



APPROVED: November 1, 2011

DANGEROUS DOG ORDINANCE WORK GROUP
City Hall, Municipal Court Room
Monday, October 17, 2011

MINUTES

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

Members absent: Max Frederick (excused)

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

Others present: None

CALL TO ORDER

Mayor Sharon Konopa called the meeting to order at 5:30 p.m.

APPROVAL OF MINUTES

October 11, 2011

MOTION: Floyd Collins made a motion to approve the October 11 minutes; Mark Azevedo seconded. Approved 5-0.

SCHEDULED BUSINESS

Review of Public Comment on Draft Revisions to AMC 6.18, Dangerous Dogs

Marilyn Smith said that the group will be reviewing suggestions submitted by others outside of the "Blue" group. She said that those suggestions were reviewed at the last meeting.

Smith said that Ellen Hamill had several comments regarding the definitions in the ordinance. Mark Azevedo said that he met with the "Blue" group Friday and Ellen Hamill was in attendance. He said that the group wanted a few changes and if those changes are included in the ordinance then they would accept the ordinance. Smith said that we will skip over the comments made by Ellen Hamill as those have been addressed.

Azevedo asked Larry Holverson if he could speak more to what changes the group wants included in the ordinance. Holverson said that the group doesn't feel like their opinions have been included in the ordinance. He said that the group feels strongly that provocation should be included. Floyd Collins said that if provocation is defined, then abuse and torment would also need to be defined. Azevedo asked what kind of language would the "Blue" group feel comfortable with. Holverson said that the group wants to use the list from the U.S. Humane Society. Smith said that the definition from *Merriam-Webster's Dictionary* is: the act of provoking; incitement; and something that provokes, arouses, or stimulates. She said that the definition from *Black's Law Dictionary* is something that incites or irritates. Jim Delapoer said that you don't need to define common English words; provocation is a common English word. He said that using the definition from *Black's Law Dictionary* wouldn't be an option as it is referencing actions taken by people.

6.18.020 (3) Holverson said that the group cares about the definition and how it pertains to animals. Holverson suggested changing it from abuse or torment to "abuse, torment, or other provocation of the dog." Azevedo asked if this will satisfy the group. Holverson said that he thinks that it is the best the group is going to be able to get. Konopa asked Holverson if he thought the group would be okay with this language. Holverson said that he would go with it.

6.18.010(12) Delapoer asked if the ordinance should continue to allow dangerous dogs to be housed at other facilities besides the county animal control facility. Azevedo asked if there is a way to receive assurance that a private facility is secure. Delapoer said that his concern is that private facilities may become advocates for a dangerous dog and may facilitate the dog being allowed to be freed.

Azevedo said that there is no need for an alternative facility as the cases would be heard in a more timely matter after this ordinance is finalized. He said that the updated ordinance has a built-in timeframe. Delapoer said that the "Blue" case was lengthened because of the prolonged litigation. Max Frederick asked who makes the decision of where the dog will be housed. Delapoer said that the Director makes that decision. He said that the decision would be made very quickly. Frederick asked how a secure facility is defined. Holverson said that if someone wants to get an animal out of any facility, they could do it. Frederick asked, "what if the facility is contracted?" Delapoer said that the Pet Hotel was contracted in the "Blue" case. Konopa asked if we could require a contracted facility to have an audible alarm.

Konopa asked how staff will be able to verify that a facility is secure. Collins said that if we are going to leave the language as it is, then the wording "by the Director or the Hearings Officer" should be added. Azevedo said that he thinks that they will likely stay with the county for a facility. Delapoer said that he suggests removing "or any other secure facility designated for such purpose." Collins said that he is okay leaving that language in.

The new language will read: Quarantine may also include impoundment at the county animal control facility or any other secure facility designated by the Director or Hearings Officer for such purpose.

Holverson said that the definition for provocation as by the U.S. Humane Society is: provocation that includes an action that an experienced vet would find reasonably foreseeable. Delapoer said that such a change in language would severely weaken the ordinance. He said that it would be putting a loophole in the ordinance. Holverson said that he disagrees and he thinks that this type of situation has occurred twice in twenty years. He said that for the most part, owners have chosen to have their dogs euthanized. Collins said that the owner or handler of the dog has the responsibility to make their case to the Hearings Officer.

Comment #8 - Azevedo asked who would bear the cost of the medical expenses and how would it be administered. He asked if an animal is checked by animal control when they are sent to the pound. Dorland said that if a dog is injured, APD will have the dog checked by a vet.

Azevedo asked if a dog would be checked by a vet if the dog was housed for a long time. Delapoer said that when there was a concern about a dog needing its vaccinations, a vet was allowed. He said that if an owner wants his or her vet to check on the dog it is allowed and the owner is responsible for payment.

Konopa asked if the group was okay with not doing anything with Comment #8. The group agreed.

Comment #9 - Delapoer said that he would rather not have the ordinance address Comment #9 as it can be included by a Hearings Officer's order.

Comment #10 – The group will leave the current language as it is.

Comment #11 – Delapoer said that we have to use the mail service for certified mail. The group will leave the current language as it is.

Comment #12 – Collins said that he opposes this change as the burden lies with the owner. The group will leave the current language as it is.

Comment #13 – Smith said that this change would allow veterinarians or animal handlers to provide testimony. Delapoer said that it would be poor drafting to include this language in the ordinance. The group will leave the current language as it is.

Comment #15, 16, 17, 18, 19, and 20 – The group will leave the current language as it is.

Comment #21 – The group agreed that the leash on a dog may not exceed ten feet which is consistent with the leash law.

Comment #22 – The group will leave the current language as it is.

Comment #23 – Delapoer said that this is the owner's responsibility and adding this change would give the owner more time. Collins said that he would keep it at ten days. Olsen asked what the consequences are if a person doesn't comply. Delapoer said that the owner could be ticketed.

Comment #24 – Dorland said that John Adair wants to make it clear that his comments are as a resident of the city of Albany. He said that Adair has specific concerns about this ordinance. Collins said that he wouldn't include this because the signage is already addressed in the ordinance. Frederick said that the victim should be notified where the animal is being housed. Konopa said that it could include notifying adjoining property owners that there is a potentially dangerous dog. Delapoer said that the burden would be put on the City to do the notification.

Frederick asked if the victim would be notified that the dog has been classified as potentially dangerous. Delapoer said that in a potentially dangerous case, the police report goes to the Director and the Director makes a decision. It then goes to a Hearings Officer if requested by the owner. There are no required notices for the victim to receive as written in the ordinance. Frederick said that he thinks it would be appropriate to send an official notification to the victim. Collins said that notification should be included in all three classifications; potentially dangerous, dangerous, and either of those classification being removed.

Delapoer said that the language could be included in 6.18.30(2). He cautioned the group that the victim doesn't have a say either way and it will place a requirement on the City and Director to complete this step. Frederick said that the victim is involved and his concern is that the victim understands what is going on. The group agreed on the following language: "The Director is encouraged to share this information with the victim(s) as well."

Comment #25 – The group will leave the current language as it is.

Comment #26, 27, 28, and 29 deals with language about licensed vet or dog trainer's certification. Smith said that there are an assortment of different certifications in regards to dog handling and dog trainers. Delapoer said that the Hearings Officer is not in a position to do a cross-examination of the certification. Delapoer said that it would be better to just say "trainer" and have the person submit a statement describing their qualifications.

6.18.040 (9) – Delapoer and Smith will work on this language. Smith said that she will send the revised language to the group e-mail.

Comment #30, 31, 33, 34, 35, 38, 39, 40, 41 – The group will leave the current language as it is.

Comment #42, 43 – The group agreed that this change is appropriate. The new language will remove "...and unless such costs are paid within ten days of the sentencing order, date when the owner is convicted of the infraction, the dog shall be euthanized. Euthanasia shall not relieve the owner of his/her responsibility to pay all quarantine or impoundment costs previously incurred."

Comment #44 – Delapoer said that including this wording could have a lot of unattended consequences. Azevedo said that it is personal property. Olsen said that the language should come out, all agreed.

Holverson said that the "Blue" group is a very committed and passionate group that is supporting a cause that is near and dear to their hearts but none have worked with the process of changing the law before. He said that he feels that his group has been very successful. He said that he doubts in the last twenty years there has been an issue so represented. He said that the group has done some things that they shouldn't have done, but they did manage to stay in the forefront and

receive the support of the media. Delapoer said that it is very unfortunate that in this process someone was emboldened to commit burglary. Azevedo said that is the worst outcome. Collins said that there are a lot of things that the “Blue” group asked for that have been included.

Konopa asked if there is anything else that needs to be addressed.

Holverson doesn't feel comfortable making a motion tonight. He said he would like to have one more review of the final proposed ordinance. Collins said that he will be back on the 30th from vacation. Konopa set the final meeting date for Tuesday, November 1 at 5:30 p.m. The group will review the final draft ordinance and make a recommendation for City Council. The final ordinance will go to the City Council on Wednesday, November 9.

BUSINESS FROM THE WORK GROUP

NEXT MEETING DATE: *November 1, 2011, 5:30 p.m.*

ADJOURNMENT

The meeting adjourned at 7:40 p.m.

Respectfully submitted,

Signature on File

Diana Eilers
Administrative Assistant I