



DOG BOARD OF SUPERVISORS Hearing May 14, 2024

A hearing was held at 5:30 p.m. on Tuesday, May 14, 2024 for Dog Board Case No. 2024-005/DCSO case no. 2024-22618. Pursuant to Deschutes County Code section 6.12, two dogs ("Rachel" and "Bear"), owned by Lindy Perry, were seized on April 27, 2024 by Deschutes County Sheriff's Office in response to a report of dogs chasing, wounding, and killing livestock at/near 61841 Dobbin Road in Bend. In this matter, the livestock were domesticated fowl (chickens). This hearing was audio/video recorded.

Present: Assistant Legal Counsel Kim Riley; BOCC Administrative Assistant Angie Powers; Deschutes County Sheriff's Office Deputy Michael Mangin (via Zoom); livestock owners Ryan and Kaylee Smetzler (via Zoom); dog owner Lindy Perry; and Dog Control Board Members Sandy Storrie, Michael Pennavaria, Thomas Schuchardt and Tamara Kuntz.

CALL TO ORDER: Counsel Riley convened the hearing at 5:31 p.m.

Counsel Riley stated that the main purpose of this informal administrative hearing is for the Dog Board to review the evidence and determine the disposition of the dogs, and to determine whether the dog owner is required to pay any fine or penalty. Counsel Riley is here to facilitate the hearing to ensure due process, and the Dog Board members are the ultimate decision makers. The issues to consider are whether the dogs have proven to be a nuisance or a hazard to livestock and if that is determined, the Board will determine what the ultimate disposition is for the dogs. After the hearing, the Board will deliberate and make a final oral decision. A written decision will be prepared by Legal Counsel and will be signed by the Board in the coming days. Each party will have the opportunity to provide testimony. All comments and/or questions should be directed to the Board.

Counsel Riley stated that chickens are included in the definition of livestock under Deschutes County Code. There are four components to the Board's decision and order: the dogs' disposition (return, relocation, adoption, or euthanasia), a fine of \$0 to \$1,000 per dog, requirements of licensing and microchipping, and reasonable measures to prevent this from occurring in the future. Michael Pennavaria will serve as the Chair for this hearing. The Board fills the role of the factfinder and Counsel Riley serves as an Advisor to the Board to ensure that relevant evidence is being presented to the Board in a timely and efficient manner and the laws are being followed. The Board will ask questions, and parties

should direct questions to the Board and not to the other party. Counsel Riley may ask clarifying questions.

Counsel Riley summarized **Exhibits 1** through **7** and the Board admitted them into evidence, and they became part of the record. Exhibits are summarized below:

Exhibit 1: DCSO Report 2024-22618 (redacted)

Exhibit 2: Oregon Uniform Citation and Complaint No. 173314, issued to Lindy Perry (redacted)

Exhibit 3: Dog vs. Livestock Investigation Report for DCSO Case No. 2024-22618

Exhibit 4: Complaint of Dog(s) Chasing, Injuring, and/or Killing Livestock, completed by Ryan Smetzler

Exhibit 5: Dog Owner's Rights Form, completed by Lindy Perry for dogs named Bear and Rachel

Exhibit 6: Photographs provided by Ryan Smetzler and DCSO Dep. Mangin

Exhibit 7: Shelter Questionnaire for Rachel and Bear, completed by Humane Society of Central Oregon

Deschutes County Sheriff's Office Deputy Michael Mangin provided a brief narrative of events. On April 27, 2024, he was working as a patrol deputy for DCSO, a role he's filled for ten years. At/around 6:45 a.m., he responded to a dog vs. livestock incident located at 61841 Dobbin Rd. The livestock owner, Ryan Smetzler, said that he witnessed one dog running out of his chicken coop and another dog with a chicken in its mouth. He described the dogs as a Rottweiler and a black and white border collie. Ryan showed Dep. Mangin a pile of deceased chickens he had collected into a plastic garbage bag. Ryan had cleaned up the scene to prevent his daughter, the caretaker of the chickens, from seeing them and upsetting her. Dep. Mangin described the chicken coop as a wire and wood structure, and it was apparent the gate had been forced open on the latch side. Ryan provided him with some photographs of the border collie on his property with chickens in its mouth. He then visited 21681 Old Red Road, an address provided by another neighbor who identified it as the residence where dogs matching the description reside. He cited Lindy Perry for dogs chasing livestock and seized the dogs, transporting them to the Humane Society of Central Oregon.

Responding to Chair Pennavaria, Dep. Mangin confirmed that although he did not witness the dogs in the chicken coop, based on the evidence at the scene it is highly likely that the chickens were attacked and killed by an animal. Additionally, photographs provided by Ryan showing the black and white collie dog on his property with a chicken in its mouth mean it's likely Lindy Perry's dogs were responsible.

Dep. Mangin provided a description of both dogs' demeanor as happy, healthy and well-fed at the time that he made contact with them.

Responding to Sandy, Dep. Mangin said that he did not observe or inspect the dogs' enclosure at Lindy's residence. He confirmed with Counsel Riley that the forms included with his report are included as exhibits. The photo of the chickens in the bag were taken by him, and the photos of the black and white collie dog on the Smetzler's property with a chicken in its mouth were taken by Ryan.

Livestock owners, Ryan and Kaylee Smetzler, provided testimony. Ryan stated that at 6:15 a.m., he went outside and observed his chicken coop open and the Rottweiler exiting the coop with a chicken in its mouth. As he walked his property, he witnessed the Rottweiler running around his property and a second dog, a black and white collie, eating a chicken on his property along the fence line. He found a pile of four deceased chickens in the coop. His wife, Kaylee, called the Sheriff's Office. He got in his truck and followed the dogs to determine where they lived. His neighbor identified the address at which the dogs likely reside. Ryan returned to his property and showed the scene to Dep. Mangin. Four chickens in the coop were deceased and he bagged them up. He confirmed his signature on Exhibit 4, the Complaint form.

Responding to Sandy, Ryan stated that this was the first time they'd observed these two particular dogs on his property.

Chair Pennavaria offered his condolences for the loss of their chickens. Responding to Chair Pennavaria, Ryan reported that his property is located approximately 1.5 to 2 acres from Lindy's residence, and there are two to three properties between the two. Responding to Tom, Ryan reported that all eight of their chickens were deceased. Four were found in the coop, another partial chicken was found on the property and three were presumed to be carried off the property or eaten by the dogs.

Responding to Chair Pennavaria, Ryan said he hopes for the dogs to never visit their property again. Kaylee shared that a few days ago, another dog came onto their property and based on its description, neighbors reported that it likely belongs to Ms. Perry. This dog was described as a black shepherd mix with white and brown on its chest. Kaylee shared her disappointment that the owner of the dogs showed no remorse and did not reach out to apologize for the incident, adding that she has not heard from Lindy since the incident. They have purchased new chickens and have concerns that Lindy's dogs will visit their property and will pose a threat to their new chickens.

Ryan confirmed that he took the three photos shown in Exhibit 6 of the border collie dog on his property and Dep. Mangin took the photo in Exhibit 6 of the dead chickens in the trash bag.

Dog owner, Lindy Perry provided testimony. On April 27, she was awakened to the sound of barking dogs. Dep. Mangin and an Animal Control Technician visited her home just after

9 a.m. and impounded Bear and Rachel. She shared photographs from her phone showing the chain link dog enclosure and a horse stall where the dogs are kept. She showed photos of the chain link fencing panels, with bent clips where the panels are attached to the post and believes this is how Bear and Rachel escaped on April 27. They plan to reinforce these panels with wire, and they plan, in the long run, to pour concrete around the base of the fencing and stall enclosure. The property itself has three fenced sides and one open side and she described this fencing. The Board encouraged Lindy to also consider fencing the fourth side of her property.

Lindy noted that her Rottweiler is intact, and the border collie female was pregnant at the time of impoundment. Rachel whelped a litter of ten puppies at HSCO, two days after her and Bear's impoundment. She spoke about the paperwork she received from the Dog Board, the Board's effort to settle this case in lieu of a hearing, including a Notarized Pledge and a Stipulated Order, which she did not agree to sign. Counsel Riley clarified the purpose of the paperwork, which was to get her two dogs and the litter of pups back home sooner and likened it to a plea bargain.

Responding to Mike, Lindy stated that neither of the dogs subject to this hearing have killed livestock in the past. She admitted the dogs got out of their pen and were at large during the incident involving the Smetzler's chickens on April 27th. The dogs are typically put outside in the kennel early in the morning and are unsupervised during the day when she and her husband are at work.

Lindy reviewed Exhibit 7 for accuracy. Exhibit 7 is a shelter questionnaire completed by the Humane Society of Central Oregon. She confirmed that Bear is microchipped, and he is intact. His rabies vaccine is expired. Rachel is not microchipped and is intact. Lindy is not sure of Rachel's vaccine history as she adopted her from a friend in January-February. She was not pregnant when she took custody of her and does not plan on breeding either dog. She stated they do not plan to keep the litter of pups. Bear is just over 6 years old, and Rachel is just over 2. She plans to spay Rachel after the pups are weaned, but she isn't interested in neutering Bear. Sandy, citing her veterinary medicine experience, added that at the age of 6, neutering won't do much to reduce Bear's drive and can be a risky surgery. Neither dog is licensed with Deschutes County.

Mike and Sandy reiterated that Bear will have a drive to escape as an intact male. If Bear gets out and kills another chicken, the Board has zero options to get him back home. He urged Lindy to accept all of the Board's suggestions. Tom reminded her that if a dog chases, wounds or kills livestock, including chickens, the property owner has the right to shoot them dead on-site.


At 6:56 p.m., the evidentiary portion of the hearing was closed. **Exhibits 1 through 7** were moved into the record.

The Dog Board reviewed the disposition flowchart and deliberated. Counsel Riley noted that the dog board order will be drafted by County Legal and signed by the Dog Board in the coming days. The Board found that both Bear and Rachel killed livestock, and this is being treated as both dogs' first documented offense. The Dog Board's unanimous decision is summarized below:

1. *Prior to the release of the dogs from the shelter*, Lindy must pay all impoundment fees for the dogs. It will be determined if Lindy will pay the shelter directly or reimburse the County. Rachel is to be microchipped prior to her release. Costs of microchipping will be paid by Lindy.
2. A mandatory penalty/fine of \$1,000 per dog was assessed, for a total of \$2,000. This will be held in abeyance for 30 days, to be waived if the following are provided within 30 days:
 - a. Proof of Deschutes County dog licensing, with current rabies vaccinations
 - b. Proof of spaying Rachel. Sandy recommended she be spayed two weeks after weaning her pups, based on her veterinary experience.
 - c. Chain link fencing enclosure to be repaired and reinforced with metal wire. Fence to be inspected and verified by DCSO, with photographs to be provided to the Board.
 - d. Sign a notarized pledge stating that her dogs will not get loose again, and should they get loose, they will be impounded by DCSO, and the shelter will determine their disposition.

Ryan estimated their losses are \$1,019, and he is interested in seeking reimbursement. He shared concern for the safety of his new chickens, his neighbors' animals, as well as for the safety of Lindy's dogs, should they get loose again. Chair Pennavaria communicated to the Smetzlers that they will need to pursue financial compensation for their loss in small claims/civil court. Mike encouraged both parties to be neighborly.

Adjournment: There being no further discussion, the hearing concluded at 7:17 p.m.


Recording Secretary,
Angie Powers, Administrative Assistant