



MINUTES

March 28, 2019

BOARD OF APPEALS HEARING

3:00 p.m.
City Council Chambers
311 Vernon Street
Roseville, CA

1. CALL TO ORDER

Chairperson Constant called the meeting to order at 03:00 p.m. in the City Council Chambers.

2. ROLL CALL (SILENT)

The following Hearing Panel members were present:

Pete Constant

Scott Larson

Bruce Hagler

The following Staff members were present:

Joseph Speaker

Deputy City Attorney

Gretchen Hakala

Paralegal

Lynda Risucci

Legal Clerk

3. IDENTIFICATION OF CHAIR

Chairperson for the March 28, 2019 hearing was Pete Constant.

4. PLEDGE OF ALLEGIANCE

Chairperson Constant led the audience in the Pledge of Allegiance.

5. PUBLIC COMMENT

No one from the public offered any comments.

6. SWEAR IN

Chairperson Constant administered the Oath to those in attendance who would be offering testimony at the hearing.

7. MATTERS TO BE HEARD

7.1. Citation No. 17864

Appellant: Kurt Miller

- Roseville Municipal Code Section 10.54.020(D)(3)(a), Nuisance – Property Inadequately Maintained (Contains Garbage)
- Roseville Municipal Code Section 10.54.020(F)(4), Nuisance – Storing Items Outside in Excess of 72 Hours

Pursuant to the request of Appellant, this Citation was continued to April 25, 2019.

7.2. Citation No. 20038

Appellant: Robert Blythe

- Roseville Municipal Code Section 7.25.010, Animal Noise

This Citation was paid in full and the Appeal was withdrawn.

7.3. Citation No. 20046

Appellant: Scott Schleicher

- Roseville Municipal Code Section 7.12.010, Animal at Large, Two Counts
- Roseville Municipal Code Section 7.12.050, Aggressive Behavior, Two Counts

A. Staff Report:

Animal Control Officer Sarah DeRego offered testimony in regard to the staff materials in Exhibit A and answered panel questions.

Per RMC Section 2.50.060(D), the Staff Report was submitted to the City of Roseville Attorney's Office prior to the hearing, and was provided to the Appellant and the panel members in advance of the hearing.

Exhibit A:

- Staff Report including case history and narrative
- Complainant's Statement:

Complainant Terry McNiff presented Exhibit B, and offered testimony in support of the complaint and answered panel questions.

Exhibit B:

- Written Statement of Manuel Benavides signed March 26, 2019;
- Email statement of Kim Benavides of October 24, 2017;
- Email statement of Martha Wright of March 05, 2019;
- Statement of William Monroy and Susan Monroy signed March 25, 2019; and,
- Written statement of Complainant Terry McNiff.

B. Appellant's Response:

Exhibit C:

(Appellant's Exhibit C was provided to the panel in advance of the hearing for review.)

- Request for Hearing form, received by the Roseville City Attorney's Office on February 11, 2019.

Appellant Scott Schleicher offered testimony in support of the appeal and answered panel questions.

C. Rebuttals and Panel Questions:

Terry McNiff offered rebuttal testimony and answered panel questions.

Officer Sarah DeRego offered rebuttal testimony and answered panel questions.

Scott Schleicher did not offer rebuttal testimony.

D. Panel Discussion:

The panel discussed the evidence and testimony presented for Administrative Citation No. 20046.

In regard to Roseville Municipal Code Section 7.12.010, Animal at Large, two counts, a motion was made by Bruce Hagler and seconded by Scott Larson to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

The motion passed with the following vote:

AYES: Bruce Hagler, Scott Larson, Pete Constant

NOES: None

After the vote, Bruce Hagler amended his initial motion to clarify the number of counts he was referring to in his original motion. Based on the clarification, a second motion (to replace the first motion made in error) was made by Bruce Hagler and seconded by Scott Larson to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party as to both counts.

The motion passed with the following vote:

AYES: Bruce Hagler, Scott Larson, Pete Constant

NOES: None

In regard to Roseville Municipal Code Section 7.12.050, Aggressive Behavior, two counts, a motion was made by Bruce Hagler and seconded by Scott Larson to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party as to both counts.

The motion passed with the following vote:

AYES: Bruce Hagler, Scott Larson, Pete Constant

NOES: None.

E. Panel Decision:

The panel decided to deny the appeal of Administration Citation No. 20046 and uphold the charge of Roseville Municipal Code Section 7.12.010, Animal at Large, two counts, because the

City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

Regarding Roseville Municipal Code Section 7.12.050, Aggressive Behavior, two counts, the panel decided to deny the appeal and uphold the charge because the City/Complainant proved by a preponderance of the evidence that the violation(s) occurred and that the appellant is the responsible party.

Chairperson Constant signed the decision form, asked the Appellant to see staff for the paperwork, and informed the parties that they may file a petition for review with the Superior Court in Placer County within 20 days.

8. ADJOURNMENT

A motion was made by Scott Larson and seconded by Bruce Hagler to adjourn the hearing.

AYES: Bruce Hagler, Scott Larson, Pete Constant

NOES: None

Chairperson Constant adjourned the March 28, 2019 hearing at 03:36 p.m.

Gretchen Hakala
Paralegal

Lynda Risucci
Legal Clerk

March 26 2019

I, Manuel Benavides, live in Alder Point Community and have witnessed Mr. Schleicher's black and white Boston Terriers off leash on more than one occasion. Mr. Schleicher often sits on a stool in the street and throws a tennis ball for his dogs to chase and retrieve. The dogs are often off leash and run in and out of traffic disrupting driving and even walking by their home.

The above statement is signed under penalty of perjury under the laws of the State of California.

Sincerely,

x Manuel Benavides

From: Kim Benavides <k_benavides@profmortgage.com>
Sent: Tuesday, October 24, 2017 3:04 PM
To: 'jsmith@johnsonranch.biz'
Subject: Re: Neighbor in Alder Point with aggressive dogs

Importance: High

Tracking:	Recipient	Read
	'jsmith@johnsonranch.biz'	Read: 10/24/2017 3:34 PM

Good Afternoon Jen,

This email is written to express my concern with our neighbors' 2 white and black dogs that live at 2862 Alder Point Drive. The dogs are out every morning without leashes running up and down the street as their owner is throwing a ball to them. Sometimes, the dogs are running passed my house, which is 5 houses down.

Today, I witnessed one of the dogs attack a neighbor while riding his bike toward the front gate. I heard a dog growling and I immediately looked outside my upstairs window. I saw a man fall off his bike, the dog still growling but finally the dog turned around and ran in the direction of his home. I opened my window and yelled out, "Are you okay?" and the man replied that he was okay and got back on his bike and pedaled toward the front gate but kept looking backwards.

This is the not the first incident. A couple of years ago, my husband was walking to our mailbox and the same dogs were outside without a leash. One of the dogs ran toward my husband and jumped on him and bit him on the right thigh. We immediately asked for proof of vaccines, in which the neighbor complied. They told us that the dogs would be kept inside from that point forward.

I am very concerned that these dogs will attack again. We have young children that like to go outside and I do not want to be afraid that the dogs will come out and attack me or my family. We CANNOT have this in our neighborhood.

Please feel free to contact me at (916) 337-6697 if you have any questions.

Thank you,
Kim Benavides

From: **Molly Grein** mlg4811@gmail.com
Subject: Dog statement
Date: March 5, 2019 at 2:46 PM
To: Terry McNiff tcmcniff@gmail.com

MG

March 4, 2019

To: Board of Appeals

From: Martha Wright

3787 Mira Loma Dr

Cameron Park, CA 95682

Dear Board of Appeals,

Please accept my witness testimony in regards to the Boston Terrier, colored black and white, residing on Alder Point Dr, Roseville CA.

Approximately 4 years ago I was riding my bike on Alder Point when the above mentioned dog came out of the opened garage in an attempt to bite me and chased after me on my bike, barking. I have had other negative experiences with this same dog simply walking in front of the house and the dog would run out in to the street barking and seemingly trying to bike. One time the owner witnessed this and called the dog back into the garage. The owner is aware of the aggressive behavior of the dog.

The above statement is signed under penalty of perjury under the laws of the State of California.

Martha Wright

Martha Wright

March 25, 2019

William Monroy
2893 Alder Point Drive
Roseville, CA 95661

Mr. McNiff,

In my opinion, you have a legitimate complaint. It is also my opinion that by taking this action, you are probably doing Mr. Schleicher a huge favor by possibly saving him from a lawsuit later on involving his dogs.

As you know, Alder Point Drive has no sidewalks and the street is narrow. We have a 'no parking/fire lane' on one side. Yet, Mr. Schleicher insists on playing 'go fetch' in the street with his dogs every morning at about the time traffic is at its heaviest. He sits on a stool in the street (to the side) and won't move for anyone. Drivers take extra precaution and make a wide swerve around him because after all, it's a person sitting on a stool in the street. And, drivers are inconvenienced by having to stop for his dogs when they are running in the street. I shudder to think if the wrong driver were to zoom through (we have speeders here too) and lose control because of Mr. Schleicher's insistence that he play with his dogs in the street every morning when traffic is at its heaviest.

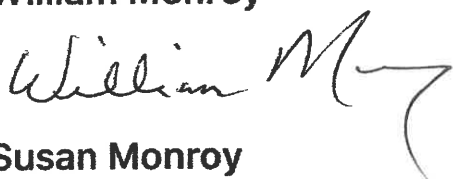
I know one of his dogs was hit by a moving vehicle on Alder Point Drive a while back and had to be seen by a vet. Mr. Schleicher attempted to have the driver pay the vet bill. The police were called, but because the dog was not leashed, Mr. Schleicher had no grounds. There may be a police report on file about this incident.

My personal complaint with Mr. Schleicher is that he allows his dogs to fetch the thrown ball on his neighbors' yards and sometimes my yard. I have spoken to him

on three different occasions about this and each time asked him politely to not have his dogs run through my yard. On these occasions he was polite to me and said he would abide by my wishes. I once witnessed one of his dogs defecate on my lawn and I quickly brought this to his attention. Other times the dogs have scattered my landscape gravel all over my sidewalk as they run through my yard. This may sound trivial, but the point is Mr. Schleicher has no right to allow his dogs to run free in the neighborhood. Another complaint I have about these dogs is that when my wife and I take our morning walk, the dogs sometimes spot us walking and charge at us. My wife stands her ground, confronts them, and yells, 'GO!' That works, but why do we have to do this? We shouldn't have to, and we don't want to. The bottom line is that Mr. Schleicher needs to realize that allowing his dogs to run free in our neighborhood is not appreciated, it's dangerous, it's a nuisance to us, and it needs to stop.

The above statement is signed under penalty of perjury under the laws of the State of California.

William Monroy

A handwritten signature in cursive script, appearing to read "William Monroy", with a long, sweeping horizontal stroke at the end.

Susan Monroy

A handwritten signature in cursive script, appearing to read "Susan Monroy", with a long, sweeping horizontal stroke at the end.

Members of the Roseville Board of Appeals:

Thank you for your time and consideration of this matter.

I have lived at 2672 Prestwick Drive for over 20 years. The past 5+ years, my wife and I have had numerous issues with one of our neighbors, Scott Maurice Schleicher who lives at 2862 Alder Point Drive. On at least 15 occasions over the past year I have seen him with his dogs out in front of his home sitting on a bar stool throwing his dogs a tennis ball to fetch. When I am driving by and this is happening, he holds his hands up to have me stop until his dogs get out of the way. I comply patiently. Although I completely disagree with this being his daily routine at the busiest times of the morning commute, I never said anything to him. This should not occur at any time since being off leash is most likely against HOA rules and not legal at all.

At the same home, while Scott is throwing the ball to his dogs, my wife has ridden her bike into the neighborhood and been chased by his dogs and almost knocked off her bike. The same has happened to me on 2 occasions. I have also been chased by his dogs when I have come back into Alder Point from a run, this happened in December. This time I did address him and asked him to control his dogs and leash them. He never responded to his dogs running into my legs but did reply to my request to control his dogs by saying "F**K OFF". Fast forward to January of this year. While walking my dog (on leash) into the neighborhood, I noticed his dogs were out chasing the ball he was throwing. I immediately tried to go left onto Prestwick Dr. to avoid confrontation, but his dogs noticed me and gave chase. They attacked my dog while I yelled and stomped at them. Scott sat on his stool not saying a word. Never calling his dogs or acknowledging they were attacking me and my dog. I yelled for him to control his dogs and he didn't even reply to me. I called Animal Control and they cited him for the event.

The very next day, while walking into Alder Point again, I checked to make sure his garage door was closed and his dogs were not out front. It was closed so I proceeded to walk to my home with my dog. I was 2 homes past his house when I heard a garage door open and then the scratching of the claws on the road and the familiar growl of his 2 Boston Terriers. Before I could completely turn around, the first dog launched into the air and made contact with my dog. Luckily my dog was able to catch him mid air and knock him away. The second dog went to bite his back side and I kicked the dog away. Meanwhile, the first dog came back again and I made foot contact with him as well. All the while Scott stood in his garage not saying a word. I was on the phone with my wife who was in the hospital and she was also yelling to see if we were OK. The dogs finally retreated and I was a wreck at this point.

I called Animal Control AGAIN and they cited him a second time. They also visited his home and spoke to him in person. 2 other neighbors have approached me with similar issues but are afraid of retaliation by Scott Schleicher. He is hot tempered and somehow feels he is above the law and rules of our neighborhood. My greatest fear is

that with so many new young families with children running around our neighborhood, one of them will be chased, frightened or heaven forbid, bitten by his out of control dogs.

My ask is that Scott Schleicher take his dogs to his back yard or to a dog park to allow them to run, NOT our streets.

Thank you for your consideration and for you prompt attention to this matter.

The above statement is signed under penalty of perjury under the laws of the State of California.

Terry McNiff
2672 Prestwick Drive