

In Re Appeal of Vanessa Hubbs –Dangerous Dog Determination: Trap	ORDER AFFIRMING DANGEROUS DOG DETERMINATION
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THIS MATTER, coming before the ANIMAL SERVICES ADVISORY COMMITTEE (“ASAC”) for the City of Hendersonville on October 24, 2022 for a quasi-judicial public hearing to consider the appeal submitted by VANESSA HUBBS, appealing the determination given by the City of Hendersonville Chief of Police that the dog in question meets the definition of a dangerous dog.

1. The following ASAC members were present at the hearing: Caroline Gunther (Chair), Jean Greeson, Katie Weibel, Robin Grainger, and Melissa Vazquez.
2. The following persons were present at the hearing: Vanessa Hubbs, appellant; Mackenzie Lynch, party; Yan Yin Yang, party; Freddie Yang; C. Blair Myhand, Hendersonville Chief of Police; Alexis Barker; Animal Services Officer for the Hendersonville Police Department; Angela S. Beeker, Hendersonville City Attorney; Daniel Heyman, Staff Attorney for the City of Hendersonville; Melissa Justus, Administrative Assistant III for the Hendersonville Police Department.
3. The record for the administrative hearing consists of the following:
 - a. Testimony of Vanessa Hubbs, Yan Yin Yang, Police Chief C. Blair Myhand, and Animal Services Officer Alexis Barker,
 - b. Appeal letter dated 10/6/22 submitted by Vanessa Hubbs,
 - c. Photograph of Trap,
 - d. Photographs of victim’s injuries taken 9/6/22,
 - e. Security camera video of incident from 9/6/22,
 - f. Dangerous dog determination letter dated 10/5/22 signed by Police Chief C. Blair Myhand, and
 - g. Certified copy of Sections 10-106 and 10-110 of the Code of Ordinances for the City of Hendersonville (“City Code”).
 - h. Visible observation of Yan Yin Yang’s arm at the hearing.
4. As a preliminary matter, Caroline Gunther, ASAC chair, disclosed a conflict and was recused from the hearing by unanimous vote.
5. ASAC member Jean Greeson was appointed as the acting chair by unanimous vote.

FINDINGS OF FACT

Based on the evidence submitted, the ASAC makes the following findings of fact:

1. The Appellant Vanessa Hubbs is the owner of a dog named Trap House Raines, a cane corso (“Trap”).

2. Ms. Hubbs was present at 1410 Asheville Hwy, Hendersonville, NC, the New China Garden restaurant, on September 6, 2022 with her mother and her dog, Trap.
3. Trap bit Ms. Yang on the arm as she exited the restaurant and walked around Ms. Hubbs and Trap.
4. The bite from Trap was unprovoked.
5. Security camera footage captured the incident.
6. Trap has exhibited vicious propensities in the past, in that he has bitten two other individuals, both while Trap was at home.
7. Trap bit a plumber who entered the house without announcing himself and that the injuries were not severe.
8. Trap bit a pedestrian on the hand who was looking into the open trunk of her car, and that some blood was drawn, but that ultimately the bite was not severe.
9. Ms. Hubbs knew about Trap's vicious propensities because she owned Trap at the time of the previous bites, and because she normally muzzles Trap when she is in public with him.
10. As a result of Trap's vicious propensities, Ms. Hubbs usually puts a muzzle on Trap when she is in public with him, but Trap was not wearing a muzzle on September 6, 2022.
11. Ms. Yang was transported to the hospital by EMS to care for her injuries caused by the bite from Trap.
12. Ms. Yang had to receive stitches and her arm is still sore as a result of the attack.
13. Visible scarring on Ms. Yang's arm were visible as of the date of the hearing on this matter.
14. Animal Services Officer Alexis Barker responded to the incident on September 6, 2022 and subsequently conducted an investigation.
15. Police Chief C. Blair Myhand issued a written determination that Trap is a Dangerous/Potentially Dangerous Dog according to the definition contained in the Code of Ordinances for the City of Hendersonville.
16. Ms. Hubbs submitted a written appeal of Chief Myhand's determination.

CONCLUSIONS

1. All parties and other persons entitled to notice were given proper notice of the hearing and afforded the right to be heard, to present evidence, to call and cross-examine witnesses, and to inspect the documents and evidence presented.
2. Section 10-106 of the City Code states that the term "dangerous dog" means:
 - a. any dog that without provocation has killed or inflicted severe injury on a person; or is determined by the chief of police or designee and/or City of Hendersonville Animal Services Advisory Committee to be potentially dangerous because the dog has engaged in one or more of the behaviors listed under "Potentially Dangerous Dog" definition. Any dog owned or harbored primarily or in part for the purposes of dog fighting, or any dog trained for dog fighting.

3. The term “severe injury” is not defined in the City Code, however, it is defined in NCGS 67-4.1(a)(5) as “any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization.”
4. Section 10-106 of the City Code also states, in part, that the term “potentially dangerous dog means:
 - a. a dog that the chief of police or designee and/or City of Hendersonville Animal Services Advisory Committee determines to have...[i]nflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization...”
5. The bite Trap inflicted on Ms. Yang was unprovoked.
6. The injuries she sustained as a result of the bite from Trap constitute disfiguring lacerations because the injuries required stitches and resulted in visible scarring.
7. The injuries sustained by Ms. Yang as a result of the bite constitute severe injury because the injuries resulted in disfiguring lacerations as described herein.
8. Trap is a dangerous/potentially dangerous dog.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS it is ORDERED:

1. The Animal Services Advisory Committee hereby AFFIRMS Police Chief C. Blair Myhand’s determination that the dog, a cane corso owned by Vanessa Hubbs named “Trap,” is a dangerous/potentially dangerous dog as defined by the Code of Ordinances for the City of Hendersonville.
2. Any person owning, keeping, harboring, possessing or acting as custodian, however, temporarily, of Trap is required to comply with the provisions of Section 10-110 of the City Code related to the keeping or transferring of a dangerous dog.
3. Pursuant to Section 10-110(d)(4) of the City Code, the owner of Trap has the right to appeal this determination to the Superior Court of Henderson County.

This the ____ day of _____ 2022

**CITY OF HEDNERSONVILLE
ANIMAL SERVICES ADVISORY COMMITTEE**

BY: _____
Jean Greeson, ASAC Member