

**ANIMAL CONTROL BOARD
COUNTY OF MAUI**

Dept. of Parks & Recreation Conference Room
700 Halia Nakoa, Unit 2
Wailuku, Maui, Hawaii

April 22, 2015
9:00 a.m.

MINUTES

I. CALL TO ORDER

The meeting was called to order at 9:05 a.m. by Vice Chair Forsberg

II. ATTENDANCE/QUORUM

A. ATTENDANCE

Members Present:	Doreen Forsberg Larry Shapiro Rabbi Larry Winer
Members Excused:	Anthony Vargas, Jr.
Staff Present:	Kimberly Ferguson, DHHC Jerrie Sheppard, Deputy Corporation Counsel
Maui Humane Society:	Debbie Redd, Animal Control Officer (ACO)
Appellant:	Shawn Pahia-White
Witness:	Jeffrey Fontes

III. PUBLIC TESTIMONY

None

IV. NEW BUSINESS

A. Shawn Pahia-White Appeal

Vice Chair Forsberg read the complaints and accusations against Shawn Pahia-White and his dogs Makena and Knox.

COUNT 1: On or about February 25, 2015, in the County of Maui, State of Hawaii, "MAKENA", a blue and white in color female PITBULL, License Number 16-4063,

and "KNOX", a blue and white in color male PITBULL, License Number 16-4064, owned by SHAWN PAHIA-WHITE, of 747 Pakanu Street, Haiku, Hawaii, attacked a cow, while off the owner's property causing serious bodily injury to an animal, thus being designated as "dangerous dogs" as defined under Maui County Code 6.04.046A (1) (b)."

Appellant Shawn Pahia-White was present and understood the charge. Mr. Pahia-White was asked if he had legal counsel. He answered no. Mr. Pahia-White was asked by Vice Chair Forsberg if he was aware of the right to legal counsel. Mr. Pahia-White answered in the affirmative and requested to proceed without counsel.

Mr. Pahia-White understood and admitted to charges against him.

Vice Chair Forsberg asked Mr. Pahia-White if he understand the violation the Humane Society alleged against him. Mr. Pahia-White answered in the affirmative.

Mr. Pahia-White was asked if he understood that he had the right to enter a denial plea. Mr. Pahia-White answered in the affirmative.

Mr. Pahia-White was asked if he understood that by admitting to the charges, he waived the right to a hearing in which he could present evidence and question witnesses on his behalf. Mr. Pahia-White answered in the affirmative.

Mr. Pahia-White acknowledged that his admission was voluntary and not the result of force, threats, or of promises apart from any agreement.

Vice Chair Forsberg asked the appellant if there was anything that might affect his ability to understand the Board's questions and/or his ability to think clearly. Mr. Pahia-White responded no.

Mr. Pahia-White understood that if the Board accepted his admission, he would be found responsible for his dogs and that he must comply with Section 6.04.046 of the Maui County Code (MCC) and may face penalties under Section 6.04.110 of the Maui County Code.

Vice Chair Forsberg asked Mr. Pahia-White if he still wished to admit to the alleged violations and he answered in the affirmative.

The Board found that the owner entered a knowing and voluntary admission and accepted Mr. Pahia-White's please and found him responsible for Count 1 of said complaint.

Maui Humane Society (MHS) was asked to present a summary of the case. ACO Debbie Redd proceeded to read a summary of the case. ACO Redd stated that on or about February 25, 2015 MHS received a report from Jeff Fontes, owner of the cow, that Shawn Pahia-White's dogs were reported loose and to have attacked a cow at 121 Kapuahi Road in Haiku. ACO Redd stated that at the time of the attack the dogs were turned over to Valley Isle Animal Rescue. Dogs were picked up on February 26, 2015 by MHS officers. Dogs were observed as American Pit-bull Terriers and the owner later identified the dogs as Knox and Makena. Dogs were observed at the shelter to have blood stains on their faces.

MHS witness Jeffrey Fontes gave an account of what happened on the night of the incident. He stated he didn't know the actual time of the incident as he was sleeping when he heard the cow screaming. Mr. Fontes stated that he grabbed a flashlight and went outside. His neighbor also came outside and helped him contain the dog. Mr. Fontes said the male dog was on the cow and as his neighbor pulled the dog off of the cow, the cow's ear was ripped off. Mr. Fontes stated that he did not see the female dog attacking the cow at all. Mr. Fontes grabbed the male dog by his choke chain and the female followed as he took them to his garage. Mr. Fontes also stated that the dogs didn't show any aggression toward humans at all. He then tied both dogs up and called Valley Isle Rescue.

ACO Redd explained that Valley Isle Rescue was called as MHS does not have emergency services at night due to budget cuts.

Mr. Fontes stated that the cow is doing well now. Mr. Fontes was asked to describe the injuries to his cow. He stated that the cow's right ear was half bit off, the left ear had been ripped off, and the dogs got to the cow's nose but luckily not to the cow's tongue otherwise he would have had to put it down. He also stated that there were bite marks to the side of the cow's neck as well. Mr. Fontes stated that he didn't call a vet and tended to the cow's injuries himself.

Deputy Corporation Counsel Sheppard asked how long it took for the cow's injuries to heal. Mr. Fontes responded it took two weeks. Mr. Fontes was then asked how the cow behaved after the incident. He stated that the cow was in total shock and hid in the bushes. He then stated that he had to use a super soaker to shoot medicine on the cow for the first ten days following the incident. Mr. Fontes was asked if he had purchased medication for the cow and how much it cost. He replied that it cost about \$300 and that the appellant had given him some money for it.

Mr. Fontes then stated that the cow's injuries have healed although he noted that the cow did lose a lot of weight because it was in shock. He was then asked if the cow was a meat cow, a milk cow or a pet. He responded "more like a pet". Mr. Fontes was then asked how far his property was from Shawn's. He responded about a quarter mile.

Member Shapiro asked the witness if he's had other problems with dogs coming onto his property. Mr. Fontes responded that he had a sheep that was attacked about 17 years ago but he didn't see the dogs. He said that was the only other incident.

Mr. Fontes was asked how big his property was. He replied that his property was 2.1 acres and 1 ½ acres was pasture.

ACO Redd added that when the dogs were taken into MHS, they showed no aggression whatsoever toward her or any other staff members. She also noted that the female dog was pregnant at the time.

Mr. Fontes also stated that when he grabbed the dogs away during the incident, they had every opportunity to get to him but they showed no aggression at all.

Appellant Shawn Pahia-White was given the opportunity to make a statement regarding the case and inform the Board of any mitigating circumstances which may or may not apply toward the safekeeping of his dogs.

Mr. Pahia-White did not have any witnesses.

Mr. Pahia-White stated that the incident did happen and that the dogs did get out. He then said that the dogs were indoor house dogs and that they were family members. He also stated that the dogs were also companion dogs for his mother and that the dogs assisted his mother when she was having seizures.

Mr. Pahia-White proceeded to describe what happened on the day of the incident. He stated that he had stayed home from work that day. He heard his mom screaming and ran into the house to assist her. He stated that he didn't shut the door properly and that's how the dogs got out. When he got back to his room, which was about ten minutes later, the dogs were gone.

Mr. Pahia-White stated that there was a porch attached to his room which was not enclosed prior to the incident. Mr. Pahia-White then stated that since the incident, he has enclosed the porch so that in the event the dogs get out of his room again, they will be contained on the porch. He also stated that he has installed a metal screen door inside of the sliding glass door as another layer of prevention. In addition, he also secured his windows with metal bars.

Member Winer asked the appellant to speak slower and asked for some clarification on what was said earlier regarding where the dogs were kept.

Mr. Pahia-White continued with his statement. He said he has taken every precaution to prevent the dogs from getting loose again. He then stated that the whole ordeal has affected his mother a great deal. Mr. Pahia-White reiterated that the dogs are strong companion dogs for his mother.

Mr. Pahia-White then stated that he has enrolled his dogs in training by Sit Means Sit. He described the courses and training that he and his dogs will be taking part in. Mr. Pahia-White stated that his dogs have never shown any aggression toward any other animals or people. He believed what happened was an isolated incident as both dogs were out together, mother and son were roaming, they were out all night and together they had the pack mentality. He believes that the training will help prevent any further incidents in the event the dogs get out again.

Mr. Pahia-White was asked what time he got home from work on the day of the incident. He responded that he was off but got home about 4 o'clock. Deputy Corp Counsel Sheppard then asked what time the attack occurred. Mr. Fontes responded about 12:30 a.m. or so. Mr. Pahia-White was asked if his yard was fenced. He responded yes, it is three acres but it wasn't fool proof, the dogs are able to get out. He then stated that he is working on constructing a large playpen his dogs. Mr. Pahia-White stated that he did not get the insurance yet but did get a quote and apologized that he spent the money on the porch before the actual insurance. He stated that he will have the insurance in place by May 1st.

Mr. Pahia-White presented the board with a letter from his mother's doctor stating that she has companion dogs and that he does recommend them. In addition, he

presented the board with a letter from his mother allowing him to have the dogs on her property.

Mr. Pahia-White requested to have the deeming removed so he can walk his dogs outside of his property supervised and that he would make sure they're contained. Mr. Pahia-White passed around his iPad with before and after photos of the porch area and the screens he installed. He also presented the board with a copy of the insurance quote he had received.

ACO Redd suggested that the appellant bring forth the fact that he uses the dogs to generate income from breeding as spaying/neutering is a requirement if the deeming is upheld. Appellant stated that he basically partners with a friend and does one breed a year and doesn't plan on doing it forever. Mr. Pahia-White stated that he knows that once dogs are fixed their attitude changes. He also said that they gain weight which he would like to prevent if he could but does understand the requirements.

Mr. Pahia-White was asked if he takes his dogs out to run and play. He answered he doesn't really let them run loose since the deeming as they must be muzzled and leashed. He would like them to be able to play within a chain link fenced area on his property. ACO Redd stated that the dogs cannot run loose per the dangerous dog regulations and that is a hardship for a dog owner.

Mr. Pahia-White requested that the board allow modifications to the dangerous dog regulations in the event the deeming is not lifted. He requested to be able to let the dogs exercise in a contained area within his yard. In addition, he requested to be able to use a longer leash while at the beach. Mr. Pahia-White also requested that the spay/neuter requirement also be waived. He stated that he is willing to comply with all other regulations such as insurance and training and other precautions.

Member Winer asked if there were any children in the home. Appellant answered no. Member Shapiro asked about prior history. ACO Redd answered that there was prior history with dogs owned by Mr. Pahia-White in the past, but not with the dogs in question. She also stated that since the deeming, Mr. Pahia-White has gotten his act together and has been in compliance.

Vice Chair Forsberg asked the appellant what kind of pitbulls his dogs were. Mr. Pahia-White answered they were American Bull Terriers. He was then asked if the dogs were mother and son. He answered yes. Vice Chair Forsberg then asked if the female was pregnant at the time of the attack and the appellant answered yes. Mr. Pahia-White was then asked if the dogs had been trained as service dogs for his mother. He said they are trained as companion dogs but not service dogs. Vice Chair Forsberg commented that you can't combine companion dogs and breeding dogs as the two don't mesh.

The board members and appellant then engaged in additional discussion and requested further clarification regarding the modifications requested by the appellant. Mr. Pahia-White reiterated that he is requesting to be able to take his dogs out to exercise without the three-foot leash and muzzle requirement. He stated that the dogs would still be contained but on a leash of a longer length than stated in the requirement. In addition, he feels that he will be able to control his dogs properly after completing the Sit Means Sit training.

ACO Redd was asked if MHS had any arguments or recommendations as to penalty. ACO Redd responded that she felt the requested modification of having a playpen for the dogs in the appellant's yard was reasonable. She wasn't too sure about not having the dogs spayed or neutered. ACO Redd mentioned that if the board would consider the modification regarding the playpen, that it would need to be approved by MHS. In addition, ACO Redd asked the board to hear from the owner of the cow on how he would feel if the requested modification were allowed.

Cow owner Jeff Fontes stated that he thought a play area would be awesome. In addition, he felt that if the dogs were kept on a leash they may become more aggressive. He then stated that he had no problem with the requested modifications.

Deputy Corporation Counsel Sheppard asked ACO Redd if she would withdraw the dangerous dog designation knowing what she knows now. ACO Redd stated that she was really happy with the response the appellant has shown and the way he has followed through because it hadn't been that way in the past. ACO Redd also suggested if the board was open to it and the appellant completes the training, that the case could be revisited in six months. She stated that the deeming fits the letter of the law however the sad thing about the designation is that it's a lifelong thing. She also stated that a lot of times it is very difficult for the owner.

Mr. Pahia-White stated that the insurance is expensive, about \$2,200 per year and the training is going to cost about \$5,000. He also stated that he had given Mr. Fontes about \$400 to help with the expenses caused by the event.

Mr. Fontes was asked for his thoughts on revisiting the case in six months. He stated he was okay with it and it was worth a try,

Vice Chair Forsberg entertained a motion to enter into deliberations, seconded by Member Winer; off the record for deliberations at 9:50 a.m.

Hearing was reconvened at 10:21 a.m. Board members, staff, MHS and appellant Shawn Pahia-White were present.

Vice Chair Forsberg announced that the Animal Control Board will uphold the dangerous dog designation placed on Makena and Knox with no modifications. Appellant must comply with all conditions stated in MCC 6.04.046(c). The board is willing to revisit the case in one year upon receipt of request from the appellant to remove the dangerous dog designation. Appellant was given a copy of the conditions and acknowledged receipt of such for the record.

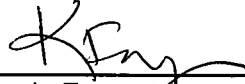
Deputy Corporation Counsel Sheppard clarified that if there is an enclosed pen outside, the appellant did not need to have dogs muzzled as long as they could not escape from the enclosure and that the pen conformed to the conditions stated in MCC 6.04.046 (c).

Hearing concluded at 10:23 a.m. Vice Chair Forsberg thanked both MHS and Shawn Pahia-White and board members.

V. ADJOURNMENT

Motion to adjourn entertained by Vice Chair Forsberg, moved by Member Winer, seconded by Member Shapiro. Meeting adjourned at 10:25 a.m.

Respectfully submitted:



Kimberly Ferguson
Secretary to the Animal Control Board