

MAY 22 2013

TOWN OF WAREHAM

Dog By-Law Study Committee

Room 23  
Memorial Town Hall  
54 Marion Road  
Wareham, MA 02571

Meeting August 27, 2012

Meeting was called to order by Chair Walter Cruz at 4:30 P.M. All committee members (apart from the Chair Ken Levitt, Cheryl Gorveatt-Dill and Manfred Wiegandt) were present except for Clerk Peter Teitelbaum who had excused himself in advance.

Manfred Wiegandt took over clerkship for this meeting.

Committee members discussed Dog By-Law along the 4-page draft (in the following called "Draft") sent by Ken Levitt by email to all committee members on 8/26/12. Draft was based on the discussion members had had during previous meeting. It also incorporated some editorial language proposed by Manfred Wiegandt in an email to all members.

Members agreed to insert on page 1 of the Draft, in the first chapter, "Definitions," in line 2 of the definition for "Secure Enclosure" behind "Chapter 140" the words "Section 157" to indicate that the secure enclosure should be in conformity with state law, in particular as the humane treatment of dogs is concerned.

On page 1, in definition of "Dangerous Dog," it was agreed that the words "or vicious" in Nr. 5 should remain, even though Committee had earlier decided to use only the term "dangerous dog" to encompass what was often referred to as dangerous or vicious dog. However, in this passage Draft refers to other jurisdictions where dangerous dogs might also be called vicious dogs.

On page 2 of the Draft, in the definition of "At Risk Dog," an editorial change was agreed upon in Nr. 2 so that the sentence now begins: "Any dog that acts, when unprovoked, in a highly aggressive manner, within a fence . . ."

On page 3 of the Draft, under the heading "Dangerous Dog Restrictions," an editorial change was made in Nr. 2 by inserting the article "The" before the word "dog." Likewise the article "The" was inserted in the next chapter, "At Risk Dog Restrictions" at the beginning of the sentence in Nr. 2 and Nr. 3 before the words "dog" and "Animal Control Officer," respectively. Another "the" was inserted in Nr. 4 before the word "dog."

On page 4 of the Draft, under the heading "Dangerous Dog Seizure," the words "a Dog Control Officer" were replaced by the words, "the Animal Control Officer." Committee members agreed that the By-Law should generally only use the term "Animal Control Officer" instead of "Dog Control Officer" to be consistent with state law terminology and the official title of that officer in Wareham. In the same sentence the word "is" after "in violation of this By-Law, or" will be deleted.

The next paragraph, "Violations and Depositions," will be restructured to clarify that the Animal Control Officer or law enforcement officer who enforces the By-Law has the discretion to seize the dog and/or issue a citation to the owner or keeper of the dog who is violating the By-Law, and is not required to do both or only one. It was agreed that the word "pickup" (sic) should be replaced by the more accurate term, "seize." The version now reads:

"Any person authorized to enforce provisions of the By-Law may:

- seize the dog, and/or
- issue a citation to the owner or keeper of any dog being harbored or kept in violation of this By-Law. Any such citation . . ."

There was extensive discussion among committee members about the amount of the fees laid out in the Draft on page 4 under headings, "Penalties for Violating the Restrictions Placed On Dogs To Be Dangerous or At Risk," and "Barking/Howling Nuisance Remedies." Cheryl Gorveatt-Dill and Manfred Wiegandt both thought that any fine above \$50 would be contrary to state law. Ken Levitt pointed out that dog by-laws of other towns with fees higher than \$50 had been approved by the Attorney-General's office. For that reason Committee is submitting the question if fees as outlined in the current Draft can be imposed in conformity with state law to Town Counsel. If Town Counsel considers the fees above \$50 as contrary to state law, those fees need to be adjusted. As "Barking/Howling Nuisance Remedies" are concerned, this would mean that the fine for the 3rd or subsequent offense would be \$50. The penalties for dangerous dogs probably would need further discussion.

Before Committee discussed barking dogs, it was agreed that the Committee should meet again on Tuesday, September 4 at 3:30 PM in Room 23 of the Wareham Town Hall for a final discussion of the By-Law. Cheryl Gorveatt-Dill made a motion to this regard, Ken Levitt seconded, and all were in favor. Chair Walter Cruz will have the meeting posted by Town Clerk.

Final discussion was about barking dogs as outlined on page 4 of the Draft under the heading "Barking/Howling Nuisance." Cheryl Gorveatt-Dill, who is the Town's Animal Control Officer, was concerned that the current language does not provide much clarity. Committee members agreed that the situation was clear, as said in the second paragraph of this section, when a dog's barking noise was "plainly, continuously, and substantially audible from beyond the owner's property for a period in excess of twenty (20) minutes." However, Committee members also

agreed that other barking should be considered as violating one's peace and quiet, particularly barking at night time, where one would not only want to prohibit barking for more than twenty minutes. As meeting time ran out, it was agreed that all members should try to define incidents that would be considered in violation of the By-Law. It was agreed that the prohibited barking at night time should be defined in conformity with the Town's noise ordinance.

At 4:36 PM Chair moved to adjourn the meeting to Tuesday, September 4, 2012 at 3:30 PM in Room 23 of the Town Hall. Ken Levitt seconded the motion, and all were in favor.

Respectfully submitted by  
Manfred Wiegandt, Clerk ad interim

Approved 9-4-2012  
Peter W. Trubelhorn, Clerk