



***Community Housing, Neighborhood Development and Public Safety Committee***

*Chaired by Council Member Golden*

*Committee Members: Golden, Peters, Scarborough, and Williams*

***February 21, 2018 – 10:00 a.m.***

***3<sup>rd</sup> Floor Lobby Conference Room***

**Present:**

Chairman Jeffrey Golden, and Committee Member Wesley Hudson. Council Member Jason Ewing was also in attendance

**Staff Present:**

Randy McCaslin, Deputy City Manager; Police Chief Kenneth Shultz, JoAnne Carlyle, City Attorney, Cynthia Duncan-Smith, Executive Assistant

**News Media:**

No News Media Present

**Project BARK Representatives Present:**

Robert Williams

Kim Lea

Libby Scandale

Bob Slone

**Others:**

Judy Stalder, TREBIC

Chair Golden called the meeting to order and stated the reason for this meeting is to review information received at a recent City Council meeting regarding providing shelter for outside pets. He turned the meeting over to City Attorney, JoAnne Carlyle to present a proposed ordinance regarding this topic.

Attorney Carlyle distributed copies of a proposed ordinance amendment that her office has drafted for review by the committee. She has researched what other cities and municipalities in the area are doing in to provide protection of animals and feels this draft is a good for our city. This ordinance stressed what residents should do to protect their pets instead of the “don’t do” that other ordinances contain.

Police Chief Kenneth Shultz gave a brief presentation on the HPPD Animal Control Division and their approach to providing shelter for dogs. He provided the following information:

Our City Ordinance does not currently have a requirement that dogs have proper shelter. Guilford County's ordinance does have this requirement, but their animal ordinances do not apply to the City of High Point unless our council passes a resolution adopting their animal ordinance chapter.

State law G.S. 14-360 sets out three types of animal cruelty:

If any person shall intentionally overdrive, overload, wound, injure, torment, kill, or deprive of necessary sustenance, or cause or procure to be overdriven, overloaded, wounded, injured, tormented, killed, or deprived of necessary sustenance, any animal, every such offender shall for every such offense be guilty of a Class 1 misdemeanor.

If any person shall maliciously kill, or cause or procure to be killed, any animal by intentional deprivation of necessary sustenance, that person shall be guilty of a Class H felony.

If any person shall maliciously torture, mutilate, maim, cruelly beat, disfigure, poison, or kill, or cause or procure to be tortured, mutilated, maimed, cruelly beaten, disfigured, poisoned, or killed, any animal, every such offender shall for every such offense be guilty of a Class H felony.

The state law requires a dog not be deprived of necessary sustenance but doesn't define "sustenance." The dictionary definition of "sustenance" is limited to food and drink and does not include shelter. As a result, I have advised that failing to provide adequate shelter does not meet the elements to charge animal cruelty under state law.

Our animal control officers may not require a dog owner to provide shelter or seize an animal simply because no shelter is seen. However, should the dog become very sick or emaciated such that its life is endangered, our animal control officers might be able to charge with #1 or #3 above based on the facts of the particular case. Under our City Code, dogs may be impounded only if the dog is not displaying a tag showing a City of High Point license or the dog is running at large.

#### Guilford County's Ordinance

Guilford County has the following provision in their ordinance:

#### **Sec. 5-7. - General duties of keepers/owners of animals.**

It shall be unlawful for any keeper or owner of animals, to keep animals under unsanitary or inhumane conditions or to fail to provide proper food and water daily, adequate exercise, adequate shelter which is properly cleaned and properly lighted, adequate space, or to fail to provide proper medical attention for sick, diseased or injured animals, including treatment by a veterinary consultant if appropriate for the animal's health or condition, as well as adequate inoculation against disease, according to the species of the animal kept. If an animal control officer or law enforcement officer seizes an animal, and no attempt is made by the owner(s) to recover or appeal the seizure, the animal will be deemed abandoned after six working days and all owners' rights shall be forfeited to Guilford County.

*(Ord. of 11-21-13)*

This applies to ALL animals, not just dogs, and requires provision of food, water, adequate exercise, adequate shelter (properly cleaned and properly lighted), adequate space, and adequate medical care. Another provision of the County's code gives them much more authority to seize animals, allowing them to do so "where deemed necessary, of any dog or other animal in the county involved in a violation of this or any other county ordinance or state law."

The County's ordinance further defines the key terms in this provision elsewhere in their ordinance. Those definitions follow:

*Adequate exercise or exercise:* The opportunity for the animal to move sufficiently to maintain normal muscle tone and mass for the age, species, size, and condition of the animal.

*Adequate shelter:* Provision of and access to shelter that is suitable for the species, age, condition, size and type of each animal; provides adequate space for each animal; is safe and protects each animal from injury, rain, sleet, snow, hail, direct sunlight, and the adverse effects of heat or cold, physical suffering, and impairment of health; is properly cleaned; enables each animal to be clean and dry, except when detrimental to the species; and for dogs and cats, provides a solid surface, resting platform, pad, floormat or similar devices that is large enough for the animal to lie on in a normal manner and can be maintained in a sanitary manner. Under this chapter, shelter whose wire grid, or slat floors which (i) permit the animals' feet to pass through the openings, (ii) sag under the animal's weight, or (iii) otherwise do not protect the animals' feet or toes from injury are not adequate shelter.

*Adequate space:* Sufficient space to allow each animal to (i) easily stand, sit, lie, turn about, and make all other normal body movements in a comfortable, normal position for the animal and (ii) interact safely with other animals in the enclosure. Birds must be provided with adequate perches appropriate to the species which allow the bird to stand completely upright without having any head contact with the ceiling of the cage and any tail contact with the floor or grate of the cage. Cages must be sufficient size to allow the bird to fully extend its wings. When freedom of movement would endanger the animal, temporarily and appropriately restricting movement of the animal according to professionally accepted standards for the species is considered provision of adequate space.

*Properly cleaned:* Carcasses, debris, food waste, excrement and standing water or liquid wastes are removed from the shelter or enclosure with sufficient frequency to minimize the animal's contact with the above-mentioned contaminants and keep the shelter or enclosure in a sanitary condition reasonably free of disease-causing agents and odors offensive to the public; and the shelter or enclosure is cleaned so as to prevent the animals confined therein from being directly or indirectly sprayed with any stream of water, or directly or indirectly exposed to hazardous chemicals or disinfectants.

*Properly lighted:* When referring to a facility, sufficient illumination to permit routine inspections, maintenance, cleaning, and housekeeping of the facility, and observation of the animals; to provide regular diurnal lighting cycles of either natural or artificial light, uniformly diffused throughout the facility; and to promote the well-being of the animals. When referring to a private residential dwelling and its surrounding grounds, properly lighted means sufficient illumination to permit routine maintenance and cleaning therefore, and observation of companion animals; and to provide regular diurnal lighting cycles of either natural or artificial light to promote the well-being of the animals.

Obviously, the impact on our ACOs will depend on how much of these requirements are incorporated into a High Point Ordinance and whether they will be seizing animals in violation or only enforcing through fines.

The cities of Archdale and Thomasville are interested in what the City of High Point adopts as they may follow our ordinance.

Our Police Department received 5,400 animal related calls per year and we currently have two animal control officers and are in the process of hiring another. All calls are handled by priority. Vicious animals are top priority. Calls received after 5:00 p.m. are placed in a queue and handled the next morning, except on weekends when all calls are handled on Monday morning when the ACO's return to work.

Chair Golden asked if we do put an ordinance into effect to require shelter for outside pets and the Police should receive a call about a dog outside in 20° weather, how do you determine if the owner placed it outside temporarily or if it stays out all the time. Or if it's someone visiting and the dog is outside.

Chief Shultz stated that if the Police Department receives a call they must investigate and follow up. They would monitor the situation, ask neighbors about the dog to determine if it is a pet temporarily outside or if it resides outside.

He also advised that this ordinance will target mainly low-income families. The City would need to partner with organizations to help provide housing for the dogs, much like the tethering ordinance where organizations helped with fencing where it was needed.

He suggested delay the implementing of the ordinance as for a period of time, mirror the implementation of the tethering ordinance, which allowed for the education of the public and allow pet owners to provide the adequate housing for their animals. Also provide links to organizations to provide support.

Mr. Bob Sloan with Project BARK spoke and stated that over the last seven years, the non-profit organization Project BARK has placed over 1,200 free doghouses in the Greensboro/High Point area and funded more than 5,000 spay/neuter surgeries for pets of owners in underserved High Point areas. They go door to door in neighborhoods, offering our free services simply to help companion animals who cannot speak for themselves.

Chair Golden stated that he would recommend a civil penalty or the same as the tethering ordinance and use the proposed ordinance that our City Attorney's office has submitted.

Chair Golden instructed staff to prepare the final draft of the ordinance amendment providing for shelter for animals for the Monday, March 5, 2018 City Council agenda to be voted on by the full Council.

There being no further business to be discussed, the meeting adjourned at 10:35 a.m.

Respectively submitted,

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Cynthia C. Duncan-Smith, Executive Assistant

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Jeffrey Golden, Chairman

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