

**DOG ORDINANCE AD HOC COMMITTEE
AUGUST 3, 2010
MINUTES**

The Dog Ordinance Ad Hoc Committee Meeting was called to order by Jessica Titel, Associate Planner at 3:32 P.M.

NEW BUSINESS

1. Introduction of Members

Committee Members:

Barb Koeppen, 16200 W. National Avenue, New Berlin
Nancy Bertsch, 13825 W. Pleasant View Drive, New Berlin
Sue Larson, 18065 W. Observatory Road, New Berlin
Alderman Deena Liska, 4585 S. Regal Drive, New Berlin

2. Appointment of Secretary

Committee Secretary – Jessica Titel

3. Election of Committee Chairperson

Committee Chairperson - Barb Koeppen

4. Completion of Committee set-up form regarding committee purpose, meeting dates, time, place, frequency, completion date, assignments to members etc.

The purpose of this ad hoc committee is to review and modify Chapter 152 in hopes of improving the City Ordinance pertaining to vicious dogs. The Staff Facilitator is Jessica Titel. Minutes will be taken by Staff. Future meetings will be held approximately every 2 weeks in Badger Conference Room at TBD dates and times.

5. Discussion and review of the current city of New Berlin Municipal Code pertaining to vicious dogs 152-10(1) – (4)

Committee members referred to the draft Chapter 152.

6. Discussion and review of past ordinance revisions proposed by Safety Commission and City Attorney.

Alderman Liska referred to the chart that she put together using the documents given to her by the Safety Commission. We need to look at the Ordinance and see if and how well components for AKC criteria are met, and what we need to do to make it meet this criteria.

Ms. Larson felt the word “dangerous” is more inclusive than “vicious”. Alderman Liska said that much of the specific language has already been addressed in the history of this by the Safety Commission and has agreed that a breed specific Ordinance was not the way to go.

Alderman Liska referred to the bullet points on her worksheet. Points for the next discussion should be care, conditions and procedures for violations, establishment of measurable objective criteria for determining a dangerous dog, defenses for the dog owner and rationale for dog behavior.

Ms. Koeppen referred to the City Attorney's 13 items listed in his memo and felt that there were areas of misinterpretations and misunderstandings and updated opinions would be needed.

- 1) Ms. Koeppen referred to 152-10(C) Issuance of Licenses - We are trying to refer to the dog tag being attached. There may need to be some clarification that those dogs still need to be licensed. The sentence needs to be reworded to clear up confusion between the word "tag" and "license".
- 2) Ms. Koeppen referred to 152-10(D) referencing the crossed off State regulations on the draft thinking it would be more appropriate to refer to the State regulations right after certain paragraphs rather than put that sentence in. Ms. Koeppen didn't feel there was a problem in keeping it or not keeping it. Ms. Titel said it should be kept in case a reference is missed later on in the document, this would be a blanket. Ms. Koeppen would like to see it at the top of the whole page. Ms. Larson agreed it should be first.
- 3) Ms. Koeppen referred to (D. Definitions). City Attorney Blum is not sure what "unwelcomed" means. Ms. Titel said we need to state what we really mean by that such as "being there without permission". This will be addressed at the next meeting when definitions are discussed.
- 4) City Attorney Blum is questioning the definition of a potential dangerous dog. Ms. Koeppen did not understand his comments. Ms. Titel said she thought it meant that if no one is harmed, then they are not potentially dangerous, but when we look through some of the other Ordinances, perhaps we can find a better definition for this. Ms. Bertsch wasn't sure about his comments either because it is saying we are labeling this animal because of the behavior. Alderman Liska said she would ask Attorney Blum what he would like to see there.
- 5) Ms. Koeppen referred to the definition of severe injury. The City Attorney wrote that being knocked out, receiving bruises, scrapes, or lacerations not requiring stitched is not included and the definition would not be met. Does he want us to differentiate a severe injury from what we have for definition for potentially dangerous dogs who menaces, chases, and displays threatening behavior? Ms. Titel said she thinks the City Attorney is asking if severe injury is all we want to define. Ms. Titel said perhaps there is a level below severe injury where this would fall into. We need a definition for a physical injury for the potentially dangerous dog. Ms. Koeppen felt that the definition of severe injury be added right to the dangerous dog definition. That is where we are directing it to. We already have what actions would constitute a potentially dangerous dog.

Ms. Bertsch said part of what the Common Council's concern was that all injuries were lumped into severe. It concerned them that a scrape or a nip or a bite was automatically deemed a bite. Ms. Koeppen said when it was at the Safety Committee, we dog owners have a big concern with puppies. The way they originally wanted to describe the vicious dog was any sort of injury. If you have a very small puppy that has not been trained yet, it can very easily come up to a small child and start scratching and playing, that is not a vicious dog. Puppies, during the teething period, will chew on things and still have those needle sharp teeth. They may bite down and draw a little blood on occasion and that is really not a vicious dog. There was concern as far as the dog owner's standpoint that we don't take something like normal puppy behavior and make it a vicious dog.

Ms. Larson said I have a 120 lb. young dog. A year ago I had a lady over who wanted to go out and see the horses. There are big pot holes in the ground and I saw her fall. She claims the dog was running and bumped into her. She broke her ankle in two places. Assuming that the dog ran past her and bumped into her, does that classify him as a vicious dog? Alderman Liska said we are dealing with two different things, a vicious dog or a dangerous dog, and we are also dealing with the issue of owner responsibility for normal dog mishaps. Do the other ordinances that you looked at address the difference between an accident and aggression? Ms. Koeppen said I don't think they address what you are talking about. Alderman Liska suggested that we look for background on or other examples of this and perhaps ask the City Attorney about it. Ms. Larson continued saying that at the time this happened I contacted the insurance company and had a rude awakening as to what the State Statute is. In the State Statute, a dog doesn't have to bite to be in this category. We have a one time situation in the State whereas the Insurance Company pays out where there is double indemnity. If it happens a second time, you would be dropped from your insurance. I think we need to define the level of injury and the difference

between an accident and something done on purpose. Alderman Liska brought up a dog who repeatedly is on too long of a leash and the accident or cause is repeated. That then becomes a dangerous situation or a dangerous dog.

Alderman Liska advised that special caution be given when considering the section on procedure and conditions in trying to distinguish between a one time occurrence as a result of kids and pets, or adults and pets or just the situation that caused the incident and something that is a repeated problem or that is a dog behavior issue.

Ms. Koeppen said that was the original intent of discriminating between dangerous dogs and potentially dangerous dogs to allow those lesser degree instances to describe the dog as potentially dangerous and anything severe or repeated then the dog goes into the category of dangerous dog.

6) Ms. Koeppen referred to the section about the elimination of the number of dogs the original Ordinance had be limited to four dogs. There is a lot of background to support that limiting the number of dogs has nothing to do with bad behavior and events of annoyances. Bad behavior and events of annoyances usually come out because the owners are not responsible. It doesn't matter how many dogs or what breed you have, it is whether or not the owners are responsible. It was the intent of the people who tried to rewrite this that we want to take away the number of dogs and put more restrictions on nuisances and really severely fine people for their irresponsibility. Ms. Titel said the City Attorney's concern is enforcement by the Police Officers. If they get a call, they have a concrete number to know when a property is or isn't in violation. It is a lot more of a challenge to prove a nuisance for the complaintant, the City, or the Police Department. This would be a policy change for the City and something the Common Council would have to decide if they want. Ms. Titel said we have to find a balance to decide how many is too many because if we don't put a limit someone will have 30 dogs, or start to have a kennel, or starts to take in dogs and rehabilitate them, or foster them which is not really appropriate especially if someone is living on a quarter acre lot. We can look at other Ordinances and see how they limit the number of dogs or how they define nuisances or when it becomes a problem. It may be a permitting process for over a certain amount. Ms. Larsen said when this is revisited, she would question the word Residential in the Code that refers to the number of dogs allowed since she has 11 acres but is considered Residential. Ms. Titel said perhaps is would need to be lot sizes, not necessarily Zoning Districts.

9 & 11) Alderman Liska said both these are Definition related. No. 11 is dogs running at large and a policy decision for the Common Council. Those can be addressed at our next meeting.

12) Ms. Koeppen said once we get the State Statutes, I think it is an interpretation of 174.01 and 174.02.

13) Alderman Liska said this is directly from the present Ordinance. I think it is just a matter of not cross referencing. Ms. Titel said we want to take a look at it to make sure it is accurate.

Ms. Titel said the City Attorney's job is to make sure we have an Ordinance that the City can enforce.

7. Discussion on what information/documentation the Committee needs for the next meeting.

State Statues. – Chapter 95, 173,174.

AKC Guidelines

Dog Federation of Wisconsin Definitions

National Animal Interest Alliance Model Ordinance

Ordinance Components from the City of Oshkosh, Appleton, Beaver Dam, Peshtigo, and Superior.

The definition and criteria of a dangerous dog and how they can be dealt with will be discussed at the next meeting.

SET NEXT MEETING DATE: The next meeting is scheduled for August 20, 2010 at 2:00 P.M.

ADJOURN: Meeting adjourned 5:00 P.M.