

Date: September 8, 2008

PUBLIC HEARING ON DANGEROUS ANIMAL APPEAL OF JESSICA WRIGHT

WHEREAS, Jessica Wright, 802 SE County Line Road #158, Des Moines, Iowa, filed an application for appeal before the City Council of the City Hearing Officer's decision upholding the Chief Humane Officer's declaration of her dogs as dangerous animals; and

WHEREAS, Ms. Wright requested an opportunity to address the City Council regarding her appeal; and

WHEREAS, Ms. Wright has been provided with the opportunity to address the City Council on the matter of her appeal; NOW, THEREFORE,

BE IT RESOLVED (Choose one of the two alternatives):

Alternative One: That the order of the hearing officer be upheld and Ms. Wright's dogs be declared dangerous animals and that they be humanely destroyed.

MOVED BY _____ TO UPHOLD DECLARATION AND TO HUMANELY DESTROY THE ANIMALS.

Alternative Two: That the order of the hearing officer be reversed and Ms. Wright's dogs not be declared dangerous.

MOVED BY _____ TO REVERSE DECLARATION.

FORM APPROVED:

K. Massier
Katharine Massier
Assistant City Attorney

Table with 5 columns: COUNCIL ACTION, YEAS, NAYS, PASS, ABSENT. Rows include COWNIE, COLEMAN, HENSLEY, KIERNAN, MAHAFFEY, MEYER, VLASSIS, and TOTAL.

MOTION CARRIED APPROVED

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

City Clerk

EXHIBITS FOR DANGEROUS ANIMALS

Kali & Tretch

**EXHIBIT A Hearing Officer's Decision
 (City Exhibits A-Y)**

EXHIBIT B Appeal from Ms. Wright

**EXHIBIT C Letter to Ms. Wright with Administrative
 Hearing Transcript**

August 28, 2008

Jessica Wright
802 SE County Line Road #158
Des Moines IA 50320

RE: Administrative Hearing – Declaration of Dangerous Dog(s)

Dear Ms. Wright:

At your request, the City of Des Moines scheduled an Administrative Hearing on August 20, 2008, at 1:00 p.m. regarding the declaration of your brindle and white female Pit Bull dog named Kail and your brindle and white male Pit Bull dog named Tretch, to be "dangerous dogs" by Sergeant Scott Raudabaugh, Chief Humane Officer for the City of Des Moines Animal Control Unit.

Sergeant Raudabaugh entered the following documents into evidence:

- City Exhibit A – Municipal Code Section 18-41. Definitions of vicious dog
- City Exhibit B – Municipal Code Section 18-56. Confinement of vicious dogs
- City Exhibit C – Municipal Code Section 18-196. Definitions of dangerous dog
- City Exhibit D – Municipal Code Section 18-203. Immediate seizure or destruction of animals
- City Exhibit E – Municipal Code Section 202. Seizure, impoundment and disposition of dangerous animals (2 pages)
- City Exhibit F – Letter dated 8-15-08 to Jessica Wright declaring her dogs "dangerous" and setting a date and time for an Administrative Hearing
- City Exhibit G – Document Service form dated 8-15-08 and signed by Jessica Wright
- City Exhibit H – Animal Incident Investigation Report on Case No. 08-29070, 8-12-08 (5 pages)
- City Exhibit I – Animal History Report on Tretch by Gregg W. Berry, DVM, dated 8-14-08, Case No. 08-29070
- City Exhibit J – Animal History Report on Kali by Gregg W. Berry, DVM, dated 4-8-08, Case No. 08-11761
- City Exhibit K – Rabies Examination Submission dated 8-12-08, stray cat referred to in Case No. 08-29070
- City Exhibit L – Report from Veterinary Diagnostic Laboratory dated 8-14-08 showing stray cat in Case No. 08-29070 was negative for the rabies virus
- City Exhibit M – Supplemental Report dated 8-14-08 on Case No. 08-29070



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- City Exhibit N – Animal Incident Investigation Report dated 4-7-08 on Case No. 08-11761 on animals running-at-large (concerning Kali and a shepherd mix dog named Angel) (3 pages)
- City Exhibit O – Four citations issued for Case No. 08-11761, dated 4-7-08 (4 pages)
- City Exhibit P – Polk County Complaint and Probable Cause Statement for Case No. 08-11761, dated 4-7-08 (2 pages)
- City Exhibit Q – Animal Incident Investigation Report for Case No. 08-11781, of 4-7-08 (2 pages)
- City Exhibit R – Vicious Dog Breed Declaration Letter dated 4-8-08, Case No. 08-11761 from Sgt. Scott Raudabaugh to Jessica Wright on Kali
- City Exhibit S – Document Service dated 4-8-08 and signed by Jessica Wright
- City Exhibit T – Rabies Certificate for Kali
- City Exhibit U – Form indicating license procedures and compliance form dated April 8, 2008 and signed by Jessica Wright
- City Exhibit V – City of Des Moines Animal License form indicating Jessica Wright purchased License No. 20240 on 4-8-08 for Kali
- City Exhibit W – Insurance form required for owning a vicious dog, acquired 4-8-08 and in affect until 4-8-09
- City Exhibit X – Photo of Jessica Wright's dog Kali, taken 4-7-08
- City Exhibit Y – Photo of Jessica Wright's dog Tretch, taken 8-12-08

Sergeant Raudabaugh stated that on August 12, 2008, that Jessica Wright's two Pit Bull dogs, Kali and Tretch, were running-at-large when they bit and killed a domestic rabbit that was owned by a neighbor. The rabbit was outside in a round, circular cage while the owner of the rabbit was cleaning the hutch. The rabbit was killed, drug away and no remains were found. The two dogs then bit and killed a stray cat that was in the trailer court. The cat was subsequently retrieved and as a precautionary act, it was sent to Iowa State to determine if the cat had rabies. These events are documented under Case No. 08-29070. Ms. Wright's dog, Kali, was licensed after it was impounded in a previous incident. However, the other dog, Tretch, who is at or about six months of age, is not currently licensed.

Sergeant Raudabaugh said Ms. Wright's dog, Kali, along with a Shepherd mix dog, were impounded on April 7, 2008, Case No. 08-11761, for running-at-large. Neither dog had current City licenses at that time. Ms. Wright's dog, Kali, was declared a "vicious dog" by breed, and was released to Ms. Wright after she had complied with the necessary procedures to have a vicious dog licensed in the City limits. As part of the paperwork, Ms. Wright signed what



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is termed a "blue sheet" (City Exhibit U) stating she would confine and properly leash the dog.

Jessica Wright attended the Hearing and stated that on the date of the incident (August 12, 2008) the dogs did get out. They were not on a chain, but she had them on shock collars. Ms. Wright said that Tretch is just a puppy and did not have a shock collar on, but Kali did. Ms. Wright said her 13 month old child opened the door and both dogs ran away. Ms. Wright said she tried using the shock collar, but realized she had not turned the shock collar on. Ms. Wright said she and her husband tried to get the dogs to come back, she said they are playful and would not come back.

Ms. Wright said a short while later a lady came to her door and told her that her dogs were running loose and killed her stray cat in front of her grandson and also got into her rabbit's cage and got the rabbit out and killed it. The lady told Ms. Wright that she had called Animal Control, so Ms. Wright said she sat back and waited for Animal Control to arrive.

Ms. Wright asked to see the pictures of the dogs (City Exhibits X and Y), and verified these are her dogs. Ms. Wright asked Sergeant Raudabaugh if the red showing in the pictures is blood. Sergeant Raudabaugh said he could not verify it was blood, but it appeared that it could be blood. Sergeant Raudabaugh said no blood sample was taken from the dog(s). Ms. Wright said she was asking because the last time Kali was picked up, she got into some barbed wire and was cut up in a similar way. Ms. Wright said when Officer Bales got there, she was not cited because the lady that called Animal Control kept changing her story about the cat and the incidents. The lady was holding the cat that had been attacked and thought it was hers and then another cat came up and the lady said the cat she was holding was not her cat; that her cat was the cat that had just come up to her. Ms. Wright said she was not sure her dogs had attacked the cat because she has two cats and the dogs play with her cats all the time.

I asked Ms. Wright if she had signed the "blue sheet" (City Exhibit U) that states how the dogs have to be confined, and she said she remembers signing it. I then asked if she was aware that the dogs have to be on a certain length leash, inside the house or a fenced in yard, according to the document she signed. She agreed she was not complying with the document and had not read the whole document before signing it.

Sergeant Raudabaugh said the only reason Officer Bales did not issue any citations that day is because she was waiting for the veterinarian to determine



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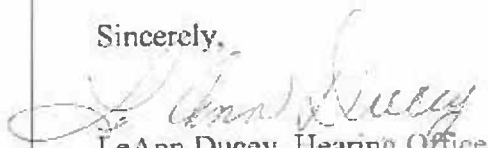
the breed of the dog.

I am upholding Sergeant Raudabaugh's declaration of Jessica Wright's dogs, to be "dangerous dogs." The reasons for this determination are as follows:

- Ms. Wright's dogs are "vicious" dogs as defined by Municipal Code Section 18-41 (1), (2), (3) (8).
- Ms. Wright failed to confine her dogs as defined by Municipal Code Section 18-56 and per her signature of the "blue sheet" (City Exhibit U)
- Ms. Wright's dogs (Kali and Tretch), were both running-at-large at the time of the attacks on August 12, 2008 (Case No. 08-29070)
- Ms. Wright failed to have her dogs in her control or properly restrained at the time of the attacks on August 12, 2008, and testimony provided, shows a pattern of allowing her dogs to run at large
- Ms. Wright failed to have proper licensing for a Pit Bull breed dog, Kali, until after the April 7, 2008 incident
- Ms. Wright's dogs (Kali and Tretch) meet the definition of dangerous dogs
- Ms. Wright's dogs (Kali and Tretch) meet the standards of Municipal Code Section 18-203
- Ms. Wright's dogs (Kali and Tretch) killed a domestic rabbit and a stray cat while running-at-large on August 12, 2008

Additionally, I am ordering Jessica Wright's dogs, Kali and Tretch, to be destroyed in a humane manner by the Chief Humane Officer of the City of Des Moines. If you disagree with this decision, you have three (3) days to appeal the decision to the City Council. The appeal must be made in writing to the City Clerk's Office, and state the reason for the appeal. If you have any questions regarding the appeal or compliance procedure, please contact Animal Control at 248-6051.

Sincerely,


LeAnn Ducey, Hearing Officer

Enclosures

Cc: Diane Rauh, City Clerk
Police Chief Bradshaw
Sergeant Scott Raudabaugh



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A

Sec. 18-41. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, except where the context clearly indicates a different meaning.

Chief of police means the legally designated chief of the police department or a designated representative.

Director of public health means the county health center director or a designated representative acting in behalf of the city.

Dog means and includes both male and female animals of the canine species.

Owner means any person owning, keeping or harboring a dog.

Vicious dog means:

- (1) Any dog which has attacked a human being or domestic animal one or more times, without provocation;
- (2) Any dog with a history, tendency or disposition to attack, to cause injury or to otherwise endanger the safety of human beings or domestic animals;
- (3) Any dog that snaps, bites, or manifests a disposition to snap or bite;
- (4) Any dog that has been trained for dog fighting, animal fighting or animal baiting or is owned or kept for such purposes;
- (5) Any dog trained to attack human beings, upon command or spontaneously in response to human activities, except dogs owned by and under the control of the police department, a law enforcement agency of the state or of the United States or a branch of the armed forces of the United States;
- (6) Staffordshire terrier breed of dog;
- (7) The American pit bull terrier breed of dog;
- (8) The American Staffordshire terrier breed of dog; or
- (9) Any dog which has the appearance and characteristics of being predominately of the breeds of Staffordshire terrier, American pit bull terrier, American Staffordshire terrier.

(C42, §§ 114-6, 114-9, O.5385, 5506; C54, § 5-19; O.6002; C62, § 5-19; C75, § 7-13; O.9097; C79, § 7-13; O.9828; C85, § 7-13, O.11,095; C91, § 7-13; O.11,914)

Cross references: Definitions generally, § 1-2.

B

Sec. 18-56. Confinement of vicious dogs.

(a) All vicious dogs shall be securely confined within an occupied house or residence or in a securely enclosed and locked pen or kennel, except when leashed as provided in this section. Such pen, kennel or structure must have secure sides and a secure top attached to the sides or, in lieu of a top, walls at least six feet in height and at least six feet taller than any internal structure.

(b) All pens or other structures designed, constructed or used to confine vicious dogs must be locked with a key or combination lock when such animals are within the structure. Such structure must have a secure bottom, floor or foundation attached to the sides of the pen, or the sides of the pen must be embedded in the ground no less than two feet so as to prevent digging under the walls by the confined dog.

(c) All structures erected to house vicious dogs must comply with all city zoning and building regulations. All such structures must be adequately lighted and ventilated and kept in a clean and sanitary condition. No vicious dog may be kept on a porch, patio or in any part of a house or structure that would allow the dog to exit such building on its own volition.

(d) No person shall permit a vicious dog to go outside its kennel or pen unless such dog is securely leashed with a leash no longer than six feet in length. No person shall permit a vicious dog to be kept on a chain, rope or other type of leash outside its kennel or pen unless both the dog and the leash are under the actual physical control of a person 18 years of age or older.

(e) Such dogs may not be leashed to inanimate objects such as trees, posts, buildings, or any other object or structure.

(f) Violation of this section is a misdemeanor.

(C85, § 7-27.01; O.11,095, 11,558; C91, § 7-27.01)

