

**See Dangerous Dog minutes below:**

## **XII. UNFINISHED AND NEW BUSINESS**

Mayor Murphy asked for any unfinished and new business.

Trustee Brandt stated that, based on recent events in surrounding communities, he would like to review the Woodridge laws regarding dogs, to ensure that these laws are sufficient. He explained that there are three kinds of dogs in Woodridge, good dogs, dangerous dogs and vicious dogs. He put forth a scenario of, him and

his child walking in front of a neighbor's house, he projected that the dog runs at him and his child, the dog is growling, but never leaves the property. He asked Chief Herron to explain if this dog would be deemed dangerous. He stated that if there is no violation, he is not comfortable with the current Animal Control Ordinance.

Chief Herron stated that under the circumstances described, there would be no violation. He explained that there could be an associated disorderly conduct violation, but as far as the animal goes, there is no violation.

Trustee Brandt inquired if there is no violation because the animal stayed within the property line.

Chief Herron stated that the dog would not be deemed dangerous because it did not come into contact with anyone.

Trustee Brandt stated that he is not comfortable with the current regulations because it is similar to why Woodridge outlaws realistic looking fake guns. He explained that fake guns cannot hurt a Police Officer, but a Police Officer has to react to a fake gun. He went on to explain that a dog that stays on its property, even if it is restrained by an electronic fence, still poses a danger to people walking by. Trustee Brandt made the distinction that, a vicious dog is a dog that bites someone. He cited an example from the news, where children were going door-to-door and were bitten on the dog owner's property. He asked Chief Herron if he has the correct definition of a vicious dog.

Chief Herron stated that a resident would have to petition to have a dog deemed vicious, but essentially he is correct in his definition.

Trustee Brandt inquired if there was a grace period or if one bite would deem a dog vicious.

Chief Herron explained that there is a procedure for deeming a dog vicious. He noted that there is a petition that has to be filed and a hearing to deem a dog vicious; this process could happen after one bite.

Trustee Brandt asked for clarification of the three strikes dangerous dog rule. He explained that he is talking about the rule that would deem a dog vicious after the dog is labeled as dangerous dog three separate times. He also asked whether there is a penalty to the owner when a dog is deemed dangerous.

Chief Herron explained that the Court would decide the penalty to the dog owner. He stated that the PD would cite the owner and the Court would decide the penalty.

Trustee Brandt inquired if there was a penalty or fine imposed by Woodridge. He stated that he saw no penalty for the owner imposed by the Village Code. Trustee Brandt clarified that he is talking about a dangerous dog, not a vicious dog.

Chief Herron stated that, he does not know if this is a violation of the Code. He explained that he is aware of regulations that allow the Police Department to remove the dog, but he is not aware of a specific violation.

Trustee Brandt stated that he has looked at the Code and there is no violation, for the owner, for keeping a dangerous dog. He noted that there needs to be a fine or penalty to the owner if a dog is deemed dangerous.

Attorney Good stated that, without looking at the Code, he cannot determine if Trustee Brandt is correct or incorrect in his reading of the Animal Control Ordinance. He noted that, assuming that Trustee Brandt is correct in his reading of the Code and this scenario is not in violation of any part of that Code, the Code can be rectified. He explained that, if the scenario presented is a violation of the Code, but not assigned a specific fine section, 1-4-1 of the Village Code provides a general penalty up to \$750 for a violation of any provision contained in the Village Code.

Trustee Brandt highlighted a few violations that are listed in the Animal Control Ordinance and noted that he would like to see a fine listed for harboring a dangerous dog. He stated that this is a good way to make dog owners aware that there is a penalty for keeping a dangerous dog.

Attorney Good explained that, generally, specific dollar amounts are assigned when the Village is willing to compromise and settle a situation for a specific dollar amount. He noted that, if the Village views the violation as a more serious offense, a fine will not be listed.

Trustee Brandt stated that he would like to use an example presented by Trustee Curran in a previous conversation. This example projected a twelve year old boy walking a large dog restrained by a leash. Trustee Brandt noted that, in his opinion, this is a running at large violation. He explained that the running at large violation occurs when a dog is either unleashed or led by a person physically unable to control the animal. He stated that, in his opinion, a twelve year boy would not be able to control a large dog. He asked Chief Herron if he would concur with this opinion.

Chief Herron stated that he does not agree. He explained that there are many factors that go into determining whether the person leading an animal is able to control that animal. He listed training, breeding, the mental capacity of the person leading the animal and the physical ability of the person leading the animal as a few of these factors that would determine whether the person is in control of the

animal. Chief Herron stated that there are too many variables to simply deem a dog led by a twelve year old boy to be running at large.

Trustee Brandt stated that the Officer investigating a situation is left to determine whether a dog was running at large. He asked if this is dangerous to the Officer.

Chief Herron noted that some of the Illinois State Statutes regulating animal control are written specifically for the Chief's Office. He explained that, while the Officer has some say in deeming a dog dangerous, the decision is left up to the Chief's Office. He also noted that there is a petition and appeal process.

Trustee Brandt suggested that there are a number of improvements to be made to the Code. He suggested specifically mentioned fines for dangerous and vicious dogs, a reduction in the number of dangerous dog violations to deem a dog vicious from three violations to two violations and to eliminate the ability to leave a dog, seemingly unrestrained, on private property. He explained that, if a dog is hidden behind a fence, it can go crazy as people walk by and, in most likelihood, the dog will not get past the fence. Trustee Brandt stated that he is not comfortable with reliance on electric fences in restraining dogs. He noted that the fence may not be operational and the dog may not be wearing the collar that administers the shock. He asked if there is anything the Village can do to address the problem. He asked those present if they are comfortable with leaving a dog unsupervised and seemingly unrestrained.

Chief Herron explained that, as the Illinois State Statute is currently written, the dog cannot be off the owner's property without a leash.

Trustee Brandt inquired if the dog can be on the owner's property without being on a leash.

Chief Herron stated that the dog can be on the owner's property without a leash.

Trustee Brandt stated that this is not ok. He explained that, the ability to have an unleashed dog on the property would prevent him from walking on the public sidewalk in front of that property. He stated that, he has every right to walk on that sidewalk, but would be prevented from doing so because of the seemingly unrestrained and unsupervised dog on the property. He asked that there be some differentiation between a front and back yard in the Village Code. He noted that, a dog in the back yard would not face the public. He explained that the only concern would be to the neighbors adjacent to the backyard. He asked if anyone else feels uncomfortable or if anyone has any ideas on how to regulate dangerous and vicious dogs.

Mayor Murphy asked Chief Herron and Administrator Perry to confirm two statements from previous correspondence. He read a statement from Administrator Perry stating that he has no further suggestions for changes in the

animal control ordinance. Mayor Murphy also read a statement from Chief Herron stating that he believes the ordinances to be sufficient and appropriate. He asked if these statements remain true.

Chief Herron and Administrator Perry confirmed these statements. Administrator Perry pointed out that, with the limitations of the current Code, it is nearly impossible for a dangerous dog to be on the streets engaging in the behavior that is being suggested, without being in some violation of the dangerous dog provision. He noted that this violation triggers a potential \$750 fine in court.

Attorney Good explained that he has had a chance to look at the Ordinance and there are two fines provided for violations. He read, "It shall be unlawful for any dangerous dog to leave the premises of the owner," he explained that there are a number of conditions following that statement. He noted that a violation of this provision would allow for up to a \$750 fine. He also read, "It shall be unlawful for any dangerous dog to annoy, endanger, or approach, in an apparent attitude of attack, any person or animal," he explained that this separate violation would be fined up to \$750.

Trustee Brandt pointed out that these provisions regulate dogs that have been declared dangerous.

Attorney Good pointed out that Trustee Brandt's initial question regarded dangerous dogs.

Trustee Brandt clarified that, he was asking if there is a fine assigned when the dog becomes dangerous, not after the animal is deemed dangerous. He noted that the Code regulates a dog that has been deemed dangerous and is violating things. He pointed out that there is no fine for becoming a dangerous dog and that there is no fine for a dog threatening a resident, there is an indirect fine of \$750, but no specific fine for the initial threat.

Attorney Good pointed out that there is a section regulating when the nuisance is declared. He read, "Each vicious or dangerous dog is hereby declared to be a public nuisance."

Trustee Brandt pointed out that this provision does not assign a fine for dogs becoming dangerous, just for dogs that have already been deemed dangerous.

Attorney Good pointed out that the act of becoming a dangerous dog, would put the animal in violation of the Code.

Trustee Brandt inquired if the act that deems a dog dangerous happens simultaneously with that dog becoming a dangerous dog.

Attorney Good highlighted Village Code section 5-6A-5 paragraph A and B. He noted that paragraph A deems a dog dangerous simultaneously with the first violation. Paragraph B establishes what deems a dog dangerous and regulates dangerous and vicious dogs.

Trustee Brandt reiterated that there should be a fine attached to a dog being deemed dangerous. He stated that he is not surprised that Chief Herron is comfortable with the ordinances regulating dangerous dogs; if he were not satisfied, he would bring them before the Board. However, he noted that he is not comfortable with them. He explained that he is uncomfortable with a dog being seemingly unrestrained and unsupervised in a yard. He stated that he fears for the safety of the individuals passing this dog on the public sidewalk.

Attorney Good noted that he understands the concern. He explained that whether the Village has the ability to pose further restriction to a dog on private property, without being a dangerous or vicious dog, will have to be looked into.

Trustee Curran asked for clarification that it is not proper to generalize breeds of dogs when deeming dogs dangerous.

Attorney Good noted that the Supreme Court of the State of Illinois has generalized dogs to be harmless and docile animals; this opinion has been carried forward throughout the years. He noted that, there are two breeds that concern people, Rottweilers and Pit Bulls. He cited the Appellate Court of the Third District by stating, "it is presumed that a dog is tame and docile and harmless, absent that the dog has demonstrated vicious propensities. A dog is ordinarily not a danger to children." He explained that, this case law disagrees with the notion that certain breeds of dogs are dangerous or vicious. He noted that, under Illinois State Law, each dog is to be evaluated individually and is not to be classified as vicious merely because of breed or type. He briefly discussed that some dangerous breeds have been proven to not be definable as a distinct breed. He noted that this prevents municipalities from regulating dogs based on breed.

Trustee Curran noted that his research on the topic has shown that K-9 experts have agreed that dogs can not be generalized by breed. He explained that some municipalities have statutes that identify breeds.

Attorney Good pointed out that regulating by breed is in violation of a provision of Illinois State Law. He noted that he did not see a preemption of Home-Rule Municipalities in the Statute.

Trustee Curran noted that, some Illinois communities place age restrictions on who can be in control of certain breeds.

Attorney Good confirmed that this would be a violation of Illinois Law. He noted a problem in regulating the age of the individual controlling the dog. He referenced the other factors that Chief Herron pointed out earlier in the meeting.

Trustee Frank asked if there is a way to state that dogs should be under the control of someone that is physically and mentally able to handle the animal.

Attorney Good explained that the ordinance regulates that a dog cannot run at large off of private property. He said that he would have to look into whether the Village can regulate the conduct of a dog on private property. He stated that he can look into regulating the physical and mental capabilities of an individual controlling a dog on a leash on public property.

Administrator Perry explained that this is not a legal issue so much as an enforcement issue. He noted that the ability to enforce a regulation such as the one being discussed would prove to be very difficult. He also noted that there are many issues that the Police Department deals with that have proven to be a problem. He explained that, currently, dangerous or vicious dogs have not been a problem in the Village.

Chief Herron noted that when the Police Department looks at a case involving a dangerous or vicious dog, intent always comes into the investigation. This would include looking at the age and physical and mental capacity of the individual in control of the dog. He noted that dogs that are deemed dangerous are taken care of within hours of the incident. He explained that this is done through counseling the individual and recommending training. He also explained that the Police Department works closely with the vets in the area to educate individuals on pet training. He stated that Woodridge does not have problems because the Police Department is active in the community to address animal control issues before they become a problem.

Administrator Perry pointed out that Woodridge has a long history of interacting with the public on animal control issues. He noted the example that Woodridge sets by having a K-9 Officer and pointed out that Woodridge was one of the first communities in DuPage County to have such an Officer.

Chief Herron stated that he believes that Woodridge was the second community in DuPage County to acquire a K-9 Officer. He also noted the classes on animal behavior and psychology that Woodridge Officers have attended to help to deal with animal control.

Trustee Wood noted the animal control issues under consideration in the City of Chicago.

Trustee Brandt asked for some education and PR related to the animal control efforts of the Village of Woodridge. He suggested that this be done in the spring

edition of the Focus Newsletter. He stated that we could give suggestions to residents on how to handle situations with dogs running at large or residents that feel threatened by dogs. He explained that this education will make people feel safer around dogs.