



ANIMAL CONTROL BOARD MEETING
SEPTEMBER 12, 2018

AGENDA

CALL TO ORDER

ROLL CALL

APPROVAL OF MINUTES FROM JUNE 13, 2018

CONTINUE HOBBY BREEDERS/ZONING DISCUSSION (**KAREN CLARK**)

DISCUSS THE DOG TIE OUT LAW (**JEANNINE COLLETTI**)

NEW BUSINESS

PUBLIC PARTICIPATION

ADJOURN

VOLUSIA COUNTY ANIMAL CONTROL
ADVISORY BOARD MEETING
SEPTEMBER 12, 2018

PRESENT:

CATHY DRIGGERS
KAREN K. CLARK
JUDY MALONE
ROBERT BAIRD
DIANE FERGUSON
JEANNINE COLLETTI
ALEXANDER PENALTA

SERGIO PACHECO, VCAS DIRECTOR
MARK SWANSON, DEPUTY DIRECTOR, PUBLIC PROTECTION
DEE FERGUSON, VCAS FIELD SUPERVISOR
SHARI WILLIAMS, VCAS OFFICE MANAGER

The meeting was called to order. Pat Mihalic is absent and Nicholas Mongello has an excused absent.

Mr. Pacheco introduces Mr. Swanson to the Board Members.

Mrs. Driggers calls for approval of the minutes of the June 13, 2018 meeting.

Mrs. Colletti makes a motion to approve the minutes as submitted, Ms. Clark seconds it. The motion carried.

Karen Clark reviews the meeting with Zoning regarding Hobby Breeders.

Ms. Clark: It boiled down to, if the use is not listed as permitted, it's just not permitted. That's the main thing that came out of that meeting. We're trying to make it so it's not in Zoning, is that correct?

Mrs. Driggers: That's what we were looking for. We were going to take it out of Zoning so it's strictly in the Animal Control ordinance.

Ms. Clark: Because of all the requirements when you have more than "x" amount of pets that's allowed, you have to have certain stipulations, visits from Animal Control and all that. Which is all covered by Animal Control.

Mrs. Driggers: Is there any other feedback from those that were here during that meeting?

Mr. Pacheco: If any of you folks read the minutes from that meeting, there was a unanimous vote to meet with the County Attorney, Michael Rodriguez. Mr. Rodriguez explains the pros

and cons of taking it out of Zoning and putting it all in Animal Control. It was agreed a meeting should be scheduled with Cathy Driggers and Mr. Rodriguez and person from my staff, either myself, Dee Ferguson, or the new Director.

Ms. Clark: I just felt that you (Mrs. Driggers) would have been able to contribute 100% because I know you're in that line of business. The Hobby Breeder is pretty well spelled out. A lot of people are under the radar but they're usually very clean, there's no complaints in the neighborhoods. Volusia County is complaint driven.

Mrs. Driggers: The purpose behind all this was to simply make it easier for those that want to be legal, to be legal. They're doing this, and some of the restrictions within the Zoning, usually with small dogs, makes it difficult. The start of all of it was because we need to clean up the ordinance. When we went in to do some of the cleaning up, we ended up finding other things and made the decision to go and remove this from Zoning. While I still whole-heartedly do believe that it should be removed from Zoning, if we are not going to be able to get Zoning to be on board with us, then my recommendation is to at least to get the wording in the ordinance cleaned up. For instance one of the things, from the very beginning, has bothered me are two words that need to be cleaned up. Where it says "Only one species can be bred or kept on the property". "Or Kept" means I couldn't have a dog or a cat that wasn't in my breeding program. For me, I have one rescue cat, my Pomeranians that are in my breeding program, I have a Ridgeback that we show but is my husband's pet. She is not part of any breeding program that we have now or will have in the future. But according to this, I couldn't have my cat or the Ridgeback. It's ridiculous. We need to clean up these types of things. This was written in the eighties and it's time for it to be updated. We don't want ordinances that are up for interpretation, it should be black and white. It's not fair to the people to have laws that it depends on who's reading it. We need to do what's fair to the people of Volusia County. It has been too long, I really do regret not being able to make the meeting. As far as I'm concerned we need to move forward one way or the other. We need to make a decision on whether we want to continue this and pushing it with Zoning or just cleaning up the language.

Mrs. Colletti: I just have one question. Your husband's pet, is he or she fixed?

Mrs. Driggers: No. Not the one that's showing. The cat is, but I have an unaltered animal permit for the one that's showing. You can't show and have a fixed dog. It's not allowed.

Mrs. Clark: If everybody just takes a minute, on page three of their minutes, the second paragraph where Mr. Rodriguez speaks, and then my question afterwards. It's talking about the provisional permit. Take a minute and just read that. (Attachment #1).

Officer Ferguson: I have the County Ordinance in front of me. Under 14-56 (a) (5) it says personal pet exception: a combined total of no more than four dogs or cats may be kept as personal pets in addition to the animals permitted under this subsection, which is the Hobby Breeder ordinance.

All Board members view this ordinance

Officer Ferguson: We had discussed that we wanted to add that the pets that were permitted to be on your premises had to be spayed or neutered. That is a separate ordinance but we wanted to add it for the pets.

Mrs. Driggers: Under the mandatory spay and neuter they offer exemptions. What was your concern about the spay and neuter?

Mrs. Colletti: My concern was that it shouldn't have been an issue if the dog were fixed as far as reproducing. That would eliminate any problem.

Ms. Clark discusses Mr. Rodriguez's terminology at the last meeting.

Mrs. Driggers asks Mr. Penalta if he were present during the last meeting's discussion and what did he take away from that meeting as far as removing the Hobby Breeder from Zoning and keeping it with Animal Control.

Mrs. Driggers refreshes the members of past discussions on this topic: What we were trying to accomplish is to make this strictly Animal Control's issue where they go out for the inspection on whether they qualify as a Hobby Breeder. The reason the issue came up with Zoning is that we were talking about people that only have a few dogs, they want to breed these dogs, and they're small dogs. They don't need an acre of land to accomplish what they needed to do.

Mr. Penalta: What's the preference of the Hobby Breeders? To have Animal Control control this or Zoning?

Mrs. Driggers: Animal Control.

Mr. Penalta: I would go with Animal Control

Mrs. Driggers: Animal Control is the one that goes out there. Animal Control is, if they follow the rules that we already have existing for Hobby Breeders, then others could become legal.

Mr. Penalta: So because they send out an officer, they have eyes on the property, they can then make a judgement.

Mrs. Driggers: I have an acre, but let's say I only have $\frac{1}{4}$ acre. If my dogs were disruptive of the neighbors, there's already a rule for that. There's already a law for that. There's already a law for so many things. There's no reason that I shouldn't be able to have Pomeranians and breed them on my property of a $\frac{1}{4}$ acre. I don't need any more than that. Let's just say my breed were Ridgebacks that we were going to breed. A $\frac{1}{4}$ acre is not enough for those Ridgebacks for them to be healthy and run on that property. They need to be able to move, they need to build that muscle to be able to do what they're supposed to be able to do. We had discussed dividing the small and larger dogs. We came up with an agreement on that. So what we wanted to do is remove it from Zoning. The Animal Control Officer already goes out once a year to do the inspection. They go out in the very beginning to see if you qualify as a Hobby Breeder.

Mr. Penalta: I would agree provided the Animal Control Officer is not improperly influenced by any of these animal rights groups. It's happening to a lot of my clients that have bears and big cats, elephants, chimpanzees. What happens is you've got a heavy influence of HSUS and PETA. They're starting to train the officers and the older officers who have been there from a different generation already have an established relationship. The problem is when you get the newbie on board, who's wanting to make a name for themselves and who's been brainwashed and trained a certain way, then you give that person too much discretion and then you get that situation.

Mrs. Driggers: I agree, however we don't have control over all that or even know sometimes how they feel.

Mr. Penalta: You can by creating regulations that keep them with guidelines to follow that you can get the discipline if they try to become activists.

Mrs. Driggers: I agree with that.

Mr. Pacheco: Here's my concern. If you have a Hobby Breeder who's allowed to have 20 litters and they're zoned residential, that's where they problem may exist. Your neighbors.

Mrs. Driggers: They're not allowed to have 20 litters.

Mr. Pacheco: It becomes an issue with the neighbors, barking complaints, noise complaints. That's why I believe Zoning has taken control of that part of the ordinance.

Mr. Penalta: With all due respect, that can occur with one dog. It doesn't have to be multiple litters. In other words you don't have to trigger the Hobby Breeder to create a Zoning problem on a dog that's barking all the time. It can be done with one dog.

Mr. Pacheco: We do investigate barking complaints of one dog. If you have several dogs and they all start barking at the same time it becomes a bigger issue.

Mr. Penalta: The other problem is you have one dog in the neighborhood that causes another dog next door to bark.

Mrs. Driggers: It all comes back to following rules. As far as having so many dogs in a residential area, we weren't changing any of the numbers. I think you'll find that you're going to have less issues. Mrs. Driggers discusses a friend of hers who lives in Texas who breeds Pomeranians who doesn't get noise complaints.

Mrs. Driggers: You're probably going to find the responsible people that are going to be licensed are still going to be careful about how they're interrupting what's around them. Those people who don't care about it are going to be the people who won't bother to become legal. The people who are going to cause problems, are going to cause problems whether this is in

here or not. We're punishing the ones who want to be responsible and I think it's time we make some adjustments for that.

Ms. Clark: Mr. Rodriguez said at the meeting, on the Hobby Breeder application, it says "what's the Zoning classification for this address?" Is Hobby Breeder permitted or not? That's the extent of the Zoning analysis. The regulations for Hobby Breeder are not located in the Zoning code. Those are in Chapter 14 of the code which is the Animal Control provision of the code. Obviously Animal Control is in the Zoning section.

Mrs. Driggers: It is, and that's the part we want to remove.

Ms. Clark: Right. So Animal Control has jurisdiction over how Hobby Breeders are to operate. Zoning simply has control over where they can operate. If we have Hobby Breeders on their property that is not zoned for Hobby Breeding, it's not Animal Control that does the enforcement. It's code enforcement division. They can be a Hobby Breeder and be compliant in every single requirement of the Hobby Breeding code, but it's a code enforcement call. Code enforcement only examines the one thing: Are you permitted to be on this site? If you are not, you are in violation and you move forward. This is the distinction between the Zoning and Animal Control in regards to Hobby Breeding as it's currently listed.

Mrs. Driggers: When you apply to become a Hobby Breeder, it's listed. That's one of the top things on the list, is the Zoning. Which zones you're allowed to have in order to a Hobby Breeder. I think it boils down to how far do we want to go with this? If the Board feels strong enough that we want to move forward and see what can be done to remove that from Zoning, then we can push forward with it. It's going to take a little bit longer. If we just want to clean up the wording, one of the things was taking the requirement for a microchip scanner, to remove that. Which direction is the Board wanting to see us go?

Ms. Clark: Is it easier to clean it up and then go to do the Zoning thing? Or just go and fight Zoning?

Mrs. Driggers: In my opinion, it's kind of like opening up bylaws. You open up your can of worms, you might as well fix everything while you're in there. On the other side of it is, yes it would be easier to fix the wording. So if you change the language and fix those little things and do it separately, you can get one thing passed and then this one would be a separate issue that would be more difficult. If they go in and say no to all of it, then it's also no to the language.

Ms. Clark: We, the Board, went over a long time ago about the corrected verbiage, which you have in your records. If that's already done, how far is that going to be to go through? It's just sentences here and there you want to be explicit.

Mrs. Ferguson: What is your ultimate goal? You have to have an ultimate goal. We just keep tabling it.

Mrs. Driggers: Our goal is to make it easier for people that want to be legal and want to be licensed Hobby Breeders to be able to become licensed Hobby Breeders. From the beginning, that's been the goal.

Mrs. Ferguson: We need to do one thing at a time, and stick with that.

Ms. Clark: How about we clean up the language first, so if it does get accepted at least the language is cleaned up.

Mrs. Driggers: We've already done it, and it's already been approved. What I would like to do is take what we changed and compare it to what's current. It does look like there was some changes at some point in time.

Mr. Penalta: Who was behind the implementation of this language that's trying to control the Hobby Breeders?

Mrs. Driggers: In this particular situation, I brought it up when I become a Hobby Breeder 11 years ago. This was done in the eighties. This Board wrote it in the eighties.

Mr. Penalta: Who was behind that legislation?

Mrs. Driggers: It was too long ago.

Mrs. Driggers discusses her experience when she became a Hobby Breeder.

Mrs. Driggers: This is where it all got stirred up and because it hasn't been done since the eighties.

Mr. Penalta: It's important to know where you're going and how to get started. It's better to strike the language out completely then to have to modify it. It's important always to follow the history of what originated. Who brought the bill up? And what was their agenda?

Mrs. Driggers: The reason I say that back when that was started and when this was written, even back then, I do not believe that was the way they meant it.

Mr. Penalta discusses getting a lot of phones calls twenty years ago from AKC and different groups.

Mr. Penalta: Even though you think the people were good in trying to create that language, you also need to look further behind that and see what their agenda is.

Mrs. Driggers: I have no doubt somebody somewhere wanted to control something. It wouldn't exist. I don't know who gave it to the Board to write and to work on.

Ms. Clark: Zoning did say they can't do a thing. We have to go in as an Advisory Board to go to County Council and see if there's a resolution for amendments. The Council will then decide

and direct Zoning to actually act on it. If we have enough viable proof and something that's pre-written that they can look at, maybe that would finally be a start. Zoning says they can't do anything, this is the way it's written. You go to County Council as the Board and get it started.

Mrs. Driggers: Maybe that's where we need to go.

Mr. Penalta: Are we going to have a fall back in case Zoning steps in and takes control? Is that what you're doing? Or are you going to keep them out of it completely?

Mrs. Driggers: Yes, at this point.

Mr. Penalta: Don't give the government more power than they already have. Keep them out of it by striking language rather than trying to fix language as a fall back in case they do.

Mrs. Driggers: The language regarding Zoning. What we were trying to do is have more power going in by having Zoning and Animal Control going together. The question for the Board would be if Zoning isn't going in with us, do we want to still go in and try to make that change? So that we take Zoning out of it?

Mr. Penalta: If you don't want Zoning in it, keep them out because you'll just create another bureaucratic arm. Make it easier for the law-abiding to be law-abiding.

Mrs. Driggers: I would like to have that in writing and have that a motion.

Ms. Clark: Does Animal Control want to do this? Do you want to take that on?

Mr. Pacheco: You have to understand that will mean more work.

Ms. Clark: If you're already over-loaded with all the other things and this is just going to add to it.

Mr. Pacheco: Any changes to what's in our ordinances, just adds more work to our Animal Control officers. Let's face it, the people who are law-abiding citizens like yourself, you'll do the right thing. But you'll get people who will take advantage of certain things. It's up to the Board.

Mrs. Driggers discusses the types of people who will be applying for a Hobby Breeder license.

Mrs. Driggers: I just feel like zoning needs to be removed. As far as whether we do it all at the same time or not, I really don't have a preference. I would like the opinion of the Board.

The Board discusses options.

Motion made by Ms. Malone to follow through with the changes that have been made, the request to remove zoning, and take it to County Council.

Mr. Penalta seconds it.

Motion is voted on and carried.

Mrs. Driggers: Moving on to the dog tie-out law.

Mrs. Colletti: Flagler had a big article regarding a bill that Flagler has passed. No animal is to be tied out. I thought that was really encouraging for our area too. I think it's moving forward and I'd like to still pursue that along with where an animal is not property. They have established that. I think maybe we should pursue that.

Mrs. Driggers: You want to pursue the tie-out?

Mrs. Colletti: The tie-out and the wording of an animal being property.

Mrs. Driggers: That's going to be a long discussion.

Mrs. Colletti: It is, and you're very adamant about your feelings, and I respect that. My shoes are my property, my home is my property, an animal breathes, lives, feels, eats, gets hungry, gets cold, gets thirsty. It's not a property. It's a living being. It deserves to be treated as such.

Mrs. Ferguson: You're never going to win that one.

Mrs. Colletti: If you keep doing what you're doing, you're going to keep getting what you're getting.

Mrs. Driggers: I'm assuming you're going to address this as two separate issues.

Mrs. Colletti: Yes. I think the first issue would be the second one that I mentioned. Once they establish that, maybe it will be treated differently.

Mrs. Driggers: So what are you asking from the Board?

Mrs. Colletti: I'm asking to change, as Sergio brought up, it was wording. And what wording meant. I think that the word property needs to be changed pertaining to an animal.

Mrs. Ferguson discusses a situation with a horse she had.

Mrs. Ferguson: You're going to spend a lot of time and money, and I'm not saying I don't agree with you. It's just been that way.

Mrs. Colletti: You know what? A lot of things have been the way they've been. I'm not giving up. That's the bottom line.

Mrs. Driggers: I would recommend starting with the tie-out. Work on that one. That's something that you're probably going to be able to accomplish.

Mrs. Colletti: Again, I think the wording is not only unfair, it's ridiculous. I don't agree with the wording.

Mrs. Driggers: Do you have where the wording is that you're wanting to change?

Mrs. Colletti: Sergio had it.

Ms. Clark: It's Flagler County. If Flagler County made this law, no tie-outs, are we allowed to copy another county's verbiage?

Mr. Penalta: Why try to reinvent the wheel?

Ms. Clark: If it's passed, I would start at County Council. But I know there's certain steps you have to take here. If we can address the tie-out regulations in Flagler County and adopt them, do we go to County Council to request something that's already written?

Mrs. Driggers: You can't go to County Council as the Board unless the Board has all agreed or at least had a motion that passed.

Mr. Pacheco: Correct. You have to review what you're asking for and then put it into a motion. You get legal involved, it's an ordinance. Once you're putting or taking or adjusting an ordinance, it's a law. Ordinances are what we enforce on a daily basis. It's not a quick thing.

Ms. Clark: Luckily it's already gone through that whole step in Flagler so can something like that get fast tracked? Can we put this up for the December meeting? At least get the ball rolling on that as well since it's already written and gone through the legal in Flagler?

Mr. Swanson: It's got to go through the legal department in Volusia County.

Mr. Pacheco: Let me make something real clear. In order for you to write an ordinance similar to other counties or states, it has to not only be agreed upon here, but it has to go to legal. It's an ordinance. It's not a fast thing. Legal looks at it, they may take the same verbiage as other counties, at that time it goes in front of County Council. If they agree to it, it's put into our ordinance and we can enforce it.

Ms. Clark: What would I make as a motion to put this in motion to review an ordinance from Flagler regarding tie-outs so that by our next meeting at least one step was taken care of?

Discussion regarding the next step

Mrs. Driggers: Before making a motion, we need to see what it is. I've never seen the Flagler wording.

Ms. Clark: Can we have that available for our next meeting?

Mrs. Colletti: I'm going to contact Amy when I get home and ask her to send it to me.

Mr. Pacheco: As a suggestion, you may want to look into other surrounding counties and see what type of tie-out ordinances they have.

Ms. Malone: What is our ordinance as it stands?

Mr. Pacheco: People are allowed to tie their animals out as long as they provide food, water and shelter.

Mrs. Colletti: The word shelter leaves much to be desired. Putting a dog under a tree in the lightning capitol of the world is not shelter.

Mr. Penalta: The fast tracking is that you don't have to reinvent the wheel. But you still have to go through procedures. It makes it a lot easier if the language is there.

Ms. Clark: By the next meeting, get other county's tie-out laws that they have on the books and compare them. Can we have that by the next meeting? I don't mind making lots of phone calls.

Mr. Pacheco: I don't see why not.

Mrs. Colletti: I'll also ask Amy to send me a copy of everything. Even maybe if I can ask her if she would be available during that meeting to come here? Give her an invitation?

Mrs. Driggers: My suggestion would have everything emailed prior to the meeting so that we have a chance to go through it, and read them and study them prior to coming and having to make a decision at the meeting on something that we aren't familiar with.

Ms. Malone: I live in Daytona Beach. I can contact them and ask them for a copy of their tie-out ordinance, and Port Orange and South Daytona. I'd be glad to do it.

Mrs. Driggers: Absolutely.

Mr. Pacheco: You could email it to Shari (swilliams@volusia.org) and disperse it out to the Board.

Mr. Penalta: Is there anything that's going to be different in the language of the cities tie-out versus the county's tie-out that you're aware of?

Mr. Pacheco: Cities may have a few different things but not very much.

Mr. Penalta: It's still all about trying to protect the animals.

Mr. Pacheco: Exactly.

Ms. Clark: The Board would be the one gathering the information from across the state for tie-outs? It wouldn't be put on you?

Mr. Pacheco: You don't necessarily have to go around the state. Just central Florida would be fine.

Mr. Penalta: Probably the east coast would be the most relevant since we're dealing with different temperate climates.

Board members discuss different options of gathering information.

Ms. Clark: I'd like our group to gather the information in the central Florida, east coast, municipalities and the counties that surround us to get their law on the book about tie-outs of animals. We deal with dogs and cats. We can have it emailed prior to our next meeting?

Mrs. Driggers: We don't even need a motion. The motion will come at the next meeting.

Ms. Clark: I would like it to be on the next agenda for discussion. For discussion, not to make decisions, give ten minutes for discussion.

Mrs. Driggers calls for new business

Mr. Pacheco announces his retirement. He thanks the Board for all they have accomplished since he has been the Director. He states he is hopeful the new Director will continue to push for a stationary clinic on the west side of the County.

The Board thanks Sergio and wishes him a happy retirement.

Mr. Baird and Mr. Pacheco discuss the process of hiring a second veterinarian.

The Board discusses the job duties of a veterinary assistant.

Mrs. Driggers states she was planning to make an announcement of stepping down due to health issues she has had this year.

Mrs. Driggers: I have been encouraged to stick around. Things will be different in January? If we have a meeting in January, I would at least be willing to work out the term. As long as we are working on this topic, I'll do my best.

Discussion regarding the date of the next meeting.

Next meeting set for January 9, 2019 at 9:00am.

Meeting adjourned.