



SELECTBOARD
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Date: 19 July 2021
To: Lee and Margaret Kahrs, 3122 Franklin St, Brandon VT 05733
From: Seth Hopkins, Chair of Selectboard
Subj: Your letter dated 12 July 2021 sent to the town manager and board chair

The Vermont League of Cities and Towns provides in its *Selectboard Handbook* the following definition of an ordinance from a Vermont court case which has stood as precedent for more than one hundred years: an ordinance is “an expression of the municipal will, *affecting the conduct of the inhabitants generally, or a number of them under some general designation*” (emphasis added).

Ordinances, in other words, are outward-facing (public-oriented) and apply to the general population of the Town.

Policies, on the other hand, are inward-facing (internally-oriented) and apply to not the public but to a limited class, such as, in the case you raise in your letter, a single appointee of the board.

The interpretation above is consistent with VLCT’s official position as expressed during in-person trainings by VLCT staff attorneys which I have completed.

The “eight points” memo dated 22 July 2020 from a subcommittee of two to the board, town manager, police chief, and animal control officer clearly falls into the classification of *policy* and not the classification of *ordinance*. It applies not to the public but to one appointee of the board in the performance of her official duties. It was a guidance memo proposed in a properly-warned open meeting for the consideration of the board. The board discussed, with public comment, the content of the “eight points” memo and adopted it to provide direction to the only employee the board directly oversees, the town manager.

The “eight points” memo was published in the board packet prior to the 27 July 2020 selectboard meeting and remains available for viewing at the town website:

https://www.townofbrandon.com/wp-content/uploads/2020/07/brandontownscanner@gmail.com_20200724_142542.pdf

The meeting of 13 November 2020 made no changes to the animal control ordinance, which remains published in full and in effect. The statement from the chief of police referred to in your letter related to guidance for one appointee of the board in relation to other town staff, not to the public. The town manager’s 16 December 2020 job description likewise made no change to the adopted ordinance but was a response to the request from the animal control officer to provide further guidance to the animal control officer.

The position of the Town is that no Open Meeting Law violation occurred because the animal control ordinance was properly adopted, and the eight points memo is not part of the ordinance but a management document relating to guiding the job performance of one public official and not to the public generally.

Respectfully submitted,