

Subject: For the Selectboard - Alternatives to adoption of an animals running a large ordinance
Date: Wednesday, February 12, 2025 at 6:05:09 PM Eastern Standard Time
From: Kevin E. Brown
To: Michelle S. Perlee
Attachments: image001.jpg, image002.jpg

Michelle,

Please pass this on to the rest of the Selectboard.

Alternatives to the proposed ordinance exist. The problem is that the existing alternatives are not of practical utility:

The statutes that address livestock running at large are antiquated in that the fines are ridiculously low by today's standards.

20 V.S.A. §3341 allows for the imposition of a fine of between \$3 to \$10 for a person who knowingly permits livestock to run at large in a public highway.

20 V.S.A. §3345 imposes a fine of between \$2 and \$10 for a person who knowingly permits livestock to go upon the lands of another.

With these 2 statutes, the problems are twofold. First, "knowingly" sets a high threshold that is easily defeated. Second, the fine amounts are too low to have any deterrent effect.

20 V.S.A. §3451 permits any person to impound livestock that a "person suffers to run at large on the highways or commons." The poundkeeper shall not release the animal(s) until the charges of the impoundment and the poundkeeper are paid. The Town does not have a system in place to implement this statute. A simple ad-hoc impoundment process and sanction could be built into an ordinance.

With respect to criminal statutes, there are 2 options. 13 V.S.A. §1026 is the disorderly conduct misdemeanor. Subsection (5) prohibits the obstruction of vehicular or pedestrian traffic, but requires the intent to cause public inconvenience or annoyance. The requisite intent would be lacking for someone whose animals got out and ran at large due to the owners failure to keep fencing in repair.

The other criminal option is reckless endangerment, 13 V.S.A. §1025 – "A person who recklessly engages in conduct which places or may place another person in danger of death or serious bodily injury." The intent requirement for reckless conduct is consciously disregarding a known risk and is therefore a higher level of culpability than criminally negligent conduct. The reckless endangerment statute is broadly worded and could theoretically apply to our bad actor's conduct based on particular factual circumstances: e.g. does not fix a portion of missing fence after warning/directive to do so. The practical problem is that, even if Town Police issued a citation for reckless endangerment, nothing will happen unless the County prosecutor is willing

to pursue the charge. I do not have a lot of confidence the State's Attorney would be willing to do so in the absence of someone (vehicle driver) actually getting hurt. If the bad actor doesn't already have a criminal record, the charge would go to diversion anyway (letter of apology, fix the fence etc.).

All in all, it makes sense to adopt an ordinance if the Selectboard decides that it wants to address the current one-bad-actor problem. I can insert some flexible process, regulatory structure, and monetary teeth in addition to fines so that the Town does not ultimately bear the costs associated with applying the ordinance to the next escape. It does not need to be elaborate. It needs to be flexible enough to respond to possible scenarios and to provide due process to the animal owner.

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