



APPROVED: October 11, 2011

**DANGEROUS DOG WORK GROUP**  
City Hall, Municipal Court Room  
Tuesday, September 13, 2011

**MINUTES**

Members present: Mayor Sharon Konopa, Councilor Floyd Collins, Councilor Dick Olsen, Mark Azevedo, Max Frederick, Larry Holverson

Staff present: Casey Dorland, Police Lieutenant; Jim Delapoer, City Attorney; Marilyn Smith, Management Assistant/Public Information Officer

Others present: None

Mayor Sharon Konopa called the meeting to order at 5:32 p.m.

**APPROVAL OF MINUTES**

August 16, 2011, August 22, 2011, and August 29, 2011

Konopa asked for a correction in the August 29, 2011, minutes to reflect that Olsen had made a motion to approve both the August 16 and August 22 minutes of the work group. The motion did not come to a vote. Smith noted that Dorland's and Konopa's names had been misspelled, and those had since been corrected.

MOTION: Collins moved to adopt all three sets of minutes; Azevedo seconded. Minutes were approved.

Continued Review of AMC 6.18, Dangerous Dogs

Delapoer said that he had added a new section: 6.18.055 - Notice .of location of potentially dangerous dog in city. He said some other cities may use the term "problem dog" or another term. Holverson asked what if the dog comes to the pound. Delapoer said that we could exempt the pound and he can make the language more clear to make it not apply if the dog is at a vet's office for care. The notice is simply a notice and does not say that the City would do anything as a result. Dorland asked if it should make distinctions for different types of dogs such as a nipping dog or a fighting dog. Delapoer said that we don't have access to prior owners in other states. This notice gives local officials information that they didn't have earlier; it could be useful in evaluating subsequent behavior of the dog in Albany. Dorland said the goal for the police is to protect the public, they never have all the information; they could ask owners to provide a dog history before we allow it to come to Albany. Delapoer said that he will write the ordinance to exempt veterinary offices and pounds.

Frederick described moving to Albany some years ago with two dogs. He asked if, under the new language, he would have needed to come to City Hall to register the dogs. Delapoer said no. Frederick said that his point is, will people know they need to do this? He's not sure that dog owners will volunteer that information. Dorland said that he can recall getting a couple of calls from someone who thought a neighbor might have a dangerous dog; the calls prompted police to go out to talk to somebody. Being notified mayor may not be enough, depending on the circumstances. Delapoer said that a new person coming to town doesn't go online to go over the Municipal Code. Collins said that the ordinance does need this section. Delapoer asked if this ordinance would make someone tell if the person is not honest.

Holverson said that the ordinance that has been fine for 20-some years but times have changes and circumstances have changed. Collins said that he doesn't want the Police Department to be hamstrung. They could use information from other locations to help in determining a dog's dangerousness. Dorland said that the identification requirement is one tool and providing the dog's history helps with public protection.

AMC 6.18.040 (9) Method for relieving a dog of a potentially dangerous designation.

Dorland said that he would prefer a two-year period to elapse before an owner can apply to have the classification lifted. Delapoer said the burden of proof is clearly on the dog's owner. Collins said that if a dog has the classification lifted but reoffends, it should not be allowed to have classification removed a second time. Delapoer said that he would leave that determination to the judge. Collins asked what if it reoffends while exercising the alternative resolution. Konopa said if a dog bites once, that should not be wiped away and a new owner should know the dog's background. Delapoer said the record is never expunged, but the designation can be lifted so it doesn't have to wear the special collar and can go off the property.

Holverson said an owner won't go through this unless they're convinced the dog has been rehabilitated. Dorland noted that new police officers have an 18-month probationary period. He feels strongly that dogs should have a two-year track record of good behavior before their classification is reconsidered. Olsen asked how a dog can have a track record if it has to be totally confined for two years. He said he couldn't imagine that it would take two years to have a dog retrained not to be dangerous. The dog should be retrained; then the trainer should write a report that the dog is no longer dangerous. Dorland said if a dog returns to the same owner and the same environment as before the training, it's likely to default to what it was used to before.

Collins suggested saying 12 months following the training. That gives the opportunity to take a look at -the dog's behavior. Holverson said that this kind of training is going to take six months to a year. Delapoer asked where the ordinance says that it's going to be formal training. We don't have any standards. Delapoer said that he believes the judge won't want to get sued again; so the chance of the judge being hard-nosed is very small. Holverson said the idea that we're going to overwhelmed with dogs falling into this category isn't right either. Most dogs that have been designated to be euthanized have been euthanized.

Olsen said if the dog is locked in the back yard for two years, he'll go stir crazy. How can you train it under those circumstances? Dorland described how he trained his police canine.

Konopa said how about saying to remove the classification, the owner needs to get a sign-off by a dog behavioral specialist. Delapoer said that he's not aware of who issues such a license. What would it cost to have such a person train your dog? Delapoer asked also where that language should be placed in the ordinance. Discussion followed regarding alternative housing and retraining. Collins recommended taking housing out of the language.

Olsen said he thinks one year is more than enough. Azevedo asked if that was one year at conclusion of the training. Would that be enough to say the circumstance is OK or not OK? The cost of retraining is substantial, and it shows that the owner is taking some responsibility for the outcome. Dorland said he is completely on board with the retraining but believes two years should elapse afterward before considering lifting the classification from the dog.

Discussion followed concerning Section 6.18.040. Delapoer said it is not written with the intent that the dog can't leave the premises of the owner. Dorland said it needs to say the person is in control of the dog. Delapoer asked how he would prove that. Sometimes dangerous dogs are going to hurt people. He said he doesn't know how to write terms of control. Konopa suggested stating that any time it's off the owner's premises it has to be muzzled and on a leash. Such language will be added and the new subsection (9) deleted. A person won't be able to take the potentially dangerous dog to a dog park and let it run loose.

Collins suggested an amendment to allow consideration of lifting the classification two years after the initial classification or 12 months after completion of rehabilitation/training. Delapoer recommended that .050(5) spell out that a dog that is classified as dangerous, undergoes training pursuant to an alternative order, then reoffends, shall be euthanized. The group agreed to that; it protects the public.

Frederick asked about the microchip requirement; if the animal is eventually paroled, can the chip be reprogrammed to remove the classification. Dorland said information on the chip is maintained in a computer database; it can be changed by data entry. Delapoer said the most valuable thing about the chip is that we can prove it's the same dog.

Konopa reviewed the group's parking lot list:

- Definition of "serious injury." Delapoer asked' if there should be a different definition based on status of the victim. To him, it seems that a dog that bites a baby is worse than one that bites only adults. How do we determine to whom the dog poses a danger? Some victims can be more seriously injured than others. Holverson

said, in Blue's case, he was still technically in the puppy stage when this started. (Scrivener's note: The audio recording of the meeting stopped at this point.) He asked if the doctor who examined the victim shouldn't be the one to determine if the injury is serious. Delapoer said that would preclude the dog's owner from getting an opinion from another doctor as evidence. Realistically, Delapoer said, the police are never going to go out and hire a doctor, on the first instance, to tell them the injury was serious. He is providing a vehicle so the owner could get his own doctor for a differing opinion. The group agreed that the definition in .010(13) would move to another place in the ordinance.

- Azevedo said all his concerns had been satisfied.
- Frederick said his concerns were satisfied.
- Holverson said he remained concerned about documentation and timely appeals. His main concern is that when a person files a complaint, they don't have to put anything in writing. The police don't have any kind of written notes to testify. He said he was talking to a state trooper and he relies on his notes entirely when he goes to court. Dorland said police agencies have different policies and procedures. He encourages his officers to take an audio recording of the person they talk to. (Scrivener's note: Audio recording began again here.) Delapoer said the term "observation" in 6.18.030(1) should be changed to "documentation." That could be a police officer writing down what s/he was told by the witnesses; it can't simply be somebody's memory.

Delapoer is concerned that it's all going to be expensive. We've made it a little more cumbersome, but maybe it won't happen often enough to be a problem. Dorland said it won't be a problem. In most cases, the dog's owner recognizes the problem and takes responsibility. In the rare cases where they don't, it will be more cumbersome. Delapoer said it does give the judge more flexibility. Dorland said his biggest concern is public safety. The ordinance is workable, officers can investigate, and are not so hamstrung that they can't protect the public.

- Provocation: Collins suggested adding a sentence at .020(3) to include the following: "**upon generally accepted definitions of provocation**" as defined by a nationally recognized animal organization. Delapoer said he could go with the first part but leave out the "nationally recognized animal organization." The only reason they write those standards, he said, is to prove there are no bad animals or no bad animal owners. Referring to the list that Holverson had provided, Delapoer said, if you accept this laundry list, no dog will ever be classified dangerous; as long as the dog's behavior fits one of these pegs, it's OK. Fredericks said he really agrees with the broader language in the existing code. It covers a lot more, allows the judge to maybe consider these in a hearing. Delapoer said it is up to good lawyering to explain why it was provocation. Holverson said he is not looking at these as a way of excusing a dog; he looks at it as extenuating circumstances that might apply. Azevedo said narrowing it to a list is a mistake for both parties; it takes away the chance to make the argument that it wasn't provoked because it was dangerous. Holverson said he feels that provocation needs to be recognized in this document. Delapoer suggested moving it to something to be considered at time of sentencing. That's really where abuse, torment, or provocation should be considered. Dorland said the Director also considers that in determining classification.

With consensus on draft ordinance language, Konopa discussed what happens next. She recommended asking for written public comments on the draft, bringing those comments back for this group's discussion, then taking a final product to the City Council for review. She thinks it would delay the process to take it to Council first. She said she thinks the Council vote will be split vote anyway. Frederick asked how ordinances are adopted. Konopa and Delapoer explained.

Azevedo said the group was charged with reconsidering the ordinance and coming up with a product to present to Council. Part of that process is to get public input and that hasn't been done yet. He believes it would be best to allow that process to go to fruition for a finished product to take to Council. Collins said this won't satisfy some people in the people in the community to exonerate Blue, but that has never been this group's intent. Holverson said we haven't rewritten the ordinance by any means, maybe made it a little more up to date. He said it's difficult to see why other Council members would object to it because they like the existing ordinance. Azevedo asked what would be the advantage of releasing the draft to the Council at this point. Collins said nothing he has seen in the public process includes public input to a draft before having a final draft. Frederick said he doesn't know how much public comment there would be. Konopa said public input was solicited at committee level with the Transient Room Tax Task Force and the Water Tax Force. With the Room Tax Task Force, the information went to Council and they didn't accept it anyway. She said it would be more constructive for the work group to try to get as much input as they can, in written form, then work with the input, with Delapoer and the Police Department to create a final draft. If public input goes to the full Council, they will be rehashing it all again. Collins said the benefit to the Council is they don't have to sit through all the nitpicking. Konopa said the final draft should come to a work session, then be placed on the consent calendar at the next regular Council meeting. Collins and Olsen said the ordinance should go through the standard adoption process rather

than the consent calendar. Collins said he wants input on the draft document, not a reconsideration of the Blue case. If the group gets input on the Blue case, they're going in the garbage. Holverson said every time he sits down with his group and tries to bring them up to date, he has to remind them that's a different issue. Collins said the ordinance is there to protect public safety and provide equity for the dog.

Konopa said we need to get draft ordinance up on the website, get a news release out, and take written comments only on the draft document. Comments will be accepted for two weeks. The group will review those comments at another meeting on October 11. If necessary, the committee will meet again on October 17. Smith will e-mail the latest ordinance draft to the work group. If it's okay, she will proceed with posting it on the web and issuing the news release. Comments on the draft are due to Smith by Friday, September 23.

Comments on the draft that are not relevant to the ordinance, such as those related to the Blue case, will be set aside. Frederick said he would not be able to attend the October 11 meeting. Collins said it is critical that the Council hears from the three citizen members of this group, both at the work session and the regular Council meeting. The draft will be discussed at the November 7 Council work session and will be on the regular agenda November 9. (Frederick left the meeting at 7:15 p.m.)

Collins said he will be hunting October 21-31; so he will miss the October 26 Council meeting.

Delapoer asked the group to assume this ordinance goes through. The Council could then ask the judge to reconsider Blue's disposition only as it pertains to alternative resolution. He doesn't think anybody is recommending that Blue just be released; all have been asking that he be rehabilitated. The judge could allow the owner to ask for an alternative to euthanasia but not the classification of dangerous. The new ordinance does not affect the appeal. The reason we're going through all of this is Blue, Delapoer said, but it's to apply citywide. Collins said he thinks the attorney for Blue will drop the case if the Council allows an alternative order. Holverson said he thinks so, too. Collins said they need to propose it because they're the ones who brought the suit. Delapoer said everything he's received from the attorney is that he won't consider anything that results in Blue being euthanized.

Holverson asked, where did we end up with not allowing these dogs to leave the city. Delapoer said leaving the city alone is not enough; the owner has to come up with an alternative order.

The group can always get copies of the tapes of the work group's meetings.

Discussion followed regarding the Blue supporters' request for public information regarding payments to Gerald Warren. The request has been denied. Holverson said that group wants to know how much this has cost the City? Delapoer said their request was for how much Mr. Warren's attorney's fees are. Azevedo asked what is the value of that in the issue of trying to save the dog? What do you gain by that? The owner of the dog is why this is taking so long. He doesn't really understand what that's accomplishing. The City's just responding to the circumstance. Holverson said the Blue committee's legal counsel suggested it might be helpful to know that. Delapoer said if the committee has a lawyer, they should be corresponding with the City through their attorney.

Next meeting date: 5:30 p.m., Tuesday, October 11, 2011, Municipal Court Room.

Meeting adjourned at 7:26 p.m.

Respectfully submitted,



Marilyn Smith  
Management Assistant/Public Information Officer