

Open Work Session
Animal Ordinance
July 17, 2018

Mr. Aaron Balsamo, Director of Wicomico County Humane Society, came before Council. Mr. Bob Taylor, County Attorney, said he will pick up from where they were the last time they discussed the animal ordinance. He reported they have gone back and considered comments that were made by Council and, to some extent, by the Executive Branch, they have made some revisions, and have a revised draft from the last time they met. He said there are not a whole lot of changes, but he indicated at the last meeting that he thought some procedural standards for the Animal Control Board should be added, and they have been added. He said he has sent Council his comments, as well as his response to some comments received, and here it is. He said he will point out just a couple of things. He then said, if they move forward with this without any further revision today, and bring it on for first reading, of course there will be more opportunity to make any other further adjustments, so this is certainly not the end of the line. He said he has just one other general comment. He said it was suggested, rather than having this draft ordinance they are reviewing today in all capital letters, it would be better to have it as much as possible in lowercase. He said, unfortunately, the word processing software will only go to lowercase with everything having a first letter capital, and that is why it is this way. He clarified, it is not intended to have the final ordinance with capitals on the beginning letter of every word. He said that is about all he has to say as he has sent Council his comments.

Mr. Balsamo said he has a couple of questions, and one is for Mr. Taylor. He then asked if Page 26 is just the verbatim copy of State Law because it says "Domestic animal impounded by an Animal Control Unit may not be sold, placed, or destroyed until the animal has been carefully inspected for a tag, tattoo, microchip, or other identification, and ascertain that the owner..." He then said, the time limit written in there is 72 hours, but in Section 133-16, it says 6 business days, so he just wants to verify if that is State Law being mentioned verbatim, or if that is applying to something else, or if that is an inconsistency. Mr. Taylor said the 72 hours is a State Law provision, and that is a minimum, to which Mr. Balsamo responded, he recognized that from State Law. Mr. Taylor said it was suggested at the last meeting that the other time limit provision Mr. Balsamo mentioned be increased somewhat, so they increased it. He said State Law does not require that anything happen after 72 hours. Mr. Balsamo said he was just checking if that is verbatim of State Law that is being included into the County Code, and the other provision is what is actually applicable for County Law, to which Mr. Taylor responded, that is correct. Mr. Cannon asked if Mr. Balsamo sees this as a contradiction, to which Mr. Balsamo responded, he thinks it adds confusion, potentially. He explained, he is able to hammer it out and understand that it is State Code, but, potentially, with somebody in the future if he were ever to leave or to hire a new Animal Control Officer, that might cause some initial confusion, but he does not see it being a huge issue. He said his understanding of it is, since County Law is not taking anything away from State Law, County Law would supersede that because they can always add to, but not take away. He clarified, he does not see it being too contradicting, but just wanted to make sure it was not a typo, or a change that got missed at one part and not another. He said he is fine with it being six days.

Mr. Balsamo said the other question he has is in the definitions. He said Service Animal was added in, which in and of itself he does not have an issue with or anything, but he did not know if they wanted to add that it is in compliance with the American Disability Act (ADA) because a lot of people tend to confuse what a service animal is. He explained, there are service animals, emotional support animals, and therapy animals, and they are completely different things. He said the ADA does not apply at all

whatsoever to therapy and emotional support animals, and that confusion is a big issue he gets from a lot of people. He said service animals, even if it is a seeing eye dog, still have to have a license and have a rabies vaccine. He said he just did not know if they wanted to add anything in there that is in compliance with the ADA. Mr. Taylor said he cannot recall right offhand where that particular language came from as this is fairly lengthy, but he will say, if Mr. Balsamo has some other definition that he thinks is better, then send it to him because this is not cast in stone. Mr. Balsamo said that is the definition straight out of the ADA. He said this is something he just noticed this morning when he was checking again that service animal had been added in, and he did not know if there was a particular reason it was added in, to which Mr. Taylor responded, the definition is used in other places, and that is why they thought there should be a definition. He said this is not cast in stone, and they can easily have it revised so that when it comes on for first reading it could be changed. Mr. Balsamo said he has some articles on his computer relating to the difference between the definitions, and there is a lot of confusion out there between the service, therapy and emotional support animals, and that is his main concern. He said if someone has a letter from their doctor saying they need to have a dog in their apartment for anxiety or depression, or something along those lines, that dog is not actually a service animal, but is just an emotional support animal, and he just worries that this could lead to confusion somewhere. Mr. Taylor said that is a good point, and, when they were thinking about it, they were not thinking about emotional support animals. Mr. Balsamo said he sees these situations on almost a weekly basis, and he thinks that is why the definition jumped out at him when he saw it.

Mr. Cannon said there was one issue that came about earlier when Mr. Wilber's office, through Mr. Leslie, made the comment about repeating a lot of the statute that was already in State Law, whereas they could reference it instead, to which Mr. Taylor responded, he thinks a reference to it does not really provide the information somebody would want when they are looking at an animal control ordinance as most people are not going to then go look at the State Law. He repeated, they are just not going to do it. He said many of the provisions of the State Law are of some significance, and, actually, go beyond this. He said the main thrust of this, primarily, is the dangerous dog ordinance, and, of course, there are other things about general care, but there are a lot of State Law provisions that are misdemeanors, and he thinks it makes sense to have them spelled out, and that is why they have put them in there.

Mr. Cannon said this has been a process they have gone through since the Committee did a lot of great work and brought this to the table. He then asked Mr. Balsamo if there are a lot of parts of the ordinance that have been changed to a great degree where the Committee might feel there is a need to pushback, or maybe make adjustments, to which Mr. Balsamo responded, he has not gotten too much pushback. He said a lot of the questions asked have related to whether Animal Control is going to be able to enforce the ordinance. He said one of the greater concerns that has been expressed to him, especially right now going through a lot of hot weather, is the issue of dogs being outside, whether they are chained or not. He said some changes were added to that with certain time limits, and he thinks the definition for doghouse was tweaked slightly, but the Committee members did not know if it was too vague, or too strict on what they can or cannot do, and he told them he thinks they found kind of a happy medium to where Animal Control can actually take care of some of these complaints that are called in. He said, for instance, with the tethering, it was added that it needs to be on an object that swivels. He said last week they got a call about someone who had their dog chained to a tree, which, in and of itself being on a stationary object, was not an issue, and the dog had a doghouse, and it did have water. He said the caller was more concerned about the tether being around the tree, and he told the person that right now with the way the law is written, there is not a lot they can do. He said the new ordinance will give them a lot more tools for Animal Control to be able to look deeper into some of


these issues with some of the complaints they get. He said, at the same time, they are not going to be able to just run freely throughout the County and trample on people's property rights. He said everybody has rights, and dogs, cats, and pets are considered property, and people have rights as property owners. He said, at the same time, because they are living, breathing property, and not a dilapidated car sitting in a driveway that is an eyesore, there does need to be some responsibility. He said, when they started this, he told the Committee there is a fine line between the animal welfare side and respecting people's rights, and that has been the goal throughout this whole time, and he thinks they have gotten as close to that as they can. Mr. Cannon asked if Mr. Balsamo thinks the Committee is happy with the ordinance, to which Mr. Balsamo responded, yes, generally speaking. He said he does not think they got everything exactly as they wanted as there were some who wanted, for example, that people could not tether their dog out at all, and some issues like that, but that is something he really has not seen too many jurisdictions, if any at all, that have a blanket ban on tethering. He said he told the Committee when this started that, when working through a project like this, they are not always going to get everything they want, but they have to be able to get what they can get to work with, and it has to be effective change too. He said he has not heard too many complaints besides just waiting for a vote to happen on it, to be honest. He said one of the biggest questions he has had is asking when it will be voted on, and he explained to them how they have to have the Public Hearing, and then there is a wait period even after it is voted on before it becomes effective, which gives them time to educate the public on the changes that are going to happen. Mr. Cannon said it has been a long process for them all. He said he thinks the suggestion Mr. Balsamo had was a good suggestion, to which Mr. Balsamo responded, he can send Mr. Taylor an email later today or tomorrow in regards to the differences, and see if there is any way they can separate the difference of a service dog to the other issues.

Mr. Taylor said he just has a couple other thoughts, and they are not intended to lead to any change to the language. He said the other day there was a complaint about a crowing rooster, and, of course, there are complaints about barking dogs. He said it struck him that those are actually, as he sees it, general nuisance complaints, and he thinks it might relieve the Humane Society of having to do something that is not the primary mission of the Humane Society if those types of complaints that are general nuisances could be handled by someone other than by them. He clarified, he is not pushing to say they should change the law that they have drafted here today, but it is just a general thought for the future. He said the other thing is, and he has not looked at it, so he cannot comment on it at all specifically, but he thinks the agreement between the County and the Humane Society should be reviewed periodically. He said, once this ordinance is in place, maybe the agreement should just be reviewed for general good practice. He said he has not looked at the terms, and the Humane Society may have some changes they want to make too. He said it is something for the near-term future, where the thing about the nuisance is probably more long-term future. Mr. Balsamo said, when it comes to nuisances, those are complaints they typically handle, and, in his eyes, the Sheriff's Department probably has better things to deal with than responding to a barking dog. He said he knows none of that falls under Code enforcement, or anything like that. He said with those, typically, they make whoever the complainant is fill out a witness statement form that says, basically, when they file the citation, they would be subpoenaed if the person challenges the citation because they are the ones being nuisanced by the barking, and his officers are not the ones being nuisanced by barking, and they need someone to come into court to testify as to how often the dog barks. Mr. Taylor said his only point was that the noise by a barking dog, or a rooster, and a loud party, beeping horn, or a guy revving his motorcycle all are the same general type of nuisances, and maybe that should all be handled as one, so that was his thought. He clarified, he is not pushing for that right now.


Mr. Cannon asked Mrs. Hurley if they are pretty much ready to put this together, to which Mrs. Hurley responded, she believes once they work out the definition of service dog, they will be ready to move forward with introduction. Mr. Cannon asked if the introduction will come before the Public Hearing, to which Mrs. Hurley responded, that is correct. She explained, they have the introduction first, and then they can schedule the Public Hearing. There was no further discussion.



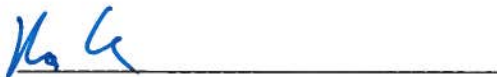
John T. Cannon, President



Larry W. Dodd, Vice President, District 3

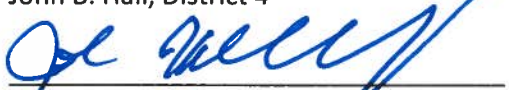


Ernest F. Davis, District 1



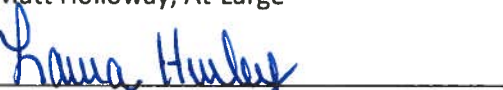
Marc Kilmer, District 2

____ absent _____
John B. Hall, District 4



Joe Holloway, District 5

Matt Holloway, At-Large



Laura Hurley, Council Administrator