

**Open Work Session**  
**Discussion on Proposed Animal Regulations**  
**September 20, 2022**

Mr. Andrew Illuminati, Esquire, came before Council. Mr. Cannon said the Council initially thought that with some of the issues that had come before them with Ms. Nock that they were going to have a committee review it, but legal felt what had been requested from the Humane Society and other parties involved could be addressed very easily through the legal process.

Mr. Cannon said he knows Mr. Illuminati has not had a chance to review Mr. Brenner's letter, but he thinks it is very significant with some of the points he made here tonight.

Mr. Holloway asked if anyone is here from the Humane Society or Animal Control, to which Mrs. Hurley responded, Ms. Nock was notified that they were having the work session today. Mr. Holloway said he thinks they should be here. Mr. Dodd agreed.

Mr. Cannon said he agrees, and they will be at the next work session. He said he wants Mr. Illuminati to share what work they have done now because he thinks there will be more work that will need to be implemented, so there will be another work session and they will share that information with Ms. Nock and see if she can have representation at the next meeting.

Mr. Illuminati said, when they were last here there was a draft Bill discussed and there were questions about definitions and how definitions would be imposed. He said, since then he has looked at other counties' definitions and he looked at definitions that their County currently uses and he broke the draft Bill into, essentially, nine amendments. He said that way, rather than looking at everything as one large document, there might be discussion that they are not going to go in that direction, so the final Bill that Council has to vote on is a little bit cleaner at the end of the day rather than being amended up and down. He said the two documents he sent were revisited. He said there were a number of definitions that the Council had concerns about, and the other document broke the Bill into nine potential amendments. He said, like with the Police Accountability Legislation, his suggestion is to look at each section by itself; however, starting with the definitions does not make the most sense, which is amendment one. He clarified, the amendments are not in any order of importance but rather as they appear in the code. He said, if they began with amendment two, that would give Legal an idea of what the concerns are and whether there is a consensus to move forward and include that in the final Bill or not. He said his proposal is to start with amendment two in the document, which is to strike the penalty that is enumerated in Section 133-7. He said the reason for this deletion is this is the only penalty not enumerated in the table of provisions in Section 133-37, and amendment nine provides for a penalty for this section. He said, as was mentioned in public comments and at the last work session, there was an inlay in 2018 of State Code with County Code and it made it difficult to figure out what the true intention was. He said, as the prosecutor of Animal Control citations, when a citation comes in for a dog left outside, if it is so horrendous that it requires criminal prosecution, then that matter gets referred to the prosecutor's office. He said there have been a couple of times this year where Animal Control responds and issues citations, but then, at the end of the day, the prosecutor's office ultimately takes over and the citations are not pursued. He said amendment two just puts aside what the prosecution's role is from what Animal Control's role is, so the proposal is to delete that Section B in Section 133-7.

Mr. Dodd said he was looking at number 37, to which Mr. Illuminati responded, in 37 there is a table of all the penalties, and if they look back at Section 133-7, that is the only place where it provides this criminal punishment penalty, which he thinks was an oversight from when the State Law was imposed into the County Code. He said what they are doing is striking the criminal punishment but adding it as a first offense of \$1,000 fine. Mr. Dodd asked if the criminal part is being struck and it is becoming civil, to which Mr. Illuminati responded, that is correct because if, in the prosecutor's opinion it warrants criminal prosecution, they can proceed on that. He clarified, it remains a law to have a dog outside, but it remains a civil infraction with a suggested penalty for a first offense of \$1,000, but it could be made \$250, \$500, or \$1,000, or whatever Council's pleasure is. He clarified, he just took the \$1,000 and put that there because he thought that was the cleanest application of what was currently in the law to what a first offense could be. Mr. Dodd said the second offense was left blank, to which Mr. Illuminati responded, there is a prohibition on any civil fine of more than \$1,000, so at that point he assumes Council will have to make step increases of \$250, \$500, and \$1,000, but he defers to Council on that, he just took the \$1,000 and made it the first offense. Mr. Dodd clarified, the Council can add something for the second offense, to which Mr. Illuminati responded, he thinks Council would then have to make the first offense less than \$1,000. He clarified, the total penalty for a civil infraction can be no more than \$1,000, so the step increases in Section 133-37 show \$250, \$500, and \$1,000, and if Council believes that is appropriate for a dog outside unattended and unrestrained, then those would be the increases.

Mr. Cannon asked if there would be no recourse for a second offense, to which Mr. Illuminati responded, it would be another \$1,000 fine, so it could be reissued. Mr. Cannon clarified, is the total for each citation \$1,000, to which Mr. Illuminati responded, correct, it just would not be a subsequent offender enhancement. He said, for example, the current table reads second offense within one year of the first offense. He said, if on January 1 someone incurs an infraction and subsequently they pay the fine or are convicted in court and then on November 1 they incur another infraction, then they would be qualified for the subsequent offender enhancement to make the second offense a higher fine. He said, without the subsequent offender, it would just continue to be the first offense. He said some have subsequent offender penalties and some do not, and he did not feel it was Legal's position to tell Council what the value of the first offense would be, but he wanted to show that it can be no more than \$1,000. Mr. Cannon asked, if the first offense cannot be any more than \$1,000, what about the second and third, to which Mr. Illuminati responded, they cannot be any more than \$1,000 either, so it really becomes a policy consideration whether to make it \$500, \$750, and \$1,000. He said realistically no one reaches the subsequent offender tiers because the offenses have to incur within one year of the first offense, and in the three or four years he has been prosecuting the citations, he has never had a second offender. He clarified, it is possible and it can happen, but usually at that point someone is not taking care of their animals to the extent that they then fall into the criminal category, and then the prosecutor's office gets involved.

Mr. Cannon said Section A says subject up to \$1,000 per violation, and in the chart it says \$1,000, and he knows Mr. Illuminati said he randomly put that in there, but should it say up to \$1,000, or is he suggesting that would be a finite number the Council would put in there? He further asked if they should put a number in there up to \$1,000 for the first offense, up to \$1,000 for the second, and up to \$1,000 for a third? Mr. Illuminati responded, ultimately, if Council is to set the first offense at \$1,000 and someone did not want to go to court, they would have to pay and there would be no consideration to pay a lesser fine, so they would have to prepay the \$1,000 and there would likely be more court

appearance; whereas, if it was a pre-payable of \$250, somebody may be inclined to just pay the \$250 and not have a court hearing. He said then they could make the second offense \$750 and the third offense \$1,000. He said the court ultimately can impose no more than what the Council sets as the maximum, but somebody can come in and have imprisonment not to exceed 90 days or not exceeding \$1,000, or both. He said the court has the ultimate authority, but all the citations have a pre-payable number and the majority of citizens just prepay it because a lot of the fines are about \$125 or \$250, so, when somebody has these, they usually prepay them. He said that is just a consideration as to what the final punishment for this should be.

Mr. Cannon said it states that each day the violation continues will be a separate violation. He then asked if that amount is noted anywhere, to which Mr. Illuminati responded, if Animal Control comes out on a Monday and observes a certain behavior and rectifies it, but then come out again Tuesday and see it again, that is a new offense. He said they are \$1,000 fines each. Mr. Cannon said, technically, they could be fined \$1,000 a day continuously, to which Mr. Illuminati responded, that is correct. He said he imagines there would be a point where Animal Control would seize the dog because there are other welfare statutes that they would have concerns about, or if they cannot make contact with the owner. Mr. Cannon asked if the second day of the violation would be a second offense, to which Mr. Illuminati responded, probably not under the law. He said usually they have to go to court and be found guilty and know that they are in violation and then commit another offense. He said that is usually how the subsequent offender law is interpreted to provide somebody notice that they are about to be a subsequent offender.

Mr. Holloway said he does not know what Mr. Illuminati was charged with, but he has a big question about this letter the Council received. He said he does not think it is in their law on how long they keep a dog if they cannot adopt it. He said this dog was kept for 20 months and possibly it was not adopted because it was aggressive. He then asked if there is anywhere in the law that says that at some point in time they do not keep animals any longer, and is that something they should address, to which Mr. Illuminati responded, the issue is the bifurcation of the Animal Control Department and the Wicomico Humane Society. He said he believes Animal Control's policy is five to seven days, but he only prosecutes their citations, he does not handle any adoptions, so Ms. Nock would be the better person for that, but then they transfer the dog to the Humane Society and the Humane Society has its own entire set of regulations as to what they do. He said Council can see on amendment seven, which is Section 133-19, they are recommending to strike to adopt a dog or cat from the Animal Control authority. He clarified, Wicomico County does not adopt out any animals, so Animal Control does not allow anyone to adopt and all adoptions go through the Humane Society. Mr. Holloway asked if the laws they are dealing with now are just through Animal Control, to which Mr. Illuminati responded, correct. He said these suggestions are based on issues Animal Control has received from the public or have observed in their enforcement of the statutes. Mr. Holloway suggested that something like that should be included.

Ms. Acle asked if the animal is in the County's purview in the first five days after a violation, to which Mr. Illuminati responded, he believes so. Ms. Acle asked if at that point whoever is representing the County can make the determination if the animal needs to be euthanized because of its potential or serious danger, whatever the two definitions are, to which Mr. Illuminati responded, it is sort of difficult to understand in that the only animals really coming to Animal Control are dogs for which an owner cannot be determined. He said they are mostly animals at-large and then they are basically waiting to locate the owner. He said then, after those five days, if the owner has not been found then it goes over to the

Humane Society for adoption. He said, if an animal has no history with Animal Control, there is not going to be any background on whether the animal is aggressive or not. He said he does not want to analogize it to criminal law, but a first-time offender is going to have no prior record with the police, so they do not know if the person is capable of murder or doing something horrendous, but there is not some sort of test they can do to determine whether or not the dog is aggressive or not, and that is the unfortunate part. He said it is only if that dog has a history, but he would find it hard to believe there is a world where the dog is at-large and has a history because, if the dog has a history, again, not being part of that process, he imagines they look at the history and know who the dog belongs to and they call that person and get the dog back. Ms. Acle asked, if there is a dog attack, who intervenes at that point, is it the Sheriff's Department, to which Mr. Illuminati responded, the Sheriff's Department can be involved, the Health Department can be involved, and Animal Control can be involved. He clarified, again, this is not something he really deals with, as he deals with the prosecution, but in just working through all of this and understanding all of this he is giving his partially educated opinion. He said, depending on how it gets fettered out, there could be an animal attack and the Sheriff's Office is called, in which case they would respond. He said there could be a concern about whether or not an animal has a rabies vaccination in which case, if there is a rabid dog going through a neighborhood foaming at the mouth, the Health Department may be involved in addition to Animal Control. He said there are a lot of different entities that can report dog bites, and those dog bites all go to the Health Department at the end of the day to make this database. He said, additionally, he believes that information is maintained by Animal Control.

Mr. Holloway said, back in 2007 they had an incident in Willards where two large dogs attacked a child on a bicycle and drug him off the bicycle and mauled him very badly, and that was when the Council reviewed a lot of these laws and it got quite intense over all of that. He said the Sheriff's Department, Health Department, State Police, EMTs, and everybody was involved in that case. He said that was when they buckled down on the Animal Control laws in Wicomico County because that child was almost killed. He said, with this letter the Council was presented with today, that was his first thought, that it could have been a child instead of another dog. He said it is bad enough as it is.

Mr. Dodd said around that time prior to it there was a lady who was viciously attacked on West Road, so they have had some history with some bad dogs.

Mr. Illuminati said Mr. Brenner has filed multiple PIA requests with the County and his explanation is, if there was something lacking, it is that only Animal Control in conjunction with the Animal Appeal Board can deem a dog potentially dangerous or dangerous. He said the public does not have a way of petitioning to make that finding itself, so there could be a world where on Nanticoke Road there is an aggressive dog and all the neighbors know it is an aggressive dog, and the dog has bit other dogs or killed other animals, but no one has ever made any complaint to Animal Control, so Animal Control would never know that this dog has a history of attacking other animals or people. He said then when there is a first bite, Animal Control is going to deal with it completely different than this history. He said something that could be considered, though he believes is beyond the purview of what is being considered now, is to maybe look farther down the road and establish a committee to review all of these laws and allow the public to file complaints to make the case for a potentially dangerous deeming. He clarified these neighbors really need to be notifying Animal Control every time one of these instances in the hypothetical happens because otherwise neighbors can get petty at the end of the day and say

things happened, but Animal Control says they never saw them, but if they called Animal Control every time it happened, then there would have been a recorded history of it.

Mr. Dodd asked if there is any way a dog could get a chip with the information saying it is an aggressive dog after a first attack, to which Mr. Illuminati responded, that is definitely a possibility. He said he believes potentially part of the amended parts of the code calls for microchipping of dangerous or potentially dangerous animals. Mr. Dodd said, if there is a dangerous dog and the dog goes to a new owner, there is no way they would know it is the same dog that attacked somebody previously, to which Mr. Illuminati responded, he agrees because they do not have a Countywide registration of animals that tracks every animal's action. Mr. Dodd said he thinks that would be a good idea.

Mr. Cannon asked if a microchip is just a GPS chip, or does it contain information like a flash drive, to which Mr. Illuminati responded, essentially, yes. He said the microchip specifically is not a GPS system. He said one can personally microchip their dog with GPS so that if their dog got away they could easily locate it, but what is proposed that the County would be requiring is that the microchip imbeds the owner's information and could include the potentially dangerous information, so it would just be a flash drive of the dog, essentially. Mr. Cannon said he really is not quite sure of how the expenses of all of that would come about, to which Mr. Illuminati responded, the proposed amendment calls for the owner to pay for all of it. Mr. Cannon said he is just curious because the Humane Society would have to have the software program in-house, to which Mr. Illuminati responded, he believes they already do because he believes that they microchip all of their dogs. Mr. Cannon said he was not aware that the microchip could be that extensive and he figured it was just GPS.

Mr. Dodd said he believes Ms. Nock was talking about microchipping animals the last time she was here. Mr. Cannon said maybe he was not paying attention, but he just thought she was talking about microchipping as a form of GPS, but obviously there is more to it with data as well.

Mr. Hastings asked if they currently have it in the code to require that the Humane Society any time they have an incident happen under their control that they have it reported, such as if a particular dog was in a particular incident, to which Mr. Illuminati responded, he believes so, and he will use a criminal analogy. He said robbery is the taking of property by force. He said, if a lady is walking down the street with her purse on her shoulder the thief pulls it off and the strap breaks, that can be a robbery because there was force to remove the property of another, but when he says robbery, is that the first thing that comes to mind as what a robbery is, and the answer is probably not, they probably think it is more violent than that. He said how things get classified is just as important because the law does not matter if something does not get classified properly to start with. He said, if a bite is not deemed a bite, then he would not know how to do that or not do that. He clarified, he is not making the allegation that it is being done that way, but that is the best example he can use. He said he believes the law requires all of that to be done. He said, that being said, there have been allegations in the past of police departments generically recategorizing numbers and calling what is a robbery that he just described legally as a robbery as merely a theft because then their violent crime numbers go down, so there is a world where a dog could commit a bite, but maybe for some reason it is not really deemed a bite. Mr. Hastings said he thinks they should specify in the code that anything that happens at the Humane Society needs to be recorded because, going on that analogy, it seems like, essentially, if an inmate were in jail and they stabbed somebody else, that stabbing never occurred because they are in jail and it did not happen in the public. He said the Humane Society, from what he is understanding, is basically saying they are

trying to corral situations and doing their best and they do not need to record all of the situations. He said yes, this dog could have had a past, but they are trying to help him be better, and then they never record it. Mr. Illuminati said he wants to clarify whether Mr. Hastings is referring to when they are in the custody of Animal Control or in the custody of the Humane Society, to which Mr. Hastings responded, the Humane Society. Mr. Illuminati said he does not know what authority the Council has over the Humane Society as a nonprofit. He said, that being said, the County gives money to the Humane Society and that contract could require certain extra steps, and they could say they are not giving money unless these things are met. He said that is where he thinks it would have to be, but he does not believe the code can be amended to require the Humane Society to take certain actions.

Mr. Cannon asked if they could simply say an individual or public entity so it would encompass more than just individuals and families. He clarified, wherever in the code it says they are holding people accountable, would it be possible or would it be an overstep to say that it would also include any public agency or entity, to which Mr. Illuminati responded, he will have to look into that. Mr. Cannon said, if they train animals for a living, they should be held accountable just as an individual homeowner might be held accountable, and they should already be subject to these regulations since the dogs are in their possession.

Mr. Holloway said, if it is a law in the State or the County, everybody and anybody should be subject to obeying the law. He said being a member of an organization or being an organization would not exempt them from the law, to which Mr. Illuminati responded, it should not. He said he honestly has zero interaction with the Humane Society whatsoever, so he does not know what their internal policies and procedures are, or how they track or do not track. Mr. Holloway said that is why he thought it would be a good idea for someone from the Humane Society to be here today. He said the Council has been asking a lot of questions and it is kind of unfair to Mr. Illuminati that he cannot answer them.

Mr. Cannon said it is kind of ironic, but would the Humane Society be held to the same standards as individuals under this ordinance, to which Mr. Illuminati responded, he can try to go back through the law in total and see where there would be an interpretation that the Humane Society would have to report all bites, but at this point he does not believe they require anyone to report any bites whatsoever. He said, as he said his hypothetical earlier, there could be a dog that has bitten somebody and they said not to worry about it and no one ever reports it, so that bite is never reported. He said to make it so any public entity is aware, they would have to define public entity as government organization or nonprofit, etc., but that would still not require the general public to report every bite because he thinks that is what they are trying to do is not make people report every single bite, or do they want every bite to be reported? Mr. Hastings said he wants to have an avenue so that citizens feel they could easily report bites, but obviously what Mr. Illuminati is getting at is that he does not want petty neighbors who do not like a barking dog to be able to then make an allegation.

Mr. Holloway asked if doctors are required to report animal attacks or dog bites, or is the hospital required to report that, to which Mr. Illuminati responded, he does not know.

Mr. Cannon said the recommendation might be that the Humane Society as a whole have something in their contract as opposed to something established through ordinance, to which Mr. Illuminati responded, that would be where Council would have more authority and he thinks would hold them accountable more so than through the code. Mr. Cannon said it is unfortunate, and it seems like this

may be an unusual circumstance, but it certainly is a significant set of circumstances that occurred with Mr. Brenner.

Mr. Cannon said, with what Mr. Illuminati prepared, the only thing they would need to amend outside of his recommendations would be to maybe tighten up amendment number nine in the penalty sequences for the first, second and third offenses, to which Mr. Illuminati responded, correct. He said these amendments are what was recommended by the Animal Appeals Board, which Council has the authority to then adopt into the code.

Mr. Illuminati said one of the concerns that was expressed the last time was about vacant properties. He said the original proposed definition of vacant property is dwelling, dwelling units, multiple family dwellings, apartment houses, boarding houses, nursing homes, and other structures including, among others, garages, sheds, and similar accessory structures which are uninhabited. He said there was a concern about uninhabited and there was a concern about whether or not a hunting club could be included, so he looked at a bunch of different places. He said, in the County Code, uninhabited is any building or structure that is in a severe state of disrepair or abandonment which is in danger of collapse or which is partially burned or a potential danger to the health and/or safety of anyone who would enter the building as may be determined by the housing official or building official. He said a building in the above state is a nuisance in the County Code, but is not a definition of uninhabited or uninhabitable. He said the concern that was expressed by Animal Control the last time was that people are not living in places where they are just keeping their animals, but the concern of Council was why they are policing that. He said the median he was asked to investigate was where is a structure so dilapidated that it is no longer a structure, and he believes that this uninhabitable definition would compromise if that was Council's decision so that they cannot leave an animal at a place that is in severe disrepair, but, if otherwise it is in good shape, then they are good to go. He said, if this definition of uninhabitable was incorporated, he thinks that then clarifies some of the concerns about outdoor clubs because an outdoor club would not really be necessary then because an outdoor club is not going to be impartially burned or in disrepair or abandonment. He said he thinks the easiest thing is, if option A was looked at, which is the building in the least state of habitability, and option B is a building or structure not occupied or lived in by people, that would be more what Animal Control sees with no persons living there. He said option C is a building or structure not occupied or lived in by people due to ongoing violation of the County Code or ongoing construction requiring a permit. He said that is sort of a hybrid of A and B put together, so it is one where the building is not in complete disarray under option A, it is more than just people not living there under option B, but it recognizes that somebody is not living there because there is a code violation of some sort. He said option D is a building or structure whose occupant has ceased to inhabit intentionally and permanently for more than 14 days. He said, if they are going back every day to feed the dog, he does not think it is intentionally and permanently uninhabited, but these are the four options he was able to put together that he thinks addressed all concerns. He said, if he is given direction on which definition there is a consensus on, he could add that to the proposed Bill.

Mr. Holloway asked, if someone wants to use a dog in a warehouse for protection, could they do that with this description? He clarified, when he says protection, he is talking about night watch, to which Mr. Illuminati responded, he does not think A, B, C, or D would satisfy that in that the building is occupied during the day and the animals are just there at night, so he does not think it is intentionally abandoned or not occupied. He clarified, he thinks, if that was a concern, that would not be a violation regardless of which option was adopted. Mr. Holloway said this was kind of initiated by somebody in his

district. He said there was a house off Ocean City Road where the house was in pretty poor shape and the folks had moved out, and the dogs were left in the house, but they did show up to feed them. He said of course the neighbors were upset because they heard the dogs barking and they would go over and see the dogs in the house. He said he does not know how good or bad of shape the house was in on the inside, but one of the complaints was that Animal Control could not enter the house to see what the living conditions were, but the dogs were in there and they were being fed each day and given water. He said obviously that is not a very good way to treat animals.

Mr. Hastings said, if this were a human structure, there would be a health component. He said they are just specifically talking about the structure itself and the stability of the building, etc. He then asked if there should be a health component to this as a human house could not be habitable if it was covered in pet feces. He then asked if they do not want to get into that realm of trying to determine what is unhealthy for an animal, but certainly if they are confined to a small space and they do not have the ability to do natural biological functions elsewhere, space could become unhealthy very quickly. He then asked if that is an area they want to add into that, to which Mr. Illuminati responded, he would defer to Animal Control on that as he would not know. Mr. Hastings clarified, these are rhetorical questions.

Mr. Cannon said he thinks a lot of what they discussed in the last work session was the fact that the definitions may be construed to be a little bit broad, but the idea was not to be characterizing hard and fast Legislation, they were just giving something to allow the Animal Control Officers as well as the judiciary a little flexibility because the judiciary still has to get involved as far as how egregious of a finding they might want to implement or any other procedures. He said he thinks that is something they do not want to lose sight of, it is not a hard and fast, it just gives them an opportunity to act if necessary.

Mr. Cannon said, outside of amendment number nine, which is the \$1,000 and Council will have to review, the other item's options he found kind of difficult to even make a decision on with how they were listed. He then asked if the Council has any thoughts on that.

Mr. Hastings said the first option is to redefine animal, which is currently defined as an animate being other than a human being capable of voluntary movement. He said proposed definitions include option one, which is a living creature except a human being. He said option two is any live vertebrate creature domestic or wild, option three is that a vertebrate species is an animal other than a human, or four is any animal domestic or wild which includes nonhuman mammals, birds, reptiles, amphibians, or fish.

Mr. Cannon asked if there is any opinion from Councilmembers in reviewing those options as to which of those they felt were most suitable. Mr. Illuminati responded, from a purely legal standpoint, they have not had any issues with the definition of animal in court, so from a legal and prosecution standpoint, he is satisfied with what is currently in the code. Mr. Cannon said it appears to him that they would want to take Mr. Illuminati's advice on that one.

Mr. Hastings said option two is to redefine domestic animal. He said the current code definition says a domestic animal is an animal of a tamed species commonly kept as a pet or livestock including cats, dogs, cows, fowls, ferrets, horses, swine, except an animal being maintained for the production of food, food products, fiber, or breeding.

Mr. Illuminati said that is the Animal Control section, and then there is another definition in Chapter 225 for Planning and Zoning with a different definition of domestic animal. He said it is similar, but it is a



little different. He said, again, he is satisfied from a prosecution standpoint with the current definition in 133-2 as there have not been any issues, but he does provide a few options based on what others have used.

Mr. Hastings said it would be nice to have consistent code. He said the other options for domestic include any animal that has long continued association with humans and has become thoroughly tamed or domesticated. He said option two is an animal that by habitat or training lives within an association with humans; or three, any animal socially recognized and maintained for companionship as a hobby by humans. He said obviously they want to be careful there with the difference between agriculture and domestic. Mr. Illuminati responded, if there was an intent to unify between Section 133-2 and 225-25, he would want Planning and Zoning to comment on how that would impact their Department because that would be their area. Mr. Hastings said he personally does not have any strong feelings on those if they all feel good on the legal side. Mr. Illuminati said he is satisfied with the current definition.

Mr. Cannon said it says hybrids of animals normally found in the wild state are not included within the meaning of domestic animals as well. Mr. Hastings said he thinks from a Planning standpoint they were trying to differentiate between agriculture, to which Mr. Illuminati responded, he believes so. Mr. Cannon said then they will leave this as is as well.

Mr. Illuminati said the real question is if there is going to be a definition of uninhabited. Mr. Cannon asked if there is any input from Council on that as he made his comments about the fact that it is not a hard and fast law. Mr. Hastings said he likes option A in general. He clarified, he does not have strong feelings on it, but he thinks it is the broadest, even though a building is noted in code elsewhere and there is not a definition, so this would be any building or structure that is in a severe state of disrepair or abandonment which is in danger of collapse, or which is partly burned or potentially a danger to the health or safety of anyone who would enter the building as determined by the housing officials.

Mr. Cannon said, in reading this, his first thought is he would like to see what the Humane Society has to say about this based on their experience in the field because they are trying to address what their concerns are. He said option D talks about 14 days and he thought that is a real definable element that is something they could say is an issue which could strengthen their case, but honestly, in defining uninhabited, he would like to have their opinion because it could be a hybrid of all four options. He said they could implement the 14 days into option A, to which Mr. Illuminati responded, he could try to figure out something like that. Mr. Cannon said, more specifically here, with this section they are reviewing they definitely need input from the Humane Society based on their field experience.

Mr. Hastings said growing up he had a neighbor on a neighboring farm where animals were always being hit by cars, so they knew that they would have an enclosed area and then would get those animals back to life by fixing the legs or taking care of the animal on their own dime as their own welfare and then rehab them, essentially, out of their own public good. He said they were doing that to be helpful, and they would not want a situation in the future where they would be penalized for trying to be helpful to an animal, such as a deer or another animal that does not need regular shelter. Mr. Dodd asked if that rehabbing falls under Natural Resources Police, to which Mr. Hastings responded, they were just doing it because it was a common thing and the animals were getting mauled. Mr. Dodd said he would want to do the same. Mr. Hastings said he would not want a neighbor or somebody coming by to approach that and think it is something different or that they were pets because they were not. He said they did not want to leave that at the cost of somebody else or to just let them die.

Mr. Cannon said he thinks they have addressed numbers one and two, and three and four he thinks they want to revisit with the Humane Society here. He said, unless he is missing something, he believes the only other thing they might have to look at is going back again to just above this on 163 as to, with Mr. Illuminati's recommendations as to what he witnesses in court, what would be the best penalties for first, second, and third offenses. He said, as in Section A, it states up to \$1,000 per violation. He then asked if they would simply reiterate that under first, second, and third offense, or would that be sufficient enough, to which Mr. Illuminati responded, yes, that would be sufficient. He said then, as long as the table in 37 outlined exactly what the punishments were, that would be the notice to the public. Mr. Dodd asked if they would be leaving the second and third offenses blank, to which Mr. Illuminati responded, no. He said they would not leave it blank if \$1,000 was not their first maximal offense. Mr. Cannon said he thinks \$1,000 for a first offense would be really strict.

Mr. Cannon asked, when they say first offense \$1,000, does the judge have the option to reduce it themselves, to which Mr. Illuminati responded, correct. He said a lot of individuals just prepay their citations. Mr. Cannon said, to put a specific number in here might avoid the whole process of adjudication. He said, in other words, someone would be able to pay \$250, but they are not going to write a \$1,000 check, so maybe they should do up to \$250, up to \$500, and up to \$1,000.

Mr. Dodd said somebody might think \$250 is not enough. He said he thinks there are a lot of people in the public who would feel that way.

Mr. Hastings said he is okay with \$250. He then asked if \$1,000 is by State Code, to which Mr. Illuminati responded, yes. Mr. Hastings said they do not want to get anyone caught in a situation where they happen to have extenuating circumstances and get a \$1,000 fine. He said they do not want to upset people, so he would rather get a lower amount and have it taken care of quickly without having to go through a further process.

Mr. Illuminati said with a lot of these at-large cases he tries to make his own decision because he has to prosecute them at the end of the day. He said, as the attorney, he has to go to court and stand before the judge, so if it is something that he cannot in good conscious go up there and do, he tells Animal Control he is not prosecuting and he would dismiss it. He said, if the person has no history and got there within two minutes and had a good story for why they did what they did, he says he is not going forward. He said he really tries to give the benefit of the doubt to the owner, and in instances where Animal Control says this person is somebody they consistently have problems with, that person he holds to a higher standard and makes sure there is not going to be a deal cut at the end of the day, so he does take the responsibility that Council gives him to prosecute very seriously.


Mr. Cannon said, if they settle on \$500 and \$1,000 for the second and third offense, they are getting people who are not trying to do good. He said he thinks the first offense is the most important one, and that is based on their history, so they could say the first offense could be \$250. He then asked if that would start to build up into the court system and Mr. Illuminati may find himself having to dismiss cases, so would it be better if it was \$100 for a first offense to make it more efficient for everyone and still serve the purpose of some type of punitive measure, to which Mr. Illuminati responded, that is the ultimate goal at the end of the day, to be enough of a deterrent just like with the red light cameras. He said, if that is an actual deterrent, they should not be leaving their dogs out unrestrained or unattended to begin with. Mr. Cannon said he would suggest that they look at the first offense being \$100 to allow for any particular set of circumstances that might develop, and the second offense \$500, whereas the


judge could certainly make it \$200 or even \$100 if they wanted, but at least it allows it to go to that level, and then the third one would be \$1,000. He said he thinks it is important that the degree increases with the offenses so they do not just say it is another \$100. Mr. Hastings said he is okay with that. There was overall consensus on Mr. Cannon's suggestion.

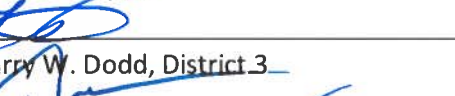
Mr. Cannon said numbers three and four will hopefully be discussed in one more work session. He then asked how it would be best to try to address what Mr. Brenner has brought to the Council? He clarified, Mr. Illuminati can think about that, and then when they have the next work session they can try to see if maybe there are any suggestions on how that could be addressed, or if he feels it is an in-house situation between the County and the Humane Society. Mr. Illuminati said he will work on that between now and the next session, and if Animal Control and the Humane Society could be here next time, he thinks they could answer the substantive questions on the process and concerns about habitability and things of that nature.

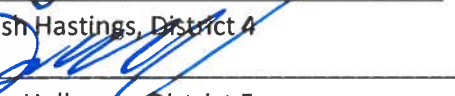
There was no further discussion.

  
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John T. Cannon, President, At-Large

  
\_\_\_\_\_  
Ernest F. Davis, Vice President, District 1  
absent

William R. McCain At-Large  
  
\_\_\_\_\_  
Nicole Acle, District 2

  
\_\_\_\_\_  
Larry W. Dodd, District 3

Josh Hastings, District 4  
  
\_\_\_\_\_

Joe Holloway, District 5  
  
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Laura Hurley, Council Administrator