

**Open Work Session**  
**Animal Ordinance (Legislative Bill No. 2018-01)**  
**February 6, 2018**

Mr. Aaron Balsamo, Director of the Humane Society, came before Council. He said a couple of things have changed, and, at this point, he would really like input from Council. He said he knows there are some concerns out there, so any chance to address them and fine tune the Legislation is primarily what he would like to do.

Mr. Joe Holloway said, in the beginning of the document, it says "An animal of a tamed species commonly kept as a pet or livestock including cats, dogs, cows, fowl, parrots, horses or swine." He continued, then, further into the law, it mentions 32 degrees and 90 degrees. He said his question is, if they are going to include cows and livestock, how are they going to enforce all of that, to which Mr. Balsamo responded, a lot of that would be based off of zoning. He said, if someone has cows that are being used for livestock purposes, the property is going to be zoned for that, and most likely not residential. He said a lot of that is officer discretion as well, as they can tell if someone is using the animal for certain purposes. He said, when the Committee started writing this, and communicating back and forth with the lawyer, the issue they ran into was that a lot of people have potbellied pigs, chickens, and goats that are there simply for domestic purposes, and doing no farm work whatsoever. Mr. Joe Holloway said it does not say that in this law here. He said it is not differentiated, to which Mr. Balsamo responded, the hard part is how to word it, and what exactly needs to be said to define that. He said usually, as of right now, if they have an issue with something where the animal seems to be used for livestock purposes, they typically will default to the Maryland Department of Agriculture, or Department of Natural Resources, depending on the type of animal, and have them go out and look at it, or get their input as well. He said, in the State Code, there is already some specificity to horses because of the horse racing that does go on in the State, and no one wants their prize-winning \$1-million-dollar horse to be taken. He said, if seizing a horse, they have to look at issues such as getting a veterinarian to come out and say the horse is in bad condition. He said there are some State regulations that guide them as to livestock animals. Mr. Joe Holloway said, when Mr. Balsamo says "Using the officer's discretion," that is kind of opening the law up. He said he will refer back to about ten years ago when they were writing a graffiti law. He continued, when the law was written up, part of the law stated it would be illegal to have a can of spray paint in a motor vehicle. He said, when he questioned that, he was told by the attorney that it would be up to the police officer. He said, basically, they were making anybody, such as a surveyor, break the law by putting that in the law. He said, if they put something in the law, they either have to enforce it or not enforce it, and not leave it up to the discretion of an officer. Mr. Balsamo said, if they are able to come up with a definition that can differentiate between what is classified as domestic, such as the line of a horse being someone's pet, or the line of someone using a horse for livestock purposes on a farm, the main thing they look at right off the bat comes down to zoning, and whether it is residential property, or whether it is zoned for farming and commercial use. Mr. Joe Holloway said Mr. Balsamo does not have anything in this Ordinance about that though, to which Mr. Balsamo responded, no. Mr. Joe Holloway said there is not anything stated in the Ordinance about zoning, to which Mr. Balsamo responded, no, but something could easily be added. He said animals that are livestock, such as horses, goats, pigs, cows, etc. residing on property that is zoned for farming are exempt. Mr. Joe Holloway then said he will give some examples. He said, if someone has three horses, they have a shelter, and it is 95 degrees, the horses would probably be better off in the forest where it would be cooler on them rather than three horses jammed up into a stall. Mr. Balsamo responded, the temperature mainly applies to dogs specifically, and he thought that was in there under tethering. Mr.

Joe Holloway said it includes everything, and the temperature says unsafe weather conditions. He said it does not have anything in there about just dogs. Mr. Balsamo asked if he is looking at the definitions, to which Mr. Joe Holloway responded, yes. Mr. Balsamo said under the definition of unsafe weather conditions, that is just giving what the definition is, and not saying what they can do about it. He said the only part in the law that says what can be done about unsafe weather conditions is tied directly to the tethering of dogs. He said, just going off the definition, there is nothing saying what is a violation of that, it is just defining it. He said, if they go deeper into the law where the tethering section is, the tethering section does have a line on unsafe weather conditions, and the tethering specifically deals with dogs. Mr. Joe Holloway clarified, the definition he is going to try to enforce this on as far as cows, ferrets, horses, and swine means nothing, and they are not going to try to enforce this on anything other than dogs. He asked if that is correct, to which Mr. Balsamo responded, yes, because the definition is just giving the definition of an animal, just like it is just giving a definition of unsafe weather conditions. He continued, but, in the actual enforcement part outside of the definitions, the enforcement of those unsafe weather conditions is related strictly to the tethering of dogs and those unsafe weather conditions. Mr. Joe Holloway said he is just concerned that people are going to understand this differently, and they state in the Ordinance that they are going to be enforcing temperature controls on cows and horses, to which Mr. Balsamo responded, it would not be applicable to the livestock animals, even if they are domestic. He said, if they went out and saw an animal freezing to death and in obvious distress, they would then take steps, whether it be County or State Law, or get a hold of the Department of Agriculture, but that is an extreme situation when an animal is visibly freezing to death, or something along those lines. As far as the 90-degree law, if it is 95 degrees out and they drive by some horses in a pasture, they are not going to make a big stink about it, and he is not going to go over there and start a bunch of issues. He clarified, this pertains strictly to the dogs. Mr. Kilmer asked if they could have their attorney draft some language about the livestock versus pet issue, to which Mr. Taylor responded, he thinks it could be done as he has a general observation that this does seem to be very overbroad. He clarified, he is not talking about how it might be enforced, but he is talking about the literal language. He said he does come from an agricultural background, and his graduate degree happens to be in animal husbandry, so he has some feel for it. He said, to make sure his recollection was correct, today he googled and found something by one of the extension specialists at College Park on livestock who said, essentially, livestock can be left out. Mr. Taylor said his family left theirs out in ten degrees, and sometimes even below zero degrees. He said it would make little difference, he thinks, whether it was a pet or not because they are still, essentially, the same animal, and he has that kind of concern.

Mr. Taylor said there are also provisions in the Ordinance that are a little hard to enforce. He said, for example, if an animal is found running at large, if it does not have a rabies tag, it is supposed to be held in confinement for three days. He said, other than dogs and cats, most animals do not have rabies tags. He said, if they found some hogs running loose, they are probably not going to find rabies tags on them. He asked if they are going to hold them for three days if the owner says his hogs got out, and they happen to be running at large. He said, when looking through this Ordinance, he sees potential problems, looking at it just literally. He clarified, he is not talking about how somebody might apply it in a discretionary sense because that can vary all over the spectrum. He said Mr. Balsamo might have one way of reading it, and the next person who comes along in his position might have another way. He said it is a long Ordinance, and he has not looked at it line-by-line, but those items kind of jumped out at him, and he thinks, at least on those two points, they probably should be addressed. He said there are probably others, if somebody would look at it closely. Mr. Balsamo said, with the stray animals, when it comes to pigs, goats, etc., almost every other month they have a pig or a goat that comes in from a running at large issue. He said, as of right now, stray animals have to be held for six days, so this cuts back the time on how long some of those animals without rabies tags have to be held. He said, typically,

animals like that are in and out in a day because the owner knows they are out, to which Mr. Taylor responded, but the Ordinance says they have to hold them. He clarified, he is not looking at the current Ordinance, he is looking at the one they are talking about. He said, if the owner is right there, his pigs are loose, and, unfortunately there is a hole in the fence, or someone left the gate open, they are not going to have rabies tags, and he would not think they would hold them for three days. He asked if they even have the facilities to do that, to which Mr. Balsamo responded, if the owner is there, they do not take the animals. He said, if the animal is out in the street, and an Officer tries to put a leash around a goat, which they have had to do before, or a pig, and then the owner comes out, basically, the animal goes back to the owner, and they give the owner a notice to fix the fence, and then go back within 48 hours to make sure they have made progress on getting that fixed. Mr. Taylor clarified, he is not talking about the way it is administered, he is talking about the way it reads literally. He continued, what it literally says is they are to be held for three days. He said, if they did what Mr. Balsamo just described, they would, essentially, be acting in violation of the Ordinance. He said, in other words, there is a lot in there that he thinks, from a general perspective, perhaps, needs to be addressed. Mr. Cannon asked if it is something as simple as stating it would be held for at least three days, and that way they could release it whenever they wanted, to which Mr. Taylor responded, he would think, other than dogs and cats, rabies really should not even be a consideration. Mr. Cannon clarified, he said at least three days, and Mr. Taylor was concerned about the fact that they had to hold it for at least three days. Mr. Taylor responded, he guesses it could say that, but he is also looking at it from the standpoint of which animals have rabies tags, and it really is only just a couple, dogs and cats. Mr. Kilmer said, with some of these concerns, they could have their attorney look it over and point out some of them in case the law does need to be clarified in that way, to which Mr. Balsamo responded, definitely. He said he was trying to look up the section on animals at large because he thinks it does not say they have to seize the animal. He said it states animal control may seize an animal running at large. He said, again, he is not a lawyer, but his interpretation of the word "may" is it is not saying that if they see the animal out they absolutely have to take that animal, but it is saying they *may* take it, depending on the circumstances. Mr. Taylor said the language reads "An animal not wearing a current Wicomico County rabies tag must be confined for at least three days." He said it does say "Unless claimed earlier by the owner. If the animal is not claimed within three days, it will become property of the Animal Control Authority."

Mr. Kilmer said these issues would be interesting to, at least, bring to Council's attention. He said he thinks this is generally a good Bill, but there may be some tweaks, though, here and there along those lines to make sure it is something that is enforceable, and something that is not overly broad by accident. Mr. Joe Holloway said his concern is, if they make laws and then say they are not going to enforce them unless they want to.

Mr. Joe Holloway said he has another item he would like Mr. Taylor to look over. He said the Liability Clause 133-14 reads "The County, the Animal Control Authority, and its Officers and Employees are immune from liability for accidents, diseases, injuries, or deaths to an animal while being impounded or boarded at the Animal Control Facility, or a facility designated by the Animal Control Authority." He said that basically gives anybody free rein to do almost anything. He said there has to be some responsibility somewhere along the line. Mr. Taylor said he will see if Mr. Wilber has a view on this too. He said he thinks it would be wise to put in there something like "Except in cases of gross negligence." He said that may be implied in the law anyway, and he is not currently up to date on that particular point, but he thinks it would be wise to say that. He said, obviously, if somebody harms an animal due to gross negligence, they ought to be liable for it, and he thinks that is a common sense approach. Mr. Balsamo said, as far as the liability goes, he is up for interpretation and input from the lawyers. He said he thinks the liability portion was actually cut and pasted from the old Ordinance.

Mr. Kilmer said he has a question that also touches on animal control actions. He said, under Potentially Dangerous Animals, if they take an animal, the owner has to reimburse Animal Control for the boarding of the animal. He said it also talks about going to the Appeals Committee. He then asked, if the Appeals Committee finds Animal Control was wrong to take the animal, do the people get their money back for boarding it, to which Mr. Balsamo responded, no. He clarified, going by the actual definition of the law, no, because it states they have to pay for boarding, basically, regardless of whether they win or lose their appeal. He said, even if they get their animal back, technically, by the law as written, they would have to pay those fees. Mr. Kilmer asked what the impact would be if Council were to say, if they win the appeal, they get the money reimbursed so they are not penalized if they are not found to be in the wrong, to which Mr. Balsamo responded, the impact really would vary on how long the appeal takes. He explained, he has had appeals cases that have gone on for roughly a month or so, and then the longest they had was one that lasted almost a year, or just a little over a year. He said, when it is just one animal, it is not that bad, especially if their stay in the shelter is not long. He said the financial impact would not be that bad, but it would affect them, for instance, if they took in six dangerous dogs at once. He said it would be a minimal impact considering they hold up to, and sometimes over, 40 dogs in the shelter. Mr. Kilmer said he would like, if Council is okay with it, if someone wins their appeal against Animal Control, they get the money back that they paid so that, essentially, they are not penalized for winning. Mr. Balsamo said they have already helped people out when they can because they are already usually paying lawyer's fees, and things like that, on top of having to pay to get their animal out. He said they already work with people so he does not think the impact would be too hard on them at all. Mr. Kilmer said that would be a good way to be more fair to some of the animal owners. He said, if Animal Control is right, and the dog is dangerous, obviously, they would not be reimbursed. He said it also is a little bit of an incentive for Animal Control to make sure they are right. Mr. Kilmer asked if Council agrees, to which Mr. Davis responded, he agrees. Mr. Joe Holloway said he is fine with it. Mr. Hall also agreed. Mr. Cannon said he would say so because they should not be saying the animal is okay, but then not give the owner back the money. He said he thinks they have to. Mr. Joe Holloway said it would be good for Council to know, on a case by case basis, how many times that has been done where the Animal Board has ruled the dog is not dangerous. He continued, it is probably, more than likely, most of the time ruled dangerous, or they would not have had it in the first place, to which Mr. Balsamo responded, that is correct. He said, like he said, the whole time he has been with the County he thinks they have only had two that have been overturned. He said that is a lot of the reason they are changing the Ordinance because, the way the law was written previously, they had no choice but to deem the dog dangerous, whether it was them or the Health Department. He said now, with the changes, it allows more interpretation as to whether they are actually going to deem it dangerous, or potentially dangerous. He said, hopefully, this will still help them keep people safe by having the law to enforce while at the same time giving them the flexibility of deciding if it is really a dangerous dog, or if they deem it potentially dangerous. He continued, hopefully they will not have as many of those issues coming up as well. He said he is perfectly fine with the fees being waived if the case is overturned.

Mr. Joe Holloway thanked the Animal Ordinance Committee. He said he knows Mr. Cannon presented proclamations, but he wants to thank them for all of the work they have done on this. He said they do not always agree on everything, to which Mr. Balsamo responded, that is the joy of life. Mr. Joe Holloway then said, under 133-12 Nuisances, "An animal to disturb the peace and quiet of a neighborhood with excessive barking, whining, howling, chasing vehicles, and attacking other animals." He asked if that only applies to dogs, to which Mr. Balsamo responded, for the nuisance, most of the complaints are dogs, but it does not strictly limit it to dogs. He said, if someone has an outdoor cat and it is defecating on someone else's property, they could file a nuisance on that. Mr. Joe Holloway clarified, he was asked the question by someone who was looking at this Ordinance, and asked about chickens.

He said they were talking about roosters crowing, and roosters will attack people. He said he is not asking to put that in, but he is asking if that would be included. He said that was the question posed to him because, apparently, someone has had issues with their neighbor's rooster, to which Mr. Balsamo responded, in Delmar they have had issues with chickens coming into a person's yard. He said every now and then they get a complaint on a rooster. He said, when it comes down to the nuisance citations, the main thing is, for Animal Control to issue one, the neighbor or person complaining has to go on record. He said they will be subpoenaed to the case if it is appealed to give their testimony on why it is a nuisance because someone has to be bothered under that. He said he is not bothered by it because he does not live there, and his officers are not, so they can write the citation, but it is based upon witness testimony, and the person who is bothered has to come in. He said, frankly, he is not going to have his guys sit outside a house for three or four hours until they are bothered by a rooster crowing when they could be doing other things, and they are more likely to be bothered that he is making them sit at the same spot for hours on end. He said, whenever they do nuisance calls, it is based off witness testimony.

Mr. Kilmer said, in that same section, going down to E, it talks about a nuisance is a "Female dog in heat outside of a building or other proper enclosure." He said someone asked him if that means they could not take their female dog in heat for a walk, for instance. He then asked if that should be clarified to say "If it is not under the direct control of a person," because this sounds like the dog has to be confined the entire time, to which Mr. Balsamo responded, that can definitely be tweaked. He said he has no problem with someone walking their dog if it is in heat, as long as it is under their control. He said the issue that is looked at, as seen in other Counties, about dogs being in heat mainly relates to population control, unwanted puppies, and things like that. He said it is just the domino effect of someone selling puppies that are unwanted, or puts them out for free on Craig's List, and then they go to puppy mills or dogfighters, etc. He said that is the main issue with dogs in heat running loose, to which Mr. Kilmer responded, he thinks they all understand how that could probably be a nuisance. Mr. Balsamo said that can definitely be tweaked.

Mr. Kilmer said he has a couple of other concerns, and, again, he thinks Council recognizes the important work the Committee did, and the fact that the bigger issues of dogs being left outside, etc. are not a concern in the new Ordinance, but these are just some of the minor things that have come up. He said, when they change the law, they have to be very careful. He said, with that being said, the one issue he does have with the dog tethering is in reference to saying the floor must be raised three inches off the surface of the ground. He said his concern is that someone who now has a floor that is two inches off the ground, and he knows they have talked about this before as to why they did that would be because of flooding. He said his concern is setting three inches as a bit of an arbitrary number. He then asked what Mr. Balsamo's opinion would be on just having a floor, so Animal Control is not out there with a tape measure necessarily, to which Mr. Balsamo responded, he will explain the reason for the three inches. He continued, in talking to colleagues of his in other Counties that have a law similar to this, it deals mainly with flash flooding. He said, if a rain storm comes along quickly, and the owner is at the grocery store or the gas station, it gives that buffer for rainwater to be able to miss coming into the actual doghouse itself before the owner is able to get to the dog and get it inside, or do what they need to do. He said a lot of these changes, when the officers go out, will be education on the changed laws, and what people need to do to fix anything that may have been okay previously. He said the three inches really has to do with a lot of the flash flooding and such. Mr. Kilmer said, if other Councilmembers want to keep it, he is fine with keeping it, but this is something for other Councilmembers to think about. He said, to him, that hard number makes him a little bit concerned, although he understands the reason for it, and it is something to think about.

Mr. Joe Holloway said he keeps going back to the definitions of the animals because it is important, and Council talked to Mr. Taylor about it. He then asked Mr. Balsamo, in his opinion, what is the number that determines whether an animal is a pet or livestock, such as fowl, including chicken and ducks. He continued, if someone has three chickens or five chickens, one would think they were a pet, but if they have 50 to lay eggs, they would not be a pet, or what if they have twelve to lay eggs? He asked where they draw the line, to which Mr. Balsamo responded, he does not think it necessarily comes down to a number. He said, more or less, to him, it comes down to the purpose. He said, if they have ten or so chickens, they could consider that to be pets, but, if they have 50 chickens and they obviously have a setup for eggs, and the coop is designed for that, then it would, obviously, be agriculture, and they would fall under livestock. He said, to him, it really does not hit whether it is a certain number or not; it hits how they are being used, and what they are being utilized for. He said somebody could have a bunch of horses, but it might not necessarily fall under livestock because they may be using them for purposes dealing with agriculture, or maybe they are just a real big horse enthusiast who likes to trail ride, and has ten different horses to choose from when they go trail riding. Mr. Joe Holloway asked what difference does that make because people do not have horses to raise to eat, they have horses to raise to either breed or ride, to which Mr. Balsamo responded, that is one of the things with putting a number on whether it classifies them as livestock because, if they put a number on it, then, if they have a certain amount of horses, they would be for trail riding. He continued, then, once they hit a higher number, they would be considered just livestock. He said the numbers are what throw him off as far as defining livestock by a certain number of animals. Mr. Joe Holloway asked if a lawyer worked with him on this, to which Mr. Balsamo responded, yes.

Mr. Dodd asked if there is anything that specifies what areas of the County the Animal Control Authority will have jurisdiction, because they do not want to overlap municipalities that have their own Animal Control, to which Mr. Balsamo responded, he does not think there is anything in the Ordinance that he has seen defining what their jurisdiction is. He said, right now, they cover the entire County, minus Salisbury City Limits because they have their own Animal Control through Salisbury Police Department, but they cover Willards, Pittsville, Mardela Springs, and anywhere else. Mr. Dodd asked if they should have some kind of an agreement with those municipalities, to which Mr. Balsamo responded, he does believe the only municipalities there is an agreement with are Delmar, and, he thinks, Willards as that was something their Town Council wanted. He said, as far as Pittsville, Fruitland, etc. there is no written agreement that he has ever been able to dig up. Mr. Dodd said that is something to look into, to which Mr. Balsamo responded, yes. Mr. Joe Holloway asked if Salisbury has their own Animal Ordinance, to which Mr. Balsamo responded, yes, and they do not follow the County's. Mr. Dodd asked if the City still uses the Humane Society as a drop off shelter, to which Mr. Balsamo responded, yes. He said they do not have a facility of their own so they still bring all of their cats and dogs to the County.

Mr. Kilmer asked if there is ever an incidence where Animal Control Officers would lure an animal off someone's property. Mr. Balsamo asked for clarification, as far as, if the dog is on someone's property and saying "Come here boy" to get it off the property, to which Mr. Kilmer responded, yes. Mr. Kilmer said, apparently, there was an incident a few years ago where a farmer complained that Animal Control did that. He asked if there would be an objection from Mr. Balsamo to state in the law that Animal Control cannot lure an animal off someone's property, to which Mr. Balsamo responded, he would not have an objection as that is how he trains his Officers anyway. Mr. Kilmer clarified, unless there is a legitimate reason for them to do that, to which Mr. Balsamo responded, the Officers know, by the law, if the dog is on the property, it is okay because they would not know if there is an invisible fence. He continued, but the minute the paw hits the sidewalk or road and goes onto public property, technically, it is at large, and that is when the Officer can take it. He said he has been on calls himself where he has

seen a dog running in a yard. He said he will make sure it has water, and then leaves and goes about his business. He said his guys already know that, so if Council wants to throw that in, it is not an issue at all.

Mr. Kilmer said his final question is in reference to landlords. He said sometimes, when people rent property, the landlords prohibit certain dogs or any pets. He then asked, when someone comes to adopt a dog, or when a dangerous dog is returned, are landlords informed? He asked how that works with the dangerous dog provisions in the Ordinance where it talks about the homeowner shall do this and that. He asked how it works with the landlord if the pet owner is a tenant, and if the County notifies them, or asks for that information, to which Mr. Balsamo responded, as far as the dangerous dog, they have not run into a situation where the person was a renter. He said, if they were a renter, they would call the landlord and let them know because every landlord's insurance policies are not going to cover anything that has had a bite anyway, but they still call them to let them know. He said, as far as adoption out of the shelter, part of the application process is doing a property search on the address given to make sure the name matches, and, if it does not, and it falls under a rental management company, they call them to verify. He said, if a person willingly tells them their landlord's name, they still call to verify the landlord is okay with having that person adopting a dog. He said they try to keep landlords in the loop as much as possible.

Mr. Cannon asked Mrs. Hurley what the timeframe is, to which Mrs. Hurley responded, the Bill was introduced two meetings ago, so they have to take action before the first meeting in March. She said, ideally, they would want to vote at the next meeting of February 20. Mr. Cannon said he thinks they have had a good discussion here. He asked Mr. Balsamo if he feels comfortable with the adjustments that need to be made, and they have not heard everything Mr. Taylor might suggest as well. He asked Mr. Taylor how detailed he thinks this is going to get between now and the next meeting, to which Mr. Taylor responded, he does not know. He asked if the 60-day deadline can be extended, to which Mrs. Hurley responded, yes, it can be. Mr. Cannon said he understands it can be, but he was just wondering how close Mr. Taylor thought this might be, and if it is too early to tell, to which Mr. Taylor responded, give him a day or two.

Mr. Joe Holloway said he has one more question in reference to section 133-13 on Adoption. He then asked if that is the entire policy for adopting, or do they have another policy for somebody who comes in wanting to adopt an animal, to which Mr. Balsamo responded, at the Humane Society they have their own internal policies as to how they adopt. He said the adoption section in the Ordinance would apply to pet shops, and things of that nature. He said every animal that comes out of the Humane Society is spayed and/or neutered, microchipped, and up to date on all their shots. Mr. Joe Holloway said he had a complaint from someone who owns a large farm down near Powellville who was told, unless he had a dog pen to keep the dog in, they would not let him have the dog. He said this person told the Humane Society he has a barn the dog would stay in, as well as his house or pickup, but they told him he had to have a pen. He said the man went and bought a dog, but he was going to adopt one. He asked if there are other policies beside just this one section here, to which Mr. Balsamo responded, without seeing the application, or knowing the situation specifically, he cannot really say. He said, if someone puts on the application that it is going to be an outdoor only dog, typically, the person is denied if the dog is going to be outdoors tied up 24/7. Mr. Joe Holloway clarified, this person did not state that, but said he had a barn, and a pickup where the dog would ride with him, or he was going to stay in the house. He said it was going to be a farm dog. Mr. Balsamo said, without seeing the application, or knowing the dog specifically, he cannot comment. Mr. Joe Holloway asked, if someone comes in to adopt a dog and tells them it is just going to be an outside dog, not tethered, but an outside dog, and they are not going to restrain it but let it run on the farm, would they not let the person adopt the dog, to which Mr. Balsamo

responded, typically, no, but, if it was a farm, that is a different situation, and that is something where his Adoption Coordinator would come to him to get approval on. Mr. Joe Holloway asked if it is done on a case by case basis, to which Mr. Balsamo responded, yes. He clarified, if it is something that historically would be denied but his Adoption Coordinator thinks the people are fine, she has looked on the property search and everything matches up, she will come to him and say she does not want to deny this person, and ask if he can give the approval. He said he will look it over, and sometimes, if he needs to, he will call the person to talk to them, and usually go ahead and approve it.

Mr. Balsamo said there is one other item he wants to bring up that was in previous versions of the Ordinance, and it went along with tethering. He said one of the members of the committee noticed it dealt with collars as far as what could and could not be used. He said she noticed the other day that the collar section did not seem to be in the new drafted Legislation. He said it dealt with not being able to use chains, ropes, and such as a collar. He said there have been so many changes back and forth that it could have been an accidental deletion. Mr. Cannon said in section 133-17 there is some reference to collars on Page 11 in the original Ordinance. He said he thinks Mr. Balsamo is correct because he does not see any mention of it in the new document. Mr. Balsamo said that is something brought up that the Committee thinks should be in there because, if that gets completely left out, it is basically stating that it is a free for all as to what people can put around their dog's neck. Mr. Cannon asked if he would make that adjustment, to which Mr. Balsamo responded, yes, they can work on getting that adjusted. Mr. Joe Holloway said, on Page 11, it reads "Neither chains, ropes nor choke collars shall be accepted as collars for a tethered dog, and there must be at least a one-inch space between the dog's neck and the collar." He said that is basically enough to put a hand in most of the time, to which Mr. Balsamo responded, yes, it is enough where, basically, it is not going to choke the dog. He said somewhere along the line it seems as if that went missing out of the proposed Ordinance. Mr. Cannon said that is a good point.

Mr. Balsamo asked the Committee members in the audience if they had any other suggestions. One of the Committee members mentioned something about using a rope as a tether. Mr. Joe Holloway said, in the new Ordinance, it says a chain has to have a swivel on each end, so that may address it. Mr. Balsamo said the old Ordinance specially mentioned not using ropes, he does believe, and he thinks that got marked out of the new Legislation. He continued, this was a concern with some of the members wanting to get the mention of ropes added back in. He asked if Council has any thoughts on that, to which Mr. Joe Holloway responded, ropes will get knotted up and tangled up. He said, if it is 20 feet to begin with, it may be 10 feet before the dog gets done with it. Mr. Cannon said it is in the definition of tethering. He asked if they would want to remove the reference to rope, to which Mr. Balsamo said he did not think it was included in there still. Mr. Cannon said it is under Section B: Definition of Tethering – Tethering means attaching an animal to a stationary object by means of a chain, rope, tether, cable, or some restraint. Mr. Balsamo said they would want rope taken out of the definition. Mr. Cannon said that was on Page 24.


Mr. Shawn Bradley, an Animal Ordinance Committee Member, came before Council. He said the question had been asked earlier regarding the authority given to the Officers out in the field. He said the Committee talked about this, almost likening it to consulting a professional. He said, for example, with zoning of buildings, this is a beautiful building, but he could not rent this room here to live in. He said he would consult either an attorney or a realtor, and then he would respect their opinion on that. He said, as far as what is a pet and what is livestock, he thinks that would have to be left to taking the advice or consent of the Officer in the field on making that opinion known. He said he does not know if that is something they can add on to make clearer in the next review. He said, most of the time, it might be obvious in person, but not obvious on the written report. Mr. Joe Holloway asked if he is saying they

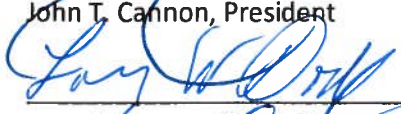


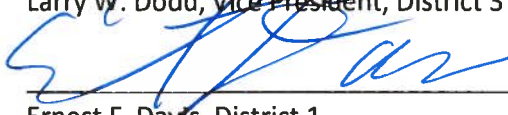
should let the Officer decide whether it is a pet or a livestock, to which Mr. Bradley responded, yes, when it comes to that. He said, for example, with chickens, if they are inside the person's home or being treated like pets in the immediate yard, or, if they are kept in an outside fashion like a barn or a coop. He said, if it is a potbellied pig, it probably has access to the house, but if its purpose is for food or consumption, it is probably in a barn, or out behind a fence. He said, if it is in a report, it may be hard to report that, versus the Officer actually seeing that on the property who can make that decision and put that in his report. He said to just say property, it is just property, but, if there are three different distinctions, such as commercial, industrial, and residential, unless they specify that, it is hard to make that decision. Mr. Kilmer said he thinks there is, obviously, some truth to that. He said there does need to be something in the law that helps the Officer shape that sort of thing, and to let the public know too, so they are not unclear when they have an Officer come to them. He said that is what they pay Mr. Taylor for, and, hopefully, with this legal writing, he can find a way to define that so it works but still preserves Officer discretion. He said Officer discretion does need to be preserved to a certain extent, but it cannot be solely at the Officer's discretion either. Mr. Joe Holloway said Mr. Bradley kept bringing up zoning a while ago. He said, unless they are in a municipality, such as Willards, Pittsville, Fruitland, or Delmar, the majority of the rest of the County is zoned agricultural, so anybody, even if they have a potbellied pig, can say they are in an agricultural area. He said, or, if they have five or ten chickens, they can say they are in an agricultural area, so they can have these. Mr. Taylor said he thinks there is one more point worth making on this, at least as far as large animals are concerned. He said he is not sure that the commercial pet distinction is very meaningful because, essentially, with the exception of the potbellied pig that comes inside the house, they are all essentially outside animals, and it is the same animal physically whether somebody considers it to be a pet or not. He continued, he thinks, at least in terms of large animals, it is pretty easy to make a distinction, and he thinks most people consider pets to be small animals that come inside. He said there is somewhat of a distinction there, and that is just an observation of his. Mr. Cannon asked Mr. Balsamo to review what they have gone over tonight, and Mr. Taylor will contact him. He said, once they have a better feel for it, let Mrs. Hurley know what his timeframe might be. Mr. Cannon said they can extend this, but asked Mr. Balsamo to try to see if he can make this within the deadline, to which Mr. Balsamo responded, definitely. There was no further discussion.


*Signatures on next page*

**Open Work Session Minutes  
Animal Control Ordinance  
February 6, 2018**

  
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John T. Cannon, President

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

  
\_\_\_\_\_  
Ernest F. Davis, District 1

  
\_\_\_\_\_  
Marc Kilmer, District 2

\_\_\_\_\_  
John B. Hall, District 4

  
\_\_\_\_\_  
Joe Holloway, District 5

\_\_\_\_\_ absent  
Matt Holloway, At-Large

  
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Laura Hurley, Council Administrator