge at you. I have grandchildren. Many of the people on the street won't take their dogs out. It's a scary situation."

Ms. Nix: “Thank you, and in your Affidavit you mentioned the situation on 2/26/17 where you were watching two dogs for the Hertle’s and it is my understanding that Biscuit was running at large and attacked one of the dogs.”

Ms. Colucci: “I saw the dog just lunge right at it. And also, just this past Sunday we were taking my son to the doctor and no children were out, but Biscuit was walking outside by herself.”

Ms. Nix: “Did you see anyone call the dog or bring him inside?”

Ms. Colucci: “No one. It was Sunday morning.”

Ms. Nix called Mr. David Hertle as next witness.

Mr. Hertle stated his name and address as 17 Covington Lane.

Ms. Nix stated that Mr. Hertle provided an Affidavit regarding his dog Sadie being attacked and asked him if could briefly note his incidences with Biscuit, seeing the dog running at large or any aggression.

Mr. Hertle stated that there have been several instances he has noted. He stated he walks and rides his bike down Cherry Tree Court and several times have seen the dog out in the yard. He stated “I wasn’t attacked but I really don’t feel safe being on Cherry Tree Court riding my bike or walking. I just stay away from there. And Sadie and Jack are very sweet lovable dogs and get along with other people and dogs and it was an unprovoked attacked. If it wasn’t for the heavy harness around her neck she could have been really damaged. We don’t feel it is a safe neighborhood because the dog has attacked other dogs and keeps us from enjoying our neighborhood being out and around and I don’t think that’s right.”

Ms. Nix called the last witness Mr. Jody Davis

Mr. Davis stated his name and address as 21 Cherry Tree Court.

Ms. Nix stated that in Exhibit G and Exhibit 2 Mr. Davis provided a good bit of information and asked if there was any additional information he would like to add.

Mr. Davis stated, “as I mentioned earlier and I will repeat Chloe has been aggressively charged by Biscuit off the property three times. I do not appreciate my honesty being imputed by Ms. Kearse and I will remind her that we are under oath.” Also, the other thing that Ms. Kraese says is . . .

Ms. T. – if this is a personal problem, and not relevant to this case, I will not hear that at this time. . .

Mr. Hertle stated that it is relevant to the case. “I am lovely dovey with other dogs on the block. She says I have something against Biscuit because he is a pit bull. There are two pit bulls on Cherry Tree Court, one of whom was attacked by Biscuit. These are people who are snow birds. They were just here for a little while and they left. They have a male who attacked and then they

got a female. Those dogs jump on me, kiss me, slobber on me, and I love it. They are both pit bulls. I have no problems with pit bulls when they are well behaved. This situation, first of all I will tell you that of all of us on the block, none of us want anything done to Biscuit. We do not want him destroyed. We all feel the same way. I was very friendly with this family. The little ones play with Chloe. I asked Ms. Kraese about her husband when he was in the hospital. We had a very friendly relationship. And then Biscuit came and I became a scape goat. That is slightly outside the scope but it does have something to do with the dog.”

Ms. Nix stated that as far as the initial determination with the specific incident upon which it is based, is the chasing in an unprovoked and menacing fashion of the Martin’s, and the City’s position that there are several incidents that have occurred, per Affidavits of the neighbors, that are seemingly just short of becoming a bad situation. It seems that while others have not been attacked, it may be because of intervention, or people avoiding goes past the home, the City is again asking you to uphold the determination. We again are not asking for destruction of the dog. We ask that you impose the requirements the City asks per the City Code. I would like to turn the case over now.

Ms. Turcotte asked Ms. Sorrentino if she would like to add anything.

Ms. Sorrentino stated: “For me, I was not around for any of these incidents so I cannot speak for these. I didn’t know these occurred until Mr. Doonan came to me. Unfortunately my grandma’s house is not fenced in. As you know, Biscuit is protective and he is a barker. I do respect the neighbor’s feelings, but I feel that just because he barks that is no reason to call him a dangerous dog. He has never bit any of the dogs, they never had to go to the vet. When examined by Animal Control, there were no obvious injuries. As I said the dog is a barker. Some of the neighbors know what happened with my grandfather as I have been here before. He is protective. I do respect the neighbor’s feelings. I feel like people do get nervous because they know what happened with my grandfather and he is barker. As far as to what Ms. Colucci said about her walking past the house, I never held him back. She said he was lunging at them and her story changed. They did go past the house on their bikes, but he was sitting next to me and he didn’t move. All I said was good boy because he didn’t bark. Also, whether Mr. Davis likes it or not, Biscuit has never charged his dog. He had approached him and sniffed him but never charged him. I have no defense for the bicycle thing, but I know some dogs don’t like wheels. He doesn’t like the lawn mower when my husband and mows the lawn. He chases my grandkids when they are on their bikes. Biscuit has never bit any of them. I don’t know who the lady is who says she was with Sadie. I don’t know her. As far as the collar, I didn’t hear too well.

Ms. Nix stated that she believes the testimony was that the dog gripped the other dog’s harness.

Ms. Kraese stated that she was gardening and the dog were with her. Also she stated “I have to say that it is really hard when you have two empty lots across the streets from you and everyone wants to walk their dog there to do their business and even though she says she cleans up she doesn’t but I haven reported her. We like a guard dog. I feel it is unnecessary because the dog barks that he is going to be declared dangerous dog. I have seven kids there all the time. He never hurts the kids. He plays with them.”

Ms. Sorrentino stated she took him to a class at Pet Smart about the barking.

Ms. Kraese stated he doesn't bark at her. He barks at Mrs. Sorrentino and my husband and the kids.

Ms. Sorrentino stated "he won't run at me, he barks. It doesn't intimidate me. I can see other peoples feeling when they see the dog. He barks at me, but he will kiss me after that. It is just his means of greeting. I take him to the beach once or twice a week. He never runs after other dogs. He stays by me. I take him for a walk and I don't have to muzzle him."

Ms. Kraese stated: "When Sadie comes by on her leash, she growls all the time at the dog. And so did Sugar, the dog that lives next door. That dog at, 3 o'clock in the morning, tried breaking in to my patio door. That's why the dog was trying to get to my dog who sleep s there and that's why the dog is afraid of him. He has a problem with other big dogs. I know nothing about pit bulls but Biscuit didn't hurt that dog.

Ms. Nix called Ms. Colucci as witness and asked her if stood by her prior testimony and Affidavit and asked if there was anything she would like to add.

Ms. Colucci stated she is standing by her Affidavit. And also that "when we were walking down the road she was holding tight and said leave them alone."

Ms. Nix said aside from rebutting the testimony stated, she doesn't have additional questions.

Ms. Colucci stated "about what she said about Sadie growling, I had that dog one time and she never ever growled. She was peeing across from your house. The harness was off because Biscuit bit it off of her. That's the only thing that saved Sadie from getting bitten up."

Ms. Nix asked Mr. Hertle back to the podium. She stated she wanted to give him the opportunity to rebut as it is being implied that Biscuit is coming after his dog because his dog is mad at him.

Mr. Hertle stated: "She is a lover. She loves all dogs and people. She just wants to be friends. She is a friendly dog. Diane had Sadie on a leash on a harness and I know Diane picks up after the dog. It was just unprovoked as far as what I know and what Diane described. Little Jack came to the rescue. He jumped on Biscuit and he ran away. I do believe that story."

Ms. Nix stated that as far as the prior incident that was brought up, I didn't address it as it isn't pertinent to this case. We are hearing admissions that the dog chases after other dogs. Isn't everybody lucky that there hasn't been an injury when this dog is running off the property? There is no excuse for the door being opened and it seems that is not being addressed. There are admissions that this dog is let out of the house by people who are responsible for it. It is only leading to more and more instances in the neighborhood. If there as a muzzle, maybe people walking down the road or on their bikes, wouldn't be more concerned about getting bit. There are several instances of aggression. It was stated that there is no excuse for the bicycles being chased. That is correct. There is no excuse for this to be happening was addressed in the City's initial case. This seems to be have going on for quite a while now that the dog is being let out. At this point, with having chased people and meeting the City's Code definition of a dangerous dog, and as it meets the dangerous dog definition, it is time to impose these requirements now. Decidedly, there was a litany of information that the City provided, to provide for this declaration. There was a lot of testimony about the barking, that is not the issue here, the issue is

the dog is allowed to run at large and it is charging other animals and potentially people in the neighborhood. The long and the short of it is there is a multitude of incidents about the dog running at large and the affidavit by Ms. Martin and her husband about being chased, that alone meets the dangerous dog definition in addition to the Exhibits and Affidavits certainly support the dog is out, is let out, and is aggressive. We ask that you uphold the City's initial determination.

Ms. Sorrentino asked if the Martins are present here today.

Ms. Turcotte stated they are not present.

Ms. Sorrentino stated "I guess I really can't speak on that. But the problem is that he gets out. He being a nuisance, completely understanding. I am not fighting the ticket. The issue is that I am the owner of the dog, and this is a temporary residence for me. In the six years I have been here I have never had an incident with the dog. I never had the neighbors' gang up on me and write all these petitions. When I was at the other place, I never had issues with the dog. He wasn't on a leash, he didn't bother anyone. Ms. Colucci said she wouldn't feel any better with him having a muzzle on. I think it will just make him more aggressive. I have never had an issue with walking my dog. So because of all this to come about because of my dog, I think is unfair. The Martins are not here to speak about the testimony. Like I said in the six years I had my dog I have never had as many issues. I don't know if it is because there is no fence and he gets out. With the issue from last year, when he was protecting my grandmother, they said he never got into any fights with other dogs. They testified they saw no problems with him.

Ms. Turcotte stated she doesn't have any testimony regarding that.

Ms. Sorrentino stated she doesn't have anything else to say.

Ms. Nix stated she just wanted to note that as testified by Ms. Colucci Mr. Hertle, they stand by their testimony. And also, although the Martins are not here this morning, State Law states that testimony can be based on upon Affidavit.

Ms. Turcotte: "As the City attorney stated, the City Code was amended. I have had a chance in the last couple of day to get acquainted with the definitions. My role in this proceeding is essentially two fold. I am going to cite a couple of Codes and Statutes for clear record. My authority here is pursuant to 8-26of City Code and 767.12 of Florida Statute. My role is to make determination whether to uphold the City's classification as to whether the dog is dangerous and whether the penalty is appropriate. As preliminary manner, I do want to find that the City staff did meet all the noticing requirements for these proceedings and that Jacquelyn Sorrentino still owns Biscuit and presently resides at 17 Cherry Creek Court. As per the first designation of dangerous dog as determined by the City, and the City Attorney went over the definition of dangerous dog as stated in City Code Chapter 8-28, stating "when unprovoked , chased or approach a person upon the street or public road, in a menacing fashion or attitude of attack". I heard a lot of testimony from both sides about a lot of things that are not directly related to that and I agree with the City Attorney, with the sworn statement by Ms. Martin and her Affidavit, which is compliant with City Code and Florida Statute, and based on all the testimony we have heard, I am going to uphold the determination that Biscuit is a dangerous dog. I do not believe

that any of the exceptions apply in terms of situations when a dog cannot be declared dangerous. I find that this was unprovoked. So therefore, I am upholding that determination.

The second is largely what appears to be current with the Statutes. However, this particular section 8-43 of the City Code includes a lot more restrictions than the Statute does and the City is permitted to do this. I do have one concern regarding the practicality of some of these things, and to be specific, with regard to Section 8-43(a) which talks about confinement of dangerous dogs, I do find that because of the time period that has been imposed by the legislature and Statute and City Code, that the extremely detailed and specific requirements of the enclosure the animal must be kept in are reasonable, but not within a 14 day time period. The requirements include the permitting process and plans and I don't think this can be done within 14 days. The other issue which I am a little unsure of is Subsection 8-45 (c), this talks about muzzling and what to do when the animal is not inside the enclosure, I want to highlight these two things, the pertinent part, "the owner may exercise the dog in an enclosed space if the owner remains in sight of the animal". The Statute provides that members of the owners immediately household may be permitted in the structure. I just believe in the circumstances where we have children living in the home that it would be unfair that they could not be in the yard with their own dog. So to make an Order of what exactly the penalty is, and a lot of it follows with the City's investigative report, I will go through and read this:

Ms. Turcotte stated there are a lot of requirements and she encouraged the owners to follow along as they will be required to comply with the following:

1. Within 14 days after issuance of this Order, or the conclusion of any appeal that affirms this Order, Jacquelyn Sorrentino shall obtain a certificate of registration for the dangerous dog "Biscuit". Jacquelyn Sorrentino shall renew the certificate annually. The Certificate of Registration and annual renewals may only be issued to persons who are at least 18 years of age who present the City sufficient evidence of the following:
 - A current certificate of rabies vaccination, current animal license tag, and proof of sterilization from a certified veterinarian licensed in any state;
 - Permanent identification, such as tattoo on the inside thigh or electronic implantation;
 - A proper enclosure to confine the dangerous dog Biscuit, in accordance with the requirements herein, and the posting of the premises with a clearly visible warning sign at all points of entry of the premises which informs both children and adults of the presence of a dangerous dog on the property;
 - Proof that she is the free simple owner of the property upon which the proper enclosure is located; or alternatively proof of permission from the fee simple owner of the property upon which the proper enclosure is located; and
 - Proof that the owner has obtained insurance as required herein,
2. On a permanent basis, Biscuit shall be kept in a proper enclosure for a dangerous dog either (1) securely confined inside the owner's residence; or (2) in a securely enclosed locked pen or structure constructed on the owner's property according to the following specifications:

- a. The floor shall consist of a concrete pad, no less than four feet wide by eight feet long
 - b. The sides shall consist of chain link six feet in height
 - c. The top shall be enclosed and provide adequate shade and protection from the elements
 - d. The structure shall have secure sides, top, and flooring to prevent the dog from escaping over, under, or through the structure
 - e. The gate shall be lockable and remain locked when the dog is penned, shall be suitable to prevent the entry or partial entry of children, and be designed to prevent the dog from escaping; provided, however, that the pen must be completely constructed, inspected, and approved by the Animal Control Officer. Jacquelyn Sorrentino shall have the sole responsibility to contact the Animal Control Officer to arrange for the inspection.
 - f. A perimeter fence shall be installed around the dog's pen to prevent contact with the dog.
3. Biscuit shall be kept in a locked pen or inside Jacquelyn Sorrentino's residence when Jacquelyn Sorrentino is not present on the property. If Biscuit is kept inside the owner's residence, all windows and doors shall be closed and maintained to ensure that Biscuit remains inside the residence.
4. Biscuit shall not be let outside the residence or pen unless he is muzzled and restrained by a substantial chain or leash and under the control of a competent person. If Biscuit is of a breed that cannot be muzzled, Jacquelyn Sorrentino can apply to the Animal Control Officer for an exemption to this requirement. The muzzle shall be made in a manner that will not cause injury to Biscuit or interfere with his vision or respiration, but shall prevent him from biting any person or animal.
5. Jacquelyn Sorrentino may exercise Biscuit in a securely fenced or enclosed area without a muzzle or leash if Biscuit remains within sight of Jacquelyn Sorrentino, and only members of Jacquelyn Sorrentino's immediate household or persons 18 years of age or older are allowed in the enclosure when the dog is present
6. The premises at which Biscuit is located shall be posted by Jacquelyn Sorrentino with a clearly visible warning sign at all entry points and all sides of the fence that informs both children and adults of the presence of a dangerous dog on the property.
7. When Biscuit is being transported, Jacquelyn Sorrentino shall ensure that Biscuit is muzzled and safely and securely restrained within a motor vehicle. If Biscuit is of a breed that cannot be muzzled, Jacquelyn Sorrentino can apply to the Animal Control Officer for an exemption to this requirement.
8. Jacquelyn Sorrentino shall not be required to install the permanent enclosure for a dangerous dog, or a perimeter fence, within 14 days after issuance of this Order, or the conclusion of any appeal that affirms this Order, in order to obtain the registration required by paragraph 1 above, provided, however, that she do all of the following within 14 days:
 - a. Take necessary action to begin applying for, or implementing, the installation of the permanent enclosure and perimeter fence (e.g., apply for permitting, have plans prepared, purchase supplies, etc.) and provide proof of such action to the satisfaction of the City;

- b. Install a temporary enclosure, such as a crate or other securely enclosed and locked pen or structure suitable to prevent the entry of young children and designed to prevent Biscuit from escaping, which shall have secure sides and secure top to prevent Biscuit from escaping over, under, or through the structure and shall provide adequate ventilation and protection from the elements; and
 - c. Post a clearly visible warning sign at all entry points and all sides of the fence that informs both children and adults of the presence of a dangerous dog on the property. Such sign shall be kept on the property at all times Jacquelyn Sorrentino owns Biscuit.
- 9. Jacquelyn Sorrentino shall obtain and maintain insurance in the amount of \$100,000.00 to provide liability insurance for damage to persons and property caused by the dangerous dog Biscuit. The insurance shall be provided by an insurance company authorized to do business in the State of Florida, and Jacquelyn Sorrentino shall provide the Animal Control authority evidence of a certificate of insurance and a copy of the endorsement. Annual registration shall be denied in the event Jacquelyn Sorrentino fails to comply with this provision. If at any time the liability insurance is cancelled or lapses, the Animal Control authority shall have the authority to impound the dangerous dog. If Jacquelyn Sorrentino does not re-insure Biscuit within 14 days of the impoundment, ownership of Biscuit shall revert to the City and Biscuit may be euthanized in an expeditious and humane manner.
- 10. Jacquelyn Sorrentino shall immediately notify the Animal Control Officer if:
 - a. The dog becomes loose or unconfined
 - b. The dog attacks a human being or other animal
 - c. The dog dies
 - d. Jacquelyn Sorrentino moves to another address with the dangerous dog. If Jacquelyn Sorrentino moves to a different jurisdiction, then she shall notify the enforcement officer of the new jurisdiction that the dog has been classified as dangerous
 - e. Jacquelyn Sorrentino intends to sell or give away the dog. Prior to the dog being sold or given away, Jacquelyn Sorrentino shall provide the name, address, and telephone number of the proposed new owner to the Animal Control Officer. The new owner of Biscuit must comply with all of the requirements of Sections 767.10 through 767.15, Florida Statutes, even if the dog is merely moved from one local jurisdiction to another within the State. The enforcement officer of the new jurisdiction must be notified by the dog owner of a dog classified as dangerous that the dog is in the jurisdiction.
- 11. Jacquelyn Sorrentino shall permit any Animal Control Officer, at any reasonable hour, to inspect the premises to determine compliance with the requirements of Chapter 767, Florida Statutes and the conditions of this Order.
- 12. Pursuant to Section 8-29(a) of the Code of Ordinances, City of Palm Coast, Florida, the City Manager and Animal Control Officers have authority to capture, seize, or pick up a dangerous dog not in compliance with written notification of their dangerous dog classification. Additionally, pursuant to Section 8-40 of the Code of Ordinances, City of Palm Coast, Florida, an Animal Control Officer may immediately impound a dangerous dog if the owner fails to comply with any requirements of this Order, and after written notice to the Owner in accordance with Section 8-40(a)(7) of the Code of Ordinances, City of Palm Coast, Florida, the dog may be euthanized at the owner's expense in an

expeditious and humane manner unless the owner requests a hearing pursuant to Section 8-40(a)(8) of the Code of Ordinances, City of Palm Coast, Florida. The owner shall be responsible for payment of all boarding costs and other fees as may be required to humanely and safely keep the dog during any appeal while the appeal is pending.

13. Pursuant to Section 8-40 (e) of the Code of Ordinances, city of Palm Coast, Florida, a violation of any condition of this Order shall constitute a violation of the Code of Ordinances, City of Palm Coast, Florida, and be punishable as such.
14. Pursuant to Section 776.12(7), Florida Statutes, a violation of the Code of Ordinances, City of Palm Coast, Florida is a noncriminal infraction punishable by a fine not to exceed \$500.00.
15. This is final action taken as to this matter by the City of Palm Coast.

Ms. Sorrentino: “even though I am moving, I still need to get a concrete pad at my grandmothers?”

Ms. Turcotte stated she adjusted the Order to allow for modifications for the enclosure to be met for registration. She also stated “you can appeal my decision to the Circuit Court. You have a certain amount of time to do that so I would encourage you to do that. If you do decide to appeal, the dog cannot be destroyed prior to that appeal.

You have current custody of your animal so you can appeal my order. The statute allows you to do that. I cannot give you legal advice or how to do that. That is my final decision regarding this matter. You will get a written order outlining all of these things.

The meeting adjourned 12:45 p.m.

There being no further business on the agenda, the next hearing for Animal control Licensing will be held on August 1, 2017 at 10:00 a.m.

In accordance with the Americans with Disabilities Act, persons needing assistance to participate in any of these proceedings should contact Wendy Cullen, at 386-986-3718 at least 48 hours prior to the meeting or visit Palm Coast City Hall, 160 Lake Avenue, Palm Coast, FL 32164. If any person decides to appeal a decision made by the Animal Control Hearing with respect to any matter considered at such meeting or hearing, he/she will need a record of the proceedings including all testimony and evidence upon which the appeal is to be based. To that end, such person will want to ensure that a verbatim record of the proceedings is made. The City of Palm Coast is not responsible for any mechanical failure of recording equipment.

All pagers and cell phones are to remain OFF while the Animal Control Hearing is in session.