



DOG BOARD OF SUPERVISORS Hearing October 29, 2024

A hearing was held at 3:00 p.m. on Tuesday, October 29, 2024 for Deschutes County Sheriff's Office Case No. 2024-58999. Pursuant to Deschutes County Code Chapter 6.08 and Oregon Revised Statutes Chapter 609, one dog, a boxer named "Ma Qua", owned/kept by Shamus Tucek and Cheryl Norton, was seized on October 14, 2024 by Deschutes County Sheriff's Office in response to a report of an incident on Galen Road in Deschutes River Woods, Bend. It is alleged that Ma Qua left the property of his owners, Shamus Tucek and Cheryl Norton, and went onto the property of Scott and Chelsie Smith to attack their dog, "Gayle". In the process of running towards Gayle, Ma Qua ran into Chelsie's knees causing her infant son to drop to the ground and resulting in skull fracture and concussion injuries to the infant boy. This hearing was audio/video recorded.

Present: Deschutes County Legal Counsel Dave Doyle; BOCC Administrative Assistant Angie Powers; Deschutes County Sheriff's Office (DCSO) Deputy Zach Johnson; DCSO Animal Control Officer Mariya Leufven; dog owner/keeper Shamus Tucek; baby Logan's parents Scott and Chelsie Smith; Humane Society of Central Oregon (HSCO) Shelter Manager Lori Weber; Dog Control Board Members Michael Pennavaria, Thomas Schuchardt, Sandy Storrie and Tamara Kuntz; neighbor Heidi Odman (via phone); neighbor Donna Jarboe; neighbor Theresa Ward; neighbor Lindsay Nokell (via phone).

CALL TO ORDER: Counsel Doyle convened the hearing at 3:00 p.m. He provided an overview of the hearing format. The Dog Board will be determining four things today: 1) whether the dog at issue was at large (off the premises of its owner while not under complete control); 2) whether the dog is a nuisance (bites, injures or attacks a person, damages property, trespasses or places persons in reasonable fear of imminent injury while off the premises of its owner); 3) whether the dog menaced (lunges, growls, snarls or other behavior causing a reasonable person to fear for their safety); and 4) whether the dog is a potentially dangerous dog (while off premises of its owner it menaces a person, inflicts injury on a person or inflicts injury on a domestic animal). Counsel Doyle stated the Dog Board has authority over the dog and what becomes of the dog, not the dog owner. Based on the findings, the Board will determine sanctions for the dog and what will become of the dog.

Counsel Doyle will facilitate the hearing and keep the testimony on track.

Shamus Tucek made a statement, apologizing for what occurred, stating it was a horrible accident. He said that Ma Qua is not a bad dog but slipped through the gate. He took responsibility for allowing the dog to escape his property.

A security camera video taken from the Smith's property was shown. It showed the incident which occurred on October 14th.

Logan's father, Scott Smith, provided testimony. He and Chelsie went out front of their house in their driveway to watch their 4-year-old daughter ride her scooter. While he was putting a helmet on his daughter, Ma Qua bolted in from the left, and he heard Chelsie call his name. Ma Qua attacked their deaf dog, Gayle. He grabbed Ma Qua by his collar and started beating it and it eventually released Gayle's neck. He shoved Ma Qua away and heard Chelsie yelling "We need to go to the hospital!". Gayle ran onto the porch to escape and Ma Qua persisted at attempting to reattack Gayle. Gayle was sniffing around in front of the 4-Runner in their driveway when Ma Qua arrived on their property. Shamus arrived on the scene and pulled Ma Qua home by his collar.

Scott called an ambulance for his son. He described his son as having purple color around his eyes and his mouth. Chelsie described her son's diagnoses: an occipital fracture, a 2-inch skull fracture (a depression, where the skull was crushed) at the back of his head near the base of his neck, and a concussion. Gayle has PTSD and is fearful of going outdoors alone. She flinches when a hand approaches over her head. They are watching her for any signs of aggression as they are cautious with their two children. Chelsie described her as a changed dog.

Chelsie described feeling a blow at her knee which knocked her over causing Logan to come out of her arms and hit the ground.

Responding to Thomas Schuchardt, Logan's long-term prognosis is good. There was no brain bleed or brain damage. He spent one night in the trauma unit for observation. His concussion symptoms subsided in about a week. Initially he was grumpy, fussy, lethargic and sleepy. There will be an eight week heal time for his skull fracture. Chelsie said the incident was preventable and should never have happened. Their daughter is fearful and won't ride her scooter anymore and doesn't want to sleep alone. She is going to start therapy to help her cope with the aftermath.

Ma Qua's owner/keeper, Shamus Tucek, provided testimony. While acknowledging that he wasn't close up and didn't see what occurred, he said that Ma Qua is a boxer and is loud by nature. He admitted fault for allowing Ma Qua to slip through the gate. He said it was a horrible accident but Ma Qua is not a bad dog. He again apologized for what occurred. He said that Ma Qua makes a lot of noise while "play fighting" with he and Cheryl's other two dogs. It may seem they are fighting or biting one another but they are not. He said the

other two dogs were inside the house when this incident occurred. If they get Ma Qua back, he said they plan to get an outdoor kennel in which to keep Ma Qua so that he doesn't escape again. He just moved in with Cheryl to the Galen Road address and has lived there for approximately two months. Responding to Tamara, Shamus said that Ma Qua has not shown aggression towards humans and play fights with their other boxers. Michael Pennavaria noted the interaction between Ma Qua and Gayle as shown in the video was not a playful interaction.

Responding to Michael, Shamus said that Ma Qua was picked up and transported to the shelter in March when he lived at a different location on Lotus Drive after his son accidentally let him escape.

DCSO Deputy Zack Johnson provided testimony. He received a call on October 14th and his biggest concern was the infant child. Upon his arrival on the scene, the baby and Chelsie were in an ambulance headed to the hospital. He vouched for Chelsie's statement of the baby's diagnoses per medical records he received. He checked the Smith's family dog Gayle for visible injuries and described her as deaf and sweet. He did not observe any visible injuries or blood on Gayle. Additional videos show Ma Qua roaming around for approximately 1 minute 45 seconds prior to approaching Gayle on the Smith's property. Responding to Thomas, the DCSO report shows other animal complaint calls from neighbors pertaining to Cheryl's property on Ute Lane. Shamus said the other animal complaint calls shown in the DCSO report did not involve Ma Qua, as he and Ma Qua just moved in with Cheryl two months ago. Chelsie said that case no. 24-48914 in August 2024 did in fact involve Ma Qua as she called it in herself. It involved Ma Qua and two other white dogs lunging at the fence while she and her daughter walked by. She described blood as being drawn from one or more of the dogs.

A second video was shown, which showed Ma Qua off the property of Shamus and Cheryl and roaming around the street for nearly two minutes prior to bolting onto the Smith's property. Dep. Johnson provided some geographical context to the video, noting the location and proximity of the properties. He said there is a chain link fence all the way around the Norton/Tucek property.

Theresa Ward, a neighbor provided testimony that her husband was out in his shop and had a standoff with Ma Qua on his property. Shamus called Ma Qua and Ma Qua left the property. Shortly after, her husband heard the yelling, yelping and commotion.

Neighbor Donna Jarboe provided testimony. Prior to her testimony, Dog Board member Tamara Kuntz disclosed that she knows her. She described the fence at Cheryl and Shamus' property and noted a "jumping rock" along Ute Lane where a dog can jump onto and over the fence. There is another portion of fence with a crate up against it indicating there may be a broken portion of fence. In response, Shamus said they have an appointment with

Bend Fence Company to ensure the gate and fencing is more secure and spoke again about their plans for a kennel enclosure. Donna commented on the behavior of the dogs.

Dep. Johnson testified that Ma Qua is large enough and massive enough to knock over Chelsie and described him as a solid dog. Ma Qua is 63 pounds per the HSCO questionnaire. Chelsie stated she weighs only 118 pounds, didn't see Ma Qua coming then felt a blow to her knee.

ACO Mariya Leufven testified she arrived 30 minutes after the initial call came through. Based on the video footage, she described Ma Qua's behavior as aggressive and dominant, intent on attacking Gayle. Ma Qua is an intact 1.5- to 2-year-old boxer with little/no obedience training. He pulled when leashed and was hesitant to go into her patrol vehicle. Once transported to HSCO and secured in kennel he was nervous but not aggressive.

HSCO Shelter Manager Lori Weber provided testimony. Since his impoundment, Ma Qua displays fear and anxiety in his kennel and in the clinic when undergoing veterinary examination. She described trembling, tight lips, stoic and not accepting of treats. He's uncomfortable and stressed in the kennel environment and fearful of people. No has shown no signs of aggression shown towards the HSCO staff.

Lindsay Nokell testified about Ma Qua's behavior via phone. She described "fence fighting" with their dog. Her property borders Cheryl and Shamus' property and they put up a 7-foot fence prior to getting a dog on their property out of concerns for fence fighting.

Shamus noted the fence Lindsay refers to was installed prior to he and Ma Qua moving in. Chelsie said Ma Qua has been on Cheryl's property prior to Shamus moving in. She stated that she and Scott don't want Ma Qua back on the property. She and her family are traumatized after the incident. She blamed herself for dropping her son, and Ma Qua's actions nearly cost them Logan's life. Shamus understood her concerns.

Sandy asked why Ma Qua was out prior for 1 minutes 45 seconds roaming around if he testified that he slipped out the gate. Dep. Johnson states the video speaks to the fact that Ma Qua was out for nearly 2 minutes in the intersection with Shamus visible in the video on his property. It was a terrible incident and noted that Shamus was cooperative following the accident.

Responding to the Board, Lori said she would have a difficult time adopting the dog out to another family. The aggression shown in the video and the deliberate nature by which it attacked Gayle is concerning. A series of assessments and dog tests are typically conducted prior to determining whether a dog is adoptable. A team of staff at HSCO make the decision collaboratively.

Exhibits 1 through **7** are summarized below:

Exhibit 1: Redacted DCSO Report Case No. 2024-58999

Exhibit 2: Redacted Oregon Uniform Citations issued to Cheryl Norton and Shamus Tucek

Exhibit 3: Redacted Dog Owner's Rights form, completed/signed by Shamus Tucek

Exhibit 4: Redacted Deschutes County Sheriff's Office Animal Release/Boarding Agreement (Humane Society of Central Oregon) for "Ma Qua"

Exhibit 5: Redacted St. Charles Health System Authorization for Use and Disclosure of Protected Health Information for baby Logan

Exhibit 6: Shelter Questionnaire, completed by Humane Society of Central Oregon (HSCO) staff

Exhibit 7: Redacted email from Deschutes County Dog Licensing re. Ma Qua's license status

At 3:48 p.m. the evidentiary portion of the hearing was closed and the Board deliberated.

The Board's unanimous (4-0) decision is below:

- Ma Qua was at large
- Ma Qua was a nuisance
- Ma Qua was menacing
- Ma Qua was a dangerous dog

Sanctions were determined:

- After some discussion amongst the Board, it was determined that Ma Qua cannot be safely kept or rehomed and is to be euthanized.
- Dog owner to pay impoundment fees and euthanasia costs.
- Shamus doesn't believe there were any procedural errors to warrant an appeal, and so opted to stipulate to a surrender in lieu of a Dog Board Order. Counsel Doyle prepared the Surrender document, and it was signed by Shamus Tucek and Dog Board member Michael Pennavaria.

Adjournment: There being no further discussion, the hearing concluded at 3:58 p.m.



Recording Secretary,

Angie Powers, Administrative Assistant