

ITEM 9

MANAGER'S REPORT NO. 84

COUNCIL MEETING Nov. 13/73

9. Re: Letter Dated October 29, 1973 from Mrs. Inez J. Ervin  
1451 Sherlock Avenue, Burnaby 2, B.C.  
Burnaby Dog Tax and Pound and Animal Regulation Bylaw

Appearing on the Agenda for the November 13, 1973 meeting of Council is a letter from Mrs. Inez J. Ervin regarding the Burnaby Dog Tax and Pound and Animal Regulation Bylaw. Following is a report from the Chief Licence Inspector on the comments that are made by the correspondent in her letter.

RECOMMENDATIONS:

THAT the Burnaby Dog Tax and Pound and Animal Regulation Bylaw, Bylaw No. 6191, not be amended; and

THAT the poundkeeper's operating procedures not be revised; and

THAT Mrs. Inez Ervin receive a copy of this report.

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November 8, 1973

TO: MUNICIPAL MANAGER

FROM: CHIEF LICENCE INSPECTOR

RE: ENFORCEMENT - DOG TAX AND POUND AND ANIMAL REGULATION BY-LAW

The apparent reasons for the author's concern over sections of the by-law as referenced in the correspondence are due to the fact that her son, Les Ervin, has been convicted three times for allowing his dog to be at large:

March 27, 1972	-	fined \$ 10.00
March 27, 1973	-	fined \$ 50.00
October 12, 1973	-	fined \$150.00

The second and third summonses received a plea of not guilty with the result that a trial was conducted. On the second conviction, March 27, 1973, the Judge instructed the defendant to keep the dog under control at all times or be prepared, in the event of further convictions, to face a much stiffer penalty. On the third conviction, the Judge urged that they construct a fence or devise some appropriate method of controlling the dog.

The activity of the poundkeeper in the area of the Ervins' home relates to complaints concerning dogs at large, and on several occasions, the defendant's dog was named as the principal offender.

It is impossible to apprehend this dog, therefore it has been necessary to follow it home and attempt to issue a written warning notice for being at large. On the first occasion, Mrs. Ervin would not open the door to talk to the poundkeeper except to order him from the property in a very abusive manner. The R.C.M.P. were requested to assist and were eventually successful in ascertaining ownership of the dog. On the second occasion the poundkeeper followed the animal home and, while attempting to issue a written warning notice, Mrs. Ervin pushed him and he fell down the stairs. On the third occasion, the dog was followed home and because of past experiences and the time of day, 6:20 a.m., the poundkeeper left a notice in the mail receptacle, confirming that the dog was at large and that a summons would follow.

The specific sections of the by-law referenced by Mrs. Ervin have been studied and we report as follows:

Section 3(1) - Licencing of Horses

The Municipal Act does not provide the authority to provide for licences for horses.

Section 10 - Entry Upon Property

The right for the poundkeeper to enter upon any property is provided in the by-law to enable the poundkeeper to conduct investigation for the following reasons:

- (1) to ascertain if there is on the said property any unlicensed dog;
- (2) to seize and impound any unlicensed dog;
- (3) to seize and destroy any dog certified by a licensed and qualified veterinarian to be suffering from an incurable disease;
- (4) for the purpose of conducting enquiries when he knows or has reason to believe that a dog owned or kept on the said property has either attacked, bitten, harassed, savagely pursued or acted in a vicious manner towards a person, dog, horse, mule, ass, cattle, sheep, goat, swine, rabbit, skunk, raccoon, monkey, squirrel, fox, guinea pig, gerbil, hamster, mouse, rodent or other animal or poultry;
- (5) for the purpose of determining if a dog, horse, mule, ass, cattle, sheep, goat, swine, rabbit, skunk, raccoon, monkey, squirrel, fox, guinea pig, gerbil, hamster, mouse, rodent or other animal or poultry is unlawfully at large; and
- (6) to seize and impound any dog, horse, mule, ass, cattle, sheep, goat, swine, rabbit, skunk, raccoon, monkey, squirrel, fox, guinea pig, gerbil, hamster, mouse, rodent or other animal or poultry unlawfully at large.

Section 10 - Hours of Operation

The only hours of operation relative to the pound that we regulate are the minimum hours that the Animal Shelter must remain open for service. The hours for patrol activity range from 6:00 a.m. to 10:00 p.m., depending on the time of year and the nature of the registered complaints. The extended hours for patrol were introduced in the 1972-73 contract with the S.P.C.A. Reasonable hours of operation for a pound officer must relate to their activities. There is a 24 hour emergency arrangement and if a dog attacked and injured a person at 2:00 a.m. then, by previous direction of Council, the complaint must be investigated immediately.

Section 10 - Identification

The staff of the Burnaby Animal Shelter are employees of the S.P.C.A. and are supplied with and wear uniforms which are clearly marked with shoulder patches. In addition, each poundkeeper has an adequate identification card and the vehicles are painted in large block letters "S.P.C.A.". In this case there was no opportunity for the man to present his identification.

Section 11 - Interfering with the Poundkeeper

The by-law provides that no person shall rescue or attempt to rescue any dog or animal which has been seized or impounded and further provides that no person shall interfere, obstruct or impede the poundkeeper in the execution of his duties. Such authority is essential if the poundkeeper is to retain custody of any dog which has been apprehended for being at large. It would be an impossible situation if the poundkeeper had to rely solely on his physical abilities to fend off attempted rescuers of impounded animals.

A dog is not considered to be at large when on its owner's property but if

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the dog has been running at large and the poundkeeper has followed it home, a violation of the by-law has taken place. On the first occurrence, a warning notice is issued to the owner. If the owner will not co-operate, the only alternative is to proceed with legal action.

Section 14 - Penalty

Fines are assessed by the presiding Judge at the time the case is dealt with. The amount of the fines levied for similar offences have ranged from a suspended sentence to the \$150.00 assessed against Les Ervin. The average amount appears to be \$10.00 to \$25.00 and, on occasion, \$50.00. Based on the instruction to the defendant at the time of the second conviction, it is apparent that the presiding Judge felt that the defendant had chosen to ignore the by-law and defy the court's instructions; therefore, a fairly severe penalty was assessed. Maximum penalty, upon conviction, is \$500.00.

Each year an increasing number of persons are summonsed, convicted and fined for no dog licence and for permitting their dog to run at large. During 1973 two persons have been convicted for interfering with the poundkeeper, two persons convicted for assaulting a poundkeeper, and one assault charge and one interfering charge are pending.

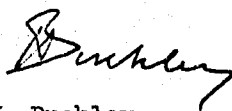
Review of the by-law relative to the points referenced by Mrs. Inez Ervin and a review of the enforcement procedures employed by the poundkeeper has led to the conclusion that no amendment to the by-law or revision of the poundkeeper's procedures are required.

RECOMMENDATIONS

THAT the Burnaby Dog Tax and Pound and Animal Regulation By-law, By-law No. 6191, not be amended; and

THAT the poundkeeper's operating procedures not be revised; and

THAT Mrs. Inez Ervin receive a copy of this report.



H. Buckley,  
CHIEF LICENCE INSPECTOR