

Washoe County Animal Control Board

Minutes

Tuesday ~ June 14, 2016~ 2:00 P.M.

WASHOE COUNTY REGIONAL ANIMAL SERVICES CENTER

CLASSROOM

2825 LONGLEY LANE, RENO, NEVADA

MEMBERS

Richard Simmonds, Chair

Elaine Carrick, Vice-chair

Trudy Brussard

Linda Church

Paul B. Davis

Kathryn Hass

Tim Stoffel

1. CALL TO ORDER/ROLL CALL [Non-action item]

Chair Simmonds called the meeting to order at 2:00 p.m. A quorum was established.

Chair Simmonds outlined the time limitation for public comment noting that the appellant is sometimes allowed additional time to address board questions. Additionally, the board may not engage in discussion with the public except to seek clarification.

PRESENT: Trudy Brussard, Paul Davis, Linda Church, Kathryn Hass, Richard Simmonds and Tim Stoffel.

ABSENT: Elaine Carrick.

Jen Gustafson – Deputy District Attorney, was also present.

2. PUBLIC COMMENT (Non-action item)

Daniel Gray stated that he was here to oppose the possible abolishment of the ACB (Animal Control Board) as the current process allows the public to express their opposition or support in contested applications by an independent group of volunteers with zero cost.

Bill Maggiora noted that as a resident of Washoe County he had come to express his concerns about the abolishment of the ACB as he does not believe it is a good idea to allow Animal Services to issue and perhaps revoke permits without a reviewing body.

Chair Simmonds noted that agenda item 9 was an informational only update and that this body would not vote on any recommendation to the BCC (Board of County Commissioners).

3. APPROVAL OF MARCH 8, 2016, MINUTES [For possible action]

Hearing no public comment Chair Simmonds asked for Board discussion or a motion.

Member Stoffel asked that the second sentence, paragraph 5 on page two have the following phrase removed “there were no objections to this application”.

It was moved by Member Brussard, seconded by Member Church, to approve the March 8, 2016, minutes, as amended. The motion carried with Member Carrick absent.

5. KENNEL PERMIT APPEAL HEARING [For possible action] – *A review discussion and possible action to approve deny or otherwise modify a kennel permit to allow Sheila Laughton*

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to keep six (6) dogs at 14645 Rancheros Drive, Reno, Nevada (unincorporated Washoe County).

Robert A. Smith - Manager, Regional Animal Services, distributed a letter to the board (copy on file) noting that Sheila Laughton is a permit holder in good standing and had submitted a request to add one animal to the permit. Mr. Smith commented that the inspection did not reveal any issues and that the objections had been in response to a "form letter" that seemed to indicate that she was adding six (6) additional dogs. Those individuals responding to the form letter have since rescinded their opposition. Mr. Smith commented that there is no history of complaints. Mr. Smith explained that the kennel is of professional quality with concrete footings, dog houses, a nutrition system and shelter. The dogs are used for sledding as well as therapy. Mr. Smith pointed out that there were no comments about excessive noise listed in the officer's report.

Chair Simmonds opened the public hearing.

Sheila Laughton explained that she had the kennel license for the past 30-years and that there had never been an issue. Ms. Laughton noted that all the Siberian Huskies are AKC champions and used in sledding as well as charity work. Typically the dogs are all in the house at night and that she does not believe that the complaint is valid based on the officer's report that indicates which indicates there was no barking upon arrival. Ms. Laughton noted that the objector has a large family that that the dogs cannot be heard from their respective homes. Ms. Laughton commented that she walks the dogs near the sister's house almost daily and pointed out that while the dogs will howl from time to time between 10:00 a.m. and 2:00 p.m., her neighbors have not expressed any concerns. Therefore, she does not believe that the letter of objection is valid.

Chair Simmonds closed the public hearing.

Member Davis stated that he can support the request as he finds that she appears to take good care of the animals.

Member Stoffel commented that based on the information provided it is apparent that Ms. Laughton cares for the animals and that the neighbors are some distance away. Member Stoffel stated that he too can support the request.

Members Brussard, Hass and Church concurred with previous statements in support of the permit.

Chair Simmonds agreed as well.

It was moved by Member Davis, seconded by Member Stoffel, to approve the kennel permit to allow Sheila Laughton to keep six (6) dogs at 14645 Rancheros Drive, Reno, Nevada (unincorporated Washoe County). Member Davis stated he could make the factual findings required by Washoe County Code Chapter 55 based on the evidence provided by Animal Control Officers, the applicant and the other witnesses. The motion carried with Member Carrick absent.

Chari Simmonds read the appeal process into the record.

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6. **KENNEL PERMIT APPEAL HEARING** [For possible action] – *A review discussion and possible action to approve, deny to otherwise modify a kennel permit to allow Shannon Mallernee and Joshua Tornbom, to keep four (4) dogs at 686 Abbay Way, Sparks, Nevada (City of Sparks).*

Chair Simmonds opened the public hearing.

Robert A. Smith - Manager, Regional Animal Services, provided an overview of the request to keep four dogs. Mr. Smith outlined the calls for service that includes three instances of dog bites and animals at large. The report indicates that the animals appear to be well cared for and that the residence will be used as the kennel allowing the dogs' full access to the lower level. Mr. Smith suggested that the appellant be asked about the number of dog bites in a short time frame and how at large and biting issues will be addressed. Mr. Smith explained that when listed as a dog bite skin is broken and the dog is typically placed in quarantine. Mr. Smith explained that the property is fenced with a combination of stone and wood fencing and that the one instance of an animal at-large was due to a gate being left open. The bite incidents occurred on March 19, 2015, April 2015 and again in December 2015 and involved two different dogs.

Shannon Mallernee clarified that the first dog bite had occurred while walking the dogs and that another dog had been present. The other dog owner tried to intervene in the dog fight and was bitten. Ms. Mallernee noted that the dog in question had been abused and beaten by a previous owner and that she has unsuccessfully tried to rehome the dog several times only to have the dog returned. Ms. Mallernee noted that she does not believe she will be able to care for four dogs as well as four children once her baby is born. Ms. Mallernee commented that the dogs were no longer allowed outside without someone present.

Member Church noted that Ms. Mallernee needs to take corrective action before trying to rehome the dog if she is that aggressive.

Ms. Mallernee explained that she is trying to save enough money to have the dog trained before considering having her put to sleep. Ms. Mallernee noted that she intend to have the youngest male neutered in the near future.

Member Davis stated he could not support the kennel permit request given the danger of biting.

Member Church concurred.

Member Hass stated that she could not support the request given the potential for future dog biting incidents.

Member Brussard commented that this is a difficult situation and wondered if a trainer could evaluate the dog for retraining before making a final decision.

Member Stoffel concurred this is a difficult situation but the owner has shown a willingness to go to reasonable lengths to assure there are no future issues. However, given the history of Pitbull's and aggression he is not convinced the permit should be approved.

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Chair Simmonds explained that after two bites he does not believe that the dog should be put up for adoption and pointed out that if the permit is denied Ms. Mallernee has the option of which dog is to be removed. Chair Simmonds commented that while Hercules appears to be a good dog he will support denial of the permit.

It was moved by Member Hass, seconded by Member Church, to deny the kennel permit to allow Shannon Mallernee and Joshua Tornbom, to keep four (4) Pitbull's at 686 Abbay Way, Sparks, Nevada (City of Sparks). Member Hass stated that she could not make the factual findings required by Washoe County Code Chapter 55 based on the evidence provided by Animal Control Officers, the applicant and the other witnesses.

Chair Simmonds suggested that the motion be amended to deny a kennel permit for four dogs as there are only three (3) Pitbull's and one (1) Boxer mix.

Member Hass amended to motion to read deny the kennel permit to allow four (4) dogs rather than four (4) Pitbull's at 686 Abbay Way, Sparks, Nevada (City of Sparks). Member Church amended the second. The motion carried with Member Carrick absent.

Chair Simmonds read the appeal process into the record.

7. KENNEL PERMIT APPEAL HEARING [For possible action] – – *A review discussion and possible action to approve, deny to otherwise modify a kennel permit to allow Adam Polson, to keep seven (7) dogs at 1596 Reno View Drive, Reno, Nevada (City of Reno).*

Chair Simmonds opened the public hearing.

Robert A. Smith - Manager, Regional Animal Services, provided an overview of the request and outlined the multiple issues encountered including tethering of the animals which violates state law, failure to respond to various complaints and citations going to a collection agency. Mr. Smith outlined the history dating back to 2006 for complaints of at-large, 2007 impound of animal and citation for at-large, 2008 warning about at-large and citation in 2008 for at-large that resulted in a finding of not guilty. In 2010 an at-large animal was struck by a vehicle; citation for failure to appear in 2001 as well as another at-large. In 2014 two at-large complaints with civil penalties that were sent to collection. In 2015 a citation for failure to license and a civil penalty for failure to comply with vaccination requirements and another penalty for at-large that also went to collections. Mr. Smith stated that Animal Services could not support the request. Mr. Smith noted that while Animal Services is aware of the reduction in the number of dogs, it is unclear which ones were removed from the property.

Adam Polson noted that he had had the dogs since 1999 and pointed out that a Husky mix can easily jump a fence. Mr. Polson commented that one of the dogs had broken her collar and got out of the yard. Mr. Polson noted that his home had been broken into and that the dogs were generally kept inside with him when he is home. Mr. Polson believes that the number of incidents had declined significantly and that one of the dogs has been diagnosed with cancer and is not expected to survive much longer. Mr. Polson noted that a neighbor had threatened to shoot one of his dogs and that his fence had been kicked in. On the day of inspection the snow had recently melted making it nearly impossible to clean all the feces from the yard. Mr. Polson noted that he is in a financial bind and that his intent is to move to a more rural area in Washoe County where he can keep more than three (3)

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dogs and allow them to roam. Mr. Polson then noted that when he is working Jonathan or another friend typically come to take care of the animals. Although he attempted to file reports on the fence damage and threats, the police and/or Animal Services had not responded.

Member Church noted that Mr. Polson had not had all animals spayed/neutered and that she does not find him to be a responsible pet owner.

Tyler Polson spoke in favor of the kennel permit noting that his uncle has owned dogs for many years and loves them a lot. Mr. Polson noted that he has observed how his uncle cares for the animals and that they are able to easily jump the fence.

Chair Simmonds closed the public hearing.

Member Hass commented that she cannot support the request give the history of dogs at-large and other issues.

Member Church stated she could not support the request.

Member Brussard explained that based on the evidence presented she cannot support the request.

Member Stoffel stated that he could not support the request.

Member Davis explained that the preponderance of evidence will not allow him to support the request.

It was moved by Member Stoffel, seconded by Member Hass, to deny the kennel permit to allow Adam Polson, to keep seven (7) dogs at 1596 Reno View Drive, Reno, Nevada (City of Reno). Member Stoffel stated that he could not make the factual findings required by Washoe County Code Chapter 55 based on the evidence provided by Animal Control Officers, the applicant and the other witnesses. The motion carried with Member Carrick absent.

Chair Simmonds read the appeal process into the record.

8. UNCONTESTED KENNEL PERMIT APPLICATION APPROVALS [Non-action item] – *An informational update on the number of uncontested cattery/kennel permits issued by Animal Services.*

Robert A. Smith - Manager, Regional Animal Services, commented that four uncontested kennel permit had been issued and that here is one pending permit that is in process.

9. UPDATE ON BOARD OF COUNTY COMMISSIONER'S DIRECTION REGARDING THE ANIMAL CONTROL BOARD [Non-action item] - *An update from the Director of Regional Animal Services on the Board of County Commissioner's ("BCC") direction (April 12, 2016 BCC meeting) for Animal Services' staff to begin to research: (a) the continued value of the Animal Control Board ("ACB"), (b) whether legal limit and exotics permits can be determined via an alternate method, and if so, (c) whether the ACB should be disbanded.*

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Shyanne Schull – Director, Washoe County Regional Animal Services, provided an overview of the BCC's (Board of County Commissioners') request relative to the function of this body. Over the past three (3) years a total of 48 kennel, cattery and exotic animal permits have been heard with an average meeting length of 1.5 hours. Animal Services staff was directed to evaluate this board and determine whether it the board should be disbanded. Ms. Schull also noted that Chapter 55 that this board is tied too is being revised and should be brought to the BCC later this year. Ms. Schull expressed her appreciation for the work the board has done and will provide periodic updates as the process moves forward.

Responding to Member Davis' inquiry about whether there was a desire to disband the ACB (Animal Control Board) by the BCC, Ms. Schull explained that this is part of the ongoing process improvement to identify ways to further streamline the function of the department as Washoe County Code Chapter 55 is revised.

In response to Chair Simmonds question about input from the ACB, Ms. Schull noted that members were welcome to provide input directly to her or at the BCC meetings. Ms. Schull noted that this is the process for cattery, exotic animal and kennel permits.

10. WASHOE COUNTY ANIMAL CONTROL BOARD MEMBERS AND/OR STAFF ANNOUNCEMENTS, REQUESTS FOR INFORMATION AND SELECTION OF TOPICS FOR FUTURE AGENDAS [Non-action item] – *Limited to items not addressed elsewhere on the agenda. The Washoe County Animal Control Board may not engage in discussion or take action on any item identified under this topic and items may be placed on a future agenda for discussion and possible action. The next regular meeting of the Washoe County Animal Control Board is scheduled for September 13, 2016.*

No new agenda items were identified.

11. PUBLIC COMMENT [Non-action item]

Ardena Perry read the following statement into the record (copy on file).

"1) Anytime government issues or grants a permit, the permit cannot thereafter be revoked or non-renewed by the government without providing the permit holder (the permittee) the opportunity for a hearing.

2) A permit/license represents a property interest (or property right) to use a permittee's residential or business property for a specific use that -once granted- cannot be arbitrarily revoked or non-renewed by the government without first giving the permittee an opportunity to be heard. This is referred to as "Procedural Due Process".

3) Procedural due process only entitles a permittee to a hearing before the permit is actually revoked or not renewed. This hearing can be conducted by either the issuing agency/department or by a separate governmental board or agency.

4) Procedural due process does not require the government to provide an additional appeal process to a different governmental board/commission/department once the original hearing is concluded.

5) Procedural due process is satisfied once a hearing is provided. In this instance, an opportunity to appeal to a Court of competent jurisdiction is all that is required.

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WCRAS has to have a process in place (With articulate standards) for which a permit is considered and either approved or denied. The same holds true for the revocation or renewal of a permit.

Bobby can be the point person for the application, renewal and revocation of those permits.

Bobby cannot be the sole, unilateral decision maker to review his decisions. If WCRAS wants to set up a separate hearing process for someone to contest Bobby's decision, then WCRAS can do so.

However, the hearing process must involve someone other than Bobby. Typically, it is the Department Head who will hear the appeal, with deference being made to Bobby's original decision. In other words, the party contesting Bobby's decision will have to show why Bobby's decision was either wrong or was "arbitrary and capricious"

Small animal related business are operated out of homes, legally approved, by the jurisdiction where they have the business license, I believe this could get into property rights and the "takings clause" Much like a pet store, you cannot just destroy a business because you don't approve of it. Firm articulated, written & codified, straight across the board standards for approval or denial. I use the term codified because if it is to be included as a change to WC 55, which it is, then it has to go before the BCC. The denial of renewal of an existing permit is the same as revocation. This process allows the applicant to know the standards and be in compliance before doing the paperwork. I would ask why is WCRAS afraid to have oversight from trained professional volunteers, that should be welcomed. The removal of the ACB would place the work now done by volunteers, back on paid staff, there is zero cost benefit. WCRAS is understaffed, and yet the agency creates more work for themselves while not meeting contractual obligations. Shyanne's extreme dependence on Bobby would prohibit her from making an independent decision on appeal."

Barry O'Day, owner of On Command Boarding, Grooming Training and Daycare, expressed his concern about disbanding the ACB (Animal Control Board) and likened it to a police officer who issues a ticket and also serving as the judge. Mr. O'Day believes that the ACB provides an opportunity to have a fair and proper evaluation of a permit application that may be lost if done by Animal Services staff.

12. ADJOURNMENT [Non-action item]

Chair Simmonds adjourned the meeting at 3:11 p.m.

AS APPROVED BY THE WASHOE COUNTY ANIMAL CONTROL BOARD IN SESSION ON SEPTEMBER 20, 2016.