



PUBLIC INFORMATION

ITEM NO. 4

DATE OF MEETING: April 19, 2010

REQUESTED BY: Pender County Board of Health, Jack Griffith, PhD

SHORT TITLE: Animal Control Ordinance Review and Recommendation Committee (ACORRC) Report

BACKGROUND: The Animal Control Ordinance Review and Recommendation Committee (ACORRC) appointed jointly by the Pender County BOCC and the Pender County Board of Health met four times and thoroughly reviewed the existing Pender County Animal Control Ordinance. The Pender Animal Control ordinance hasn't been updated since 1998. The charge for ACORRC was to review the Pender ordinance and make recommendations for improvements in the ordinance that would strengthen animal control laws and improve performance in the animal control program. The committee was provided reference materials from animal control ordinances in New Hanover; Brunswick; Columbus; Onslow; Sampson; Charlotte-Mecklenburg counties; and Buncombe counties. The committee selected its officers and Dr. Stephanie Baker (a Burgaw Veterinarian) was appointed Chair and Mr. Butler Anderson was appointed Vice Chair (Attachment # 1).

The ACORRC met four times: January 26th; February 9th; February 23rd; and March 9th. During the four meetings, the following issues were discussed by the committee:

1. Establishing animal ownership.
2. Staffing of the Animal Control Program.
3. Owner responsibility.
4. Criteria for becoming an animal control officer.
5. Handling animal complaints by Animal Control.
6. Mechanism to declare a dog dangerous.
7. Barking dogs.
8. Legal process for handling Animal Control complaints.
9. Animals in estrus running at large.
10. Raising fines and fees for Animal Control support.
11. Cost of providing rabies vaccinations.
12. Chaining or tethering a dog.
13. Educational documents to be disseminated by ACO concerning proper control and responsibility of animal ownership.

The ACORRC made several changes to the existing ordinance: Changes are highlighted in red in the attached ordinance (Attachment # 2). The following motions were made and voted upon by the committee.

Motions to change existing ordinance are in red:

A motion was made to add to Section 3-2. 1) of the existing Animal Control Ordinance concerned with dangerous dogs to read as follows: “Any canine which, unprovoked, according to a report verified by employees of the county charged with animal control enforcement; or any law enforcement officer of the county sheriff’s department, or a police department in the county; or the county health director or their designee (hereinafter the “appropriate authorities”); or through sworn testimony of an individual, has done bodily harm to a person on public or private property.” The motion passed unanimously.

Motion made to add new wording into Section 3-5. 5) of the existing ordinance to include “animals must have adequate food, water, and shelter as observed by the investigating Animal Control Officer or local law enforcement.” Motion carried 6-3, with 1 abstention.

A motion was made to add to Sec. 3-5.8) of the existing ordinance that “Animal Control Officers will provide educational documents for the public to inform them of the legal steps they can take in the event of an animal complaint.” Motion passed unanimously.

A motion was made to strike section 3-7 from the existing County Ordinance and replace it with NC § 67-4.2. ***Precautions against attacks by dangerous dogs.***

- (a) It is unlawful for an owner to:
 - (1) Leave a dangerous dog unattended on the owner's real property unless the dog is confined indoors, in a securely enclosed and locked pen, or in another structure designed to restrain the dog;
 - (2) Permit a dangerous dog to go beyond the owner's real property unless the dog is leashed and muzzled or is otherwise securely restrained and muzzled.
- (b) If the owner of a dangerous dog transfers ownership or possession of the dog to another person (as defined in G.S. 12-3 (6)), the owner shall provide written notice to:
 - (1) The authority that made the determination under this Article, stating the name and address of the new owner or possessor of the dog; and
 - (2) The person taking ownership or possession of the dog, specifying the dog's dangerous behavior and the authority's determination.
- (c) Violation of this section is a Class 3 misdemeanor, punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00). Motion passed 10-1.

A motion was made to add to Sec. 3–9. c) of the existing ordinance, Vaccination of dogs, cats and other pets: “All rabies vaccines administered by certified rabies vaccinators employed by the Pender County Health Department shall be paid for at a rate set by the Pender County Board of Health.” Motion passed unanimously.

A motion was made to add Section 3-11. "Identification tag," to the existing ordinance. "It shall be unlawful for a dog owner to own a dog that is not fitted with an ID tag displaying the owner's name and phone number on the collar of the dog; the ID tag shall be worn at all times and shall serve as prima fascia evidence of ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00)." The motion passed unanimously.

A motion was made to adopt the following NC statute: **§ 14-401.17 as Sec. 3-12 of the revised county ordinance: Unlawful removal or destruction of electronic of identification articles.** It shall be unlawful to intentionally remove or destroy any identifying articles including collars, tattoos, tags, microchips or any other article used to prove ownership of a dog. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00)." The motion passed unanimously.

A motion was made to add to Sec. 3-27. c) 2) b). Penalty for violation. The addition to the existing ordinance will read: "Notify offender that failure to pay civil penalty may result in issuance of a misdemeanor criminal citation for violation of the above section. Violation of this section shall be a class 3 misdemeanor punishable by a fine of no less than fifty dollars (\$50.00) and not more than five hundred dollars (\$500.00)." Motion passed unanimously.

Additional Comments:

Continuation of the ACORRC for a period of six months: A motion was made to recommend to the Board of Health to keep ACORRC intact for six months or until the new ordinance, if adopted, goes into effect. Motion carried unanimously. The BOH adopted the motion unanimously.

Collection of Citations: County Attorney Trey Thurman said that taking people to court over a citation in order to collect the fine might serve as a deterrent, although legal costs associated with processing a claim through District Court may result in the County losing money. The county can pursue a misdemeanor criminal charge, however, if the county loses the case, court costs may be charged to the county. In a criminal case, should the county charges be upheld, the perpetrator could be sent to Jail or placed on probation with jail time for an additional violation. With rabies being a public health issue, there could be some enforcement for non-compliance similar to enforcement of other public health and safety issues. Probably the best way to collect funds would be to keep the animal at the shelter until the impoundment fee is paid: this is currently the AC practice. As to the actual construct of the citation, Mr. Thurman recommended a time frame of 20 or 30 days to pay the citation, with the number of days actually printed on the citation.

Mr. Thurman also remarked that a barking dog was more of a Planning & Zoning matter. He suggested that the home owner making the complaint, or the home owners association to file a civil action against a neighbor with a nuisance barking dog.

Dr. Griffith was asked his thoughts on having a Dangerous Dog Committee to help declare a dog to be a dangerous animal. Dr. Griffith responded that although some counties have committees, the state statute places that responsibility of declaring a dog dangerous with the health director. Mr. Throneburg added that assembling a committee to review the information gathered by the

Animal Control Officer would be an additional process that would increase the initial timeframe of having a dog declared to be a dangerous dog.

Finally, it would appear that the BOCC has now had an opportunity in several public forums to become familiar with the public's concern with animal control. There has been ample comment on the problems with animals running at large; animal abuse; the lack of adequate manpower; and shelter operations. The Board of Health has spent considerable time reviewing the ordinance and listening to public concerns. As a result of this research the BOH recommended changes to the existing ordinance to the BOCC. Subsequently, the BOCC decided to appoint a group of citizens to review the county ordinance as well as ordinances in surrounding counties to bring new ideas and suggestions on ordinance structure to the commissioners. In conjunction with the BOH, the BOCC appointed a committee that has since been identified as the Animal Control Ordinance Review and Recommendation Committee (ACORRC) to consider suggested changes to strengthen and otherwise improve the Animal Control Ordinance. ACORRC has met and made recommended changes to the existing ordinance: these changes are before you today.

It is my recommendation to the Board of County Commissioners that the suggested changes and additions to the Animal Control Ordinance by the Animal Control Ordinance Review and Recommendation Committee be adopted by the BOCC and placed into county law.