

BROOKLINE ADVISORY COMMITTEE

Public Safety Subcommittee

The Public Safety Subcommittee plus Sean Lynn-Jones held a public hearing on WAs 29 and 30, petitions filed by Gary Jones TMM-3, regarding the police department handling of dangerous dogs and the posting of police reports (respectively) on September 22 in Room 103 at 5:30 PM. In attendance were: Gary Jones, petitioner and TMM-3; Katherine D. Dukakis, Perry Street resident; Marsha Salter Jones, Perry Street resident; Rachel Hyam, St. Paul Street resident; Aviva Shiedlis, Francis Street resident; Sheila O. Hyam and Oliver Hyam; Robert and Sarah Leinbach, Francis Street residents; Dorothea Hass, Perry Street Resident; Edward Bonfilio, Perry Street resident; Kathleen Scanlon, TMM-3 and Francis Street resident; Police Chief Daniel O’Leary, Town Counsel Joslin Murphy, and Sean Lynn-Jones, David-Marc Goldstein, Alisa Jonas and Janice Kahn from the expanded Public Safety Subcommittee of the Advisory Committee.

The Petitioner, Gary Jones, filed two petitions for the Warrant in response to neighborhood concerns following a violent dog attack in which both a woman and her dog were mauled by a very large dog that had gotten away from its dog walker. WA29 seeks to require the Brookline Police Department to train every police officer in the correct handling of dangerous, violent dog and other animal attacks, including the securing of the dangerous dog or animal to protect the public safety. WA30 would require that the Brookline Police Department post on line on the Town’s website every police report within 48 hours of an incident.

Background:

On May 19th 2016 a woman walking her small dog in her neighborhood was violently attacked by a very large dog that had broken free of its collar and leash from its dog walker, a teenage boy. Her screams brought neighbors to her aid, the police were called and one neighbor hit the attacking dog with a shovel to subdue the dog while another neighbor was able to free the woman so she could run to safety. A neighbor fashioned a makeshift restraint for the dog from a belt. The woman sustained serious injuries and was taken by ambulance to Beth Israel Hospital, where she was admitted for care. Her dog, which was also mauled was taken to the Boston Veterinary Hospital for care.

Discussion:

According to neighbors who were present when the brutal attack occurred, the police officer who arrived told the neighbors that restraining the dog was not his responsibility. The Animal Control Officer (ACO), who is specially trained and has equipment to deal with dangerous animals, was not on duty at the time. The officer then asked the people to disperse, while he calmed down the 15-year old dog walker who was sitting down and crying “I don’t want to go to jail.” The owners of the dog were called and they came and took the dog away.

The ACO spoke to the victim while she was in the hospital, took her statement and also followed up with the owners of the attacking dog, and on June 6th required that the attacker-

dog be muzzled for 180 days when walked outside. One neighbor noted that this 3-week time period between the time of the attack and the muzzle order was too long, and another neighbor reported that the dog was still being seen in public without a muzzle on and that no police officer was checking to make sure that the muzzle order was being respected.

Attending the public hearing were neighbors who either witnessed the horrific attack or came to the aid of their neighbor after hearing her screams for help. They were uniformly unhappy with the way in which the police officer, who arrived at the scene after the dog had been quieted, responded to the neighbors who were deeply distressed by the attack. They expressed dismay that the officer didn't take the dog, which was being restrained by a neighbor, and secure the animal himself by placing it in his police car and away from the public. They were further upset that there was no notice in the Brookline TAB of the attack so that neighbors who were not present at the time of the attack would be made aware of the dangerous animal in their neighborhood. They expressed a clear frustration that as far as they could see "nothing was being done" to prevent a similar situation from happening again.

The woman who was attacked by the dog talked about being traumatized by the attack. The dog bit her eleven times before it was subdued and she was able to get away. She thanked her neighbors for their support, and reported that the incident had altered her life. She felt unsafe walking in her neighborhood and couldn't go outside without a bat and pepper spray. She noted that her physical scars are healing, but she also has lingering emotional scars. She explained that she was shocked when she got out of the hospital at the way the incident was handled. No statements were taken at the time of the attack. The ACO spoke to her while she was in the hospital; she reported that he advised her "next time you see the dog, turn away." Her parents who also attended the public hearing spoke and said that they were feeling the same concerns as her daughter and the neighbors – that not enough was being done to protect them from another attack.

Among the comments expressed at the public hearing were the following:

"It's not the dog's fault, it's the owner's fault. You shouldn't own a dog if you can't control it."

"The owner should be held responsible."

"The dog should have been put down."

"I can't believe nothing is happening (to address this incident)."

"I want my 12 grandchildren to not walk in fear in the neighborhood."

"It's one of the most upsetting experiences in my life."

"The policeman said that we neighbors should be minding our own business. This is our business."

"What happened is equivalent to a man coming up and stabbing someone."

"The police did not respond appropriately."

Town Counsel, in response to that last comment asked, "What should the police officer have done?" The response from several members of the community was to shoot the dog. Town Counsel responded that since the dog was not attacking at the time the officer arrived, he could not use lethal force. Others in attendance at the public hearing thought the officer should have

impounded the dog and taken it to the police station. The police officer in this case allowed the owners to take the dog. In other cases, police officers have impounded dogs and taken them to the animal hospital.

Chief O'Leary addressed the hearing and said that the May 19th incident was a horrific attack and that he had seen the photos showing the victim's injuries. He confirmed that the ACO was not working that shift. At one time the Town had 3 ACOs so that there was always an ACO on duty 24 hours a day, but now the Town has only one ACO. The dog was not being aggressive by the time the officer arrived. Chief O'Leary reiterated Town Counsel's statement that it would have been unlawful to shoot the dog. Officers are trained in the Town's by-laws and would have known they could not use lethal force in this instance. Chief O'Leary noted that on June 6th, after the ACO followed up on the attack (speaking with both the victim and her neighbors), there was a muzzle order put into place for 180 days. Town Counsel added that the order may be extended beyond that period by the ACO if he feels the dog has not been remediated and still remains a danger. He also said that the dog's owners are looking into a training course for the dog and they have hired a new dog walker. He noted that dog bites do happen in the Town, but this was much more aggressive. According to the Town's by-law Section 8.6 (Dog Control), the Town can impound the dog if the police officer witnesses it either not under control or actively attacking, neither of which was the situation in this case. After investigations were completed, citations were issued to the both the owner of the dog and the dog walker.

The Police Department is following up on the four citizen complaints that have been filed in reference to this attack. The victim filed a complaint for a hearing on September 19th. One of the weak links in the process that was revealed following the attack is that the neighbors didn't know that they needed to file a complaint to get a hearing. According to State's "dangerous dog" statute, the hearing officer can be a member of the Board of Selectmen, the Police Chief or the Police Chief's designee, or the ACO. Chief O'Leary has designated the Director of Health and Human Services, Alan Balsam, to be the hearing officer. That date of that hearing, as of the time of the public hearing, had yet to be set.

In addition, Chief O'Leary told those at the public hearing that he has written a general order (currently in draft form) to instruct police officers on what to do in case of a dog attack to ensure that police officers will be better prepared in the future. Based on the public hearing comments and the complaints he received, he said he will add information on filing a complaint for a hearing to be given to residents when police respond to calls. When asked why the police officer arrived on the scene without back-up, the Chief responded that he could have called a sergeant and acknowledged that the incident could have been handled better by the responding police officer and he is currently working on improving the department's procedures.

WA30 – Posting Police Reports On Line

With reference to WA30, Chief O'Leary stated that a redacted police report was filed by the police officer who was there. State law prevents certain reports from being made public; those

include reports of domestic violence, rape and juvenile offenders. There is in the current legislative session at the State House a bill to further refine that law. Bill H.2151 would require police departments to notify victims of any requests for said victim's report. That bill is now in Public Safety and Homeland Security Committee.

Chief O'Leary noted that the department averages 6500 police reports filed each year and the sheer number alone would make it difficult to post all of the reports. He stated that TAB reporters come to the station to look at the logs each day and select out what they choose to put into the paper.

Town Counsel further stated that Criminal Offender Record Information (CORI) regulations prohibit reports involving criminal investigations from being made public. The Police Department is required under State law to keep a police log and could have reported the nature of the call and the result without further detail.

The petitioner reported that other communities, e.g., Newton, put their incident reports online, but Brookline does not, but this was questioned by the Chief. He said that what likely is provided online is the police log. An examination of the City of Newton police department website confirmed that the police log is online and easy to locate under the tab "Records" which is on the department's home webpage. There is a link within Records that when clicked shows the incident log for 2016, which includes the following information: date, address, type of incident, and the reporting officer's name. The Brookline police department website does not post the incident log, though individuals can request to see it or come in person to the department to look at it. Members of the public safety committee noted that, given the sheer volume of incidents in the log, putting the log online would not serve the purposes for which the Petitioner filed Warrant Article 30, i.e., to notify specific neighborhoods of a public safety issue that residents of that neighborhood should be aware of.

Attendees felt strongly that such news can and should be shared with the neighborhood as a matter of public safety. Discussion followed regarding alternative ways that neighborhoods could be notified of issues of relevance to those residents. When asked about the notification system that is sometimes used to alert neighborhoods of break-ins, for instance, Chief O'Leary responded that the Next Door software program could have been used in this case. Also mentioned were email notifications given to an appointed neighbor who then forwards the information from the police onto the neighborhood listserv.

The petitioner told the subcommittee that he was planning to redraft WA29 but not WA30. The subcommittee therefore made the following recommendations:

WA29, voted to defer a vote pending new language from the petitioner.
WA30, voted No Action, by a unanimous 4-0-0.

On October 4th, the petitioner received approval from the Moderator to change the original articles to referral motions to committees to study the subject of these articles and report back

to Town Meeting in 2017 with potential recommended changes to the Town's By-Law, Section 8.6. The subcommittee will be holding a meeting to review the revised articles just prior to the Advisory Committee meeting on October 6th.

ADDITIONAL RESEARCH:

Section 8.6 (Dog Control) of the Town of Brookline By-Laws states the following: Under Section 8.6.1 (General Prohibition): "No person shall own or keep in the town any dog which by biting, barking or howling, or in any other manner disturbs the peace or quiet of any neighborhood or endangers the safety of any person."
<http://www.brooklinema.gov/documentcenter/view/353>

Massachusetts State Law contains a section entitled: "Nuisance or dangerous dogs; orders for remedial action; appeal; violation of order."

It states that in the case of a dangerous dog attack, the hearing authority shall order one or more of the following options:

1. that the dog be humanely restrained
2. that the dog be confined to the premises of the owner; it further specifies that "confined" means securely confined indoors or confined outdoors in a securely enclosed and locked pen or dog run
3. that when in public, the owner must keep the dog securely and humanely muzzled and restrained with a tether having a minimum tensile strength of 300 pounds and be no longer than 3 feet
4. that the owner provide proof of insurance of at least \$100,000 insuring the owner against any claim, loss, damage or injury to persons, domestic animals or property resulting from acts of the dog (if no insurance policy has been issued, owner must show proof of efforts to obtain that insurance)
5. that the owner provide information identifying the dog (photographs, videos, veterinary exams, tattoos or microchip implantations, etc.)
6. that the dog be altered so it shall not be reproductively intact, unless the owner can provide a veterinarian's opinion that such a procedure should not be done due to a dog's medical condition
7. that the dog be humanely euthanized

The State statute further notes that cities or towns cannot order that a dog deemed dangerous be removed from the town or city in which the owner of the dog lives, and it shall not regulate dogs specific to any breed.
<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleXX/Chapter140/Section157>

M.G.L. RE: Public disclosure of certain police reports

<https://malegislature.gov/Laws/GeneralLaws/PartI/TitleVII/Chapter41/Section97D>

In the current legislative session:

<https://malegislature.gov/Bills/BillHtml/145211?generalCourtId=12>

City of Newton, police department website

<http://www.newtonpolice.com/records.htm>

Animal Control tools:

4-foot catch poles: \$35 - \$100

https://www.amazon.com/s/?ie=UTF8&keywords=catch+pole&tag=geminimobiles-20&index=aps&hvadid=30274661932&hvqmt=b&hvbmt=b&hvdev=c&ref=pd_sl_5z7msytlqo_b

Animal handling gloves: \$30

https://www.amazon.com/s/ref=nb_sb_noss_1?url=search-alias%3Daps&field-keywords=animal+control+gloves&rh=i%3Aaps%2Ck%3Aanimal+control+gloves