

REGULAR MEETING  
BOARD OF ALDERMEN  
PUBLIC HEALTH & SAFETY COMMITTEE  
WEDNESDAY, APRIL 1, 2009  
7:00 P.M. IN THE ROOM 104  
SHELTON CITY HALL, 54 HILL STREET,  
SHELTON, CT

**Minutes**

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**CALL OF THE MEETING/PLEDGE OF ALLEGIANCE**

**Alderman Papa called the meeting to order at 7:00 P.M. and all in attendance pledged allegiance to the flag.**

**IN ATTENDANCE:** Alderman Papa, Chairman  
Alderman Finn  
Alderman McPherson

**ALSO IN ATTENDANCE:** Chief Hurliman, Corporation Counsel  
Thomas Welch

**• PUBLIC PORTION**

Irving Steiner, 23 Partridge Lane, Shelton, CT

He would like to talk about a statement the Chairman of ZBA made about the Maples. He looked at the area and his concern is for fire hazard. They are summer cottages going above one level. He is not familiar with the Maples. They

are on land that Aquarian owned. It was settled with the City and the people have some security. They are uninsulated and put in prior to zoning regulations as per set backs. His concern is not to put expense on the people living there. There are about 8 or 9 houses there that have been winterized and now extended up to two or three levels. The setbacks are so close that should a fire occur the people on the second or third levels may not have a chance to get out. You don't know if when the first level was built if there were firewalls. We are looking at a hazard of these extended levels. He thinks this committee should look into an ordinance that would require smoke detectors on any building that's built above the first floor level. That is a minimum requirement. Alderman Papa asks what did the Chairman of ZBA recommend. Mr. Steiner states he did not speak to him.

Alderman Finn states that the Maples are all single family homes. After the residents purchased them, P & Z had them come before the Board for any new corrections. The first floor is nothing but to bring them above the flood stage. The two remaining floors are for the single family. They are required to have fire (smoke) alarms with the new structure.

The difference between Stratford and the Maples is that the Maples is hydrant and Stratford has no water to get to.

Mr. Steiner asks why the Chairman of ZBA has concern. He must have some basis for concern. Alderman Finn states anything off the ground is new construction.

\*\*\*Note to clerk: send a letter to Mr. Glover about his concerns of the Maples safety concerns.

- AGENDA ITEMS
- **CORRESPONDENCE**

**No correspondence to report.**

### **APPROVAL OF MINUTES**

#### **1. REGULAR MEETING FEBRUARY 4, 2009**

ALDERMAN MCPHERSON MOVED TO WAIVE THE READING AND APPROVE THE MINUTES OF THE PUBLIC HEALTH & SAFETY MEETING OF FEBRUARY 4, 2009. SECONDED BY ALDERMAN FINN. ALL IN FAVOR. MOTION CARRIED 3-0.

### **NEW BUSINESS**

#### **2.1 NO ITEMS**

### **OLD BUSINESS**

#### **3.1 PROPOSED DOG ORDINANCE**

**The proposed ordinance with the changes discussed tonight will be attached at the end of the minutes.**

**Additions to this draft will be bold and underlined**

**Deletions will be Strikethrough Bold and Underlined**

The clerk read the proposed ordinance into the record and changes were made as per the attached copy. After the reading of the ordinance, discussion followed.

Mr. Steiner questioned why the ordinance is limited to household pets that is a dog. Alderman Papa states that a dog attack took place and this will be in place of the current dog ordinance. Mr. Steiner would like it extended to other animals. Alderman Papa states they will make a note of that and address it.

From the audience it is suggested it be a separate ordinance. Alderman Papa does not think they will combine it.

Chief Hurliman questions B. (i) Nuisance – he feels the Chief of Police should be omitted. He is on the Review Board. Conflict of interest can be in this situation because he is her boss.

Laura Wells questions vicious and nuisance. She is questioning fees charged. This ordinance charges \$250.00 for each occurrence. She feels usually nuisance dogs become vicious dogs. She wants clarification on nuisance and vicious dogs.

Attorney Welch states that in this ordinance the only nuisance is a vicious dog. There are other ordinances that refer to roaming dogs, nuisance dogs, and unleashed dogs. (ordinance #761)

Laura Wells feels that if the fine were higher on nuisance dogs' maybe we wouldn't get to the vicious dog stage.

This ordinance is like an addendum to the current dog ordinance.

Attorney Welch states in this ordinance only nuisance refers to vicious dogs in this ordinance.

Laura Wells feels if the ordinance #761 was really enforced there, we wouldn't have entered up with this at all. Alderman Papa states it is noted.

From the audience someone is questioning fee charged. Some ordinances have been raised to \$250.00 when the state increased the fees allowed to be charged.

Attorney Welch states at the last meeting, the Animal Control Officer had some concern about being the final say. So thereby having the Animal Control Officer make a determination and then any person has the ability to go before the Appeals Board. This is a little broader than what the State provides. Alderman Papa states this will take some of the pressure off Sheryl, but this is her job and responsibilities. This way she will have a little breathing room. People can take it to the Appeals Board. Attorney Welch states you

have two independent minds who are trained medically and in behavioral characteristics with the Chief of Police from a control standpoint. Alderman Papa states it is to protect the people and the pets in our community.

Comment on ii Determination of viciousness:

3. ( c ) he is questioning **premises** – you can only control your dog so much. Walking your dog and not on your premises – discussion followed and the paragraph stays the same.

Laura Wells believes that Sheryl didn't want to be the sole factor in determining a vicious dog. Alderman Papa feels it is her job description. The job description of Animal Control Officer is questioned. Attorney Welch states the job description is statutory by the State of Connecticut. It encompasses all issues. Attorney Welch will get a copy of the job for the Board.

From the audience discussion about who can determine the viciousness of the dog. The Appeals Board can over rule the Animal Control Officer. Does the position of Animal Control Officer need any special training or get any training to hold that position. Chief Hurliman states she does not go to the Police Academy. Her duties are to be familiar with any new updates of the laws. The question is before they are hired are there any regulations. It is a Town appointed position.

Alderman Papa states there is a description in the ordinance – whether a dog is vicious or not. These are guidelines for her to follow during her investigation.

Mr. Steiner asks about her ability to protect herself against a vicious dog. Chief Hurliman states she is not armed and if she feels in danger she can call the police station for backup.

Mr. Steiner asks about penalty – separate penalty. It will be \$250.00 fine each day. From the audience it is asked about repeat offenders. Alderman Papa states in our history we haven't had any problems. Attorney Welch states the ordinance that is currently in place provides that the City can seek injunctive relief and request the Court

for an order on the restraining disposal of such dogs that it deems necessary. We have the right to get injunction relief on someone who says – fine it is my dog and I will do as I want – we have the right to go to Court to force the order.

From the audience –the owner says take my dog away I will get another one. He does the same thing. What can we do? Attorney Welch states we cannot ban them from owning a dog. We talked about insurance. That also was not fair. There are some criminal statutes that you can take and make it a condition of any type of probation, but not from the City's standpoint. How do you get the money from him? A lien can be put on his property. There are also criminal statutes.

Chief Hurliman states if you are continually harboring a vicious dog, not even the same dog, you can be charged with Reckless Endangerment – Breach of Peace and above. You are endangering the public. Also there is a civil side.

Can this be added to this ordinance? An ordinance is one thing – this is another – no Double Jeopardy. It is one or the other.

Alderman Papa explains we have worked on this ordinance. We will come back with another final ordinance. Once the Public Health & Safety Committee feels it is ready – then it goes to the Full Board which sends it to Public Hearing on Ordinances. The public will again have a chance for their input and concerns. Then it gets voted on.

Attorney Welch states for the record, the amount of people who were here last time, dialogue was good and it came out some direction from people like Laura Wells, who is a dog person.

Alderman Papa states it was a good direction.

#### **4. REPORTS OF THE EMERGENCY SERVICES**

##### **A. EMERGENCY MEDICAL SERVICES- None**

## **B. POLICE SERVICES**

Chief Hurliman states the reports of Summons was not sent over. The levels were down over the winter with the snow. Radar will be set up again and it will be more accurate.

## **C. FIRE SERVICES - None**

- **ADJOURNMENT**

**ALDERMAN MCPHERSON MOVED TO ADJOURN THE MEETING AT 8:00 P.M. SECONDED BY ALDERMAN FINN. ALL IN FAVOR. MOTION CARRIED 3-0.**

**RESPECTFULLY SUBMITTED,**

*Margaret Weber*

**MARGARET WEBER, CLERK  
PUBLIC HEALTH & SAFETY COMMITTEE**

PROPOSED ~~VICIOUS~~ DOG ORDINANCE:

RESOLUTION: BE IT RESOLVED AND ORDAINED That the City of Shelton adopt the ~~Vicious Dogs "Gracie's Law" Ordinance as follows~~ following Ordinance:

A. **Definitions:**

~~**Animal Control Officer.** Any person employed or appointed by the City of Shelton who is authorized to investigate and enforce violations relating to animal control or cruelty under the provisions of this ordinance or state laws.~~

~~**At Large.** a dog that is not secured within an enclosure, dog cage, vehicle or building, or is not under the direct control of a person.~~

~~**Direct Control.** Immediate, continuous physical control of a dog such as by means of a leash, cord, or chain of such strength to restrain the dog and controlled by a person capable of restraining the dog.~~

~~**Enclosure.** A structure or a fence constructed of heavy gauge steel or other suitable material, with secure sides, top (if deemed necessary), and bottom, at least five feet by ten feet, suitable to prevent the entry of children and suitable to confine a dog and to prevent the dog from escaping.~~

~~**Impoundment.** The taking or picking up and confining of a dog by any Police Officer or Animal Control Officer.~~

~~**Keeper.** Any person or other legal entity, other than the dog owner, harboring or having responsibility, possession or control of the dog.~~

~~**Muzzle.** A device, as straps or metal, that can be safely and securely fastened over a mouth of a dog to prevent the dog from biting any person or other animal.~~

**Owner.** Any person or other legal entity owning a dog or, in the case of a person under the age of 18, the person's parent or legal guardian.

**Severe Injury.** Any physical injury to a human being, domestic pets & livestock that results in muscle tears or disfiguring lacerations or requires multiple sutures or corrective or cosmetic surgery.

B. (i) **Nuisance.** Any dog which has been declared vicious by the Animal Control Officer or by the Chief of Police shall be deemed a nuisance and shall be regulated and controlled in accord with this ordinance. This ordinance shall apply to any dog that enters the territorial jurisdiction of the City of Shelton, regardless of the residence of the dog or its owner or keeper.

(ii) **Determination of viciousness:**



1. If the Animal Control Officer has reasonable cause to believe that a dog is vicious, the Animal Control Officer shall conduct an investigation into the conduct and propensities of the dog. The Animal Control Officer may consider, without limitation, provocation, the severity of the attack or injury to a person, domestic animal, ~~or pet,~~ pets or livestock previous aggressive history of the dog, observable behavior of the dog, the site and circumstances of the incident and statements from interested parties.

2. The Animal Control Officer shall declare a dog to be vicious only if any one of the following criteria is met.

- a. Any dog which has severely injured or killed a domestic animal, ~~or~~ pets, or livestock while off its owner's or keeper's property.
- b. Any dog which inflicts severe injury in an attack upon a human being, another dog or domestic animal, or livestock without provocation on any public or private property.
- c. Any dog which has been used primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting and continues to exhibit signs of aggressiveness.

3. The Animal Control Officer shall not declare a dog to be vicious if any of the following criteria is met:

- a. If any injury or damage is sustained by a person who, at the time such injury or damage was sustained, was committing a willful trespass or other tort upon premises occupied by the owner or keeper of the dog, or such person was teasing, tormenting, abusing or assaulting the dog or was committing or attempting to commit a crime.
- b. If any injury or damage was sustained by a domestic animal which, at the time such injury or damage was sustained, was teasing, tormenting, assaulting or invading the premises occupied by the owner or keeper of the dog.
- c. If the dog was protecting or defending the premises occupied by the owner or keeper of the dog, or was protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

(iii) **Regulation and control of vicious dogs.** If the Animal Control Officer

determines a dog to be vicious, the Animal Control Officer may issue ~~any of the any order following orders for the disposition of the dog or for the controlled retention of the dog and the protection of the public;~~ concerning the restraint or disposition of such dog in order to protect the public health and safety of the inhabitants of the City.

1. ~~Where a dog's history includes the infliction of a severe injury in \_\_\_\_\_ attack upon a human, that the dog be euthanized in an expeditious \_\_\_\_\_ and humane manner, provided that no euthanization shall take \_\_\_\_\_ place until after the appeal period expires, unless the owner \_\_\_\_\_ consents. In no case will the dog be euthanized without prior \_\_\_\_\_ notification to the owner. The owner or keeper of the dog shall \_\_\_\_\_ pay all costs and expenses necessitated by the seizure of the dog, \_\_\_\_\_ including such expenses as may be required for the euthanization \_\_\_\_\_ of the dog.~~

2. ~~That the owner or keeper shall remove the dog permanently from \_\_\_\_\_ the owner's or keeper's premises and from any other location \_\_\_\_\_ within the City of Shelton within the specified time frame as \_\_\_\_\_ directed by the Animal Control Officer.~~

3. ~~That the vicious dog be licensed and registered according to the \_\_\_\_\_ laws and ordinance of the City of Shelton and the State of \_\_\_\_\_ Connecticut.~~

4. ~~That the owner or the keeper shall present to the Animal \_\_\_\_\_ Control Officer proof that the owner or keeper has procured \_\_\_\_\_ liability insurance in the amount of at least \$100,000.00 covering \_\_\_\_\_ any damage or injury which may be caused by such vicious dog, \_\_\_\_\_ and produce fro the Animal Control Officer a copy of the policy \_\_\_\_\_ declaration document identifying the insurance policy and its \_\_\_\_\_ terms. The insurance policy must provide that notice of \_\_\_\_\_ cancellation, termination or expiration of the liability insurance \_\_\_\_\_ policy must be sent to the Animal Control Officer. The owner \_\_\_\_\_ or keep shall maintain and not voluntarily cancel the liability \_\_\_\_\_ insurance unless the owner or keep shall cease to own or keep \_\_\_\_\_ a vicious dog. Cancellation of the insurance policy for failure \_\_\_\_\_ to pay the insurance premium shall be considered a voluntary \_\_\_\_\_ cancellation and a violation of this subsection.~~

5. ~~That the owner or keeper shall, at his/her own expense, have \_\_\_\_\_ the licensing number assigned to such vicious dog tattooed or \_\_\_\_\_ electronically chipped upon such vicious dog by a licensed \_\_\_\_\_ veterinarian, in a location and manner acceptable to the Animal \_\_\_\_\_ Control Officer. The number shall be noted in the Animal \_\_\_\_\_ Control Officer's file for such vicious dog, if it is different from \_\_\_\_\_ the licensing number when the vicious dog is registered in~~

~~\_\_\_\_\_ subsequent years.~~

~~\_\_\_\_\_ 6. That the owner or keep shall display a sign on his/her property  
\_\_\_\_\_ warning that there is a vicious dog on the premises. Said sign  
\_\_\_\_\_ shall be visible and capable of being read from the street, road  
\_\_\_\_\_ highway, whether public or private, which abuts said premises.~~

~~\_\_\_\_\_ 7. No vicious dog may be kept on a porch, patio or in any part of a  
\_\_\_\_\_ house or structure that would allow the dog to exit such a  
\_\_\_\_\_ building on its own volition. In addition, no such animal may be  
\_\_\_\_\_ kept in a house or structure when the windows are open or when  
\_\_\_\_\_ screen doors are the only obstacle preventing the dog from  
\_\_\_\_\_ exiting the structure.~~

~~\_\_\_\_\_ 8. That the owner or keeper of a vicious dog shall provide a  
\_\_\_\_\_ certificate to the Animal Control Officer from a licensed  
\_\_\_\_\_ veterinarian that the dog has been spayed or neutered, and that  
\_\_\_\_\_ the owner or keeper of said vicious dog shall be responsible for  
\_\_\_\_\_ the cost of the spaying or neutering.~~

~~\_\_\_\_\_ 9. That the owner or keep shall have an enclosure for the vicious  
\_\_\_\_\_ dog on the property where the vicious dog is primarily kept or  
\_\_\_\_\_ maintained. All vicious dogs shall be confined in an enclosure.  
\_\_\_\_\_ It shall be unlawful for any owner or keeper to maintain a  
\_\_\_\_\_ vicious dog upon any premises which does not have an enclosure.  
\_\_\_\_\_ Proper shelter, ventilation, food, water and sanitary conditions  
\_\_\_\_\_ shall be provided by the owner or keeper.~~

~~\_\_\_\_\_ 10. That the owner or keeper of a vicious dog shall not permit the  
\_\_\_\_\_ dog to be outside the enclosure unless the dog is safely secured  
\_\_\_\_\_ within a dog case, vehicle or building, or unless the dog is  
\_\_\_\_\_ securely muzzled and restrained with a chain, leash or lead with  
\_\_\_\_\_ a minimum tensile strength of 300 pounds, not exceeding three  
\_\_\_\_\_ feet in length, under the direct control of a person capable of  
\_\_\_\_\_ restraining the dog. The muzzle shall be made in such a manner  
\_\_\_\_\_ that will not cause injury to the dog or interfere with its vision  
\_\_\_\_\_ or respiration but shall prevent it from biting a person or  
\_\_\_\_\_ another animal.~~

~~\_\_\_\_\_ 11. That the owner or keeper of a vicious dog shall notify the  
\_\_\_\_\_ Animal Control Officer or the Police Department immediately if  
\_\_\_\_\_ a vicious dog is at large, or on the loose, or has attacked a human  
\_\_\_\_\_ being or another animal.~~

~~\_\_\_\_\_ 12. One week prior to being sold or given away, the owner or keeper  
\_\_\_\_\_ shall provide the Animal Control Officer with the name, address~~

~~\_\_\_\_\_ and telephone number of the new owner or keeper of the vicious  
\_\_\_\_\_ dog.~~

~~\_\_\_\_\_ 13. That the owner or keeper comply with such other conditions and  
\_\_\_\_\_ requirements the Animal Control Officer determines to be  
\_\_\_\_\_ reasonable for the restraint of the dog or the protection of the  
\_\_\_\_\_ public. Animal Control Officer shall have the right to continue  
\_\_\_\_\_ to monitor the compliance with these regulations.~~

(iv) **Decision and notice.**

1. If the Animal Control Officer determines a dog to be vicious, the Animal Control Officer shall notify the dog owner or keeper of any orders or special conditions for the regulation and control of the dog. Initial notification may be provided verbally. Within five days after declaring a dog vicious, the Animal Control Officer shall notify the dog owner or keeper, in writing, of the determination and of any orders of the Animal Control Officer regarding disposition of the dog. Such written notice shall be given either by certified mail, or by personal delivery through the Animal Control Officer or his/her delegate.
2. The Animal Control Officer shall immediately impound the dog until the orders, special restrictions or conditions are satisfied. The dog owner or keeper shall pay all costs of impoundment. In the event the owner or keeper of the dog refuses to surrender the dog for impoundment, the Animal Control Officer or a Police Officer may obtain a search warrant and seize the dog upon execution of the warrant.

(v) **Appeals.**

1. This ordinance shall not limit or exclude any enforcement powers or authority that the Animal Control Officer has under the Connecticut General Statutes. If any orders of the Animal Control Officer are issued and based upon a finding that a dog has bitten a human being, **domestic pets & livestock** then any appeal of such orders shall be taken pursuant to Connecticut General Statutes, Section 22-358, as the same may be amended from time to time.

~~\_\_\_\_\_ 2. If any orders of the Animal Control Officer are issued and based  
upon a finding of viciousness not involving a bite upon a human being, **domestic  
pets & livestock** then the determination and orders of the Animal Control Officer  
may be appealed to the Animal Control Board (hereinafter referred to as the  
"BOARD") by the owner or keeper of the dog within fifteen days of receiving  
written notice of the determination and orders.~~

~~\_\_\_\_\_ The determination and orders of the Animal Control Officer shall remain  
in effect pending the appeal. The BOARD shall convene a hearing for the~~

purpose of determining, de novo, whether the dog in question should be declared vicious.

The BOARD shall notify the owner or keeper of the dog by certified mail, or by personal delivery through the Animal Control Officer or his/her delegate that a hearing will be held, at which time the owner or keeper may have the opportunity to present evidence as to why the dog should not be declared vicious. The hearing shall be held promptly, within no fewer than five nor more than ten days, excluding holidays, after service of notice upon owner or keeper of the dog.

The BOARD shall conduct the hearing in the order and form and with such methods of proof as the BOARD deems fair and appropriate. The hearing shall be open to the public. The BOARD shall consider the factors set forth in Subsection B, Determination of Viciousness. If the BOARD determines the dog to be vicious, the BOARD may issue, affirm or modify any orders of the Animal Control Officer.

3. Within five days after declaring a dog vicious, the BOARD shall notify the dog owner or keeper, in writing, of the determination and of any orders regarding disposition of the dog, or the special restrictions and conditions for keeping the dog. Such written notice shall be through certified mail or by personal delivery through the BOARD or his/her delegate.

4. The BOARD shall consist of a licensed veterinarian, the Chief of Police **or his/her delegate** and a person trained and experienced in dog behavior and temperament evaluation.

5. Appointments to the BOARD shall be made by the Mayor and approved by the Board of Aldermen.

(vi) **Violations and penalties.** Any person violating any order of the Animal Control Officer relating to any vicious dog shall be fined \$250.00 for each offense, and, in addition, the Animal Control Officer may immediately impound the vicious dog and each day that said person remains in violation shall be a separate violation. The impounded dog shall not be released until the dog owner or keeper complies with all orders of the Animal Control Officer **or the Board**. The dog owner or keeper shall pay all costs of impoundment. The penalties set forth herein shall not be in lieu of or limit the authority of the Animal Control Officer to take other action authorized by the State of Connecticut.

(vii) **Exceptions.** The provisions of this ordinance shall not apply to dogs utilized by law enforcement officers in the performance of their duties.