

CUMBERLAND COUNTY POLICY COMMITTEE
NEW COURTHOUSE, 117 DICK STREET, 5TH FLOOR, ROOM 564
OCTOBER 1, 2009 – 9:30 AM
MNUTES

MEMBERS PRESENT: Commissioner Marshall Faircloth
Commissioner Kenneth Edge
OTHERS PRESENT: James Martin, County Manager
Juanita Pilgrim, Deputy County Manager
Harvey Raynor, Interim County Attorney
Scotty Harris, Animal Services Director
Sally Shutt, Communications Manager
Candice H. White, Deputy Clerk
Press
ABSENT: Commissioner Billy R. King, Chairman

Commissioner Faircloth, Acting Chairman, called the meeting to order.

1. Approval of Minutes: September 3, 2009 Meeting

MOTION: Commissioner Edge moved to approve.
SECOND: Commissioner Faircloth
VOTE: UNANIMOUS

2. Consider Amendment to Animal Services Ordinance – Article III – Dangerous Dogs/Potentially Dangerous Dogs

Harvey Raynor, Interim County Attorney, and Scotty Harris, Animal Services Director, provided information regarding a recent encounter by the Animal Services Department with a dangerous or potentially dangerous dog situation in which the dog owner refused to give up the dog. Mr. Raynor explained under the current Animal Services ordinance, there are only civil penalties. Mr. Raynor further explained under the General Provisions of the Code of Ordinances, it states should there be an ordinance without a specific penalty, it is either a continuing civil penalty or a Class III criminal misdemeanor punishable by a fine of not more than \$50.00 or by imprisonment for not more than thirty days. Mr. Raynor stated the problems encountered with civil offenses are that although officers can obtain administrative warrants, there is no arrest power and nothing can be seized. Mr. Raynor further stated once the dog owner objected to the dog being seized, it was clear that effected sections of the Animal Services ordinance had no teeth. Mr. Raynor noted the Animal Services ordinance was last amended in 2007 and will undergo further review for other areas that may need to be addressed.

Mr. Raynor advised the recommendation to the Board of Commissioners is for an amendment to Chapter 3, Animals of the County of Cumberland, Section 2-98, Penalties for Violations, to add language that states “any violation of this chapter shall also subject the offender to a Class 3 criminal misdemeanor and a maximum punishment of thirty days or less, imprisonment or a fine of \$50 or less”. Mr. Raynor further advised the recommendation is authorized by Cumberland County ordinance and North Carolina law. Mr. Raynor stated criminalizing the Animal Services ordinance would accomplish several things: 1) law enforcement would be able to arrest dog owners who refuse to surrender dogs which have been declared by the Animal Services Director to be potentially dangerous, dangerous or vicious; 2) criminal search warrants could be used to seize the dogs, and 3) records of ongoing criminal investigations would be exempt from the public records law.

Mr. Raynor and Mr. Harris responded to brief questioning. Mr. Raynor clarified the officer responding to this particular situation could have charged the owner with resistance, obstruction and delay, but while he could have arrested the owner he still could not have seized the dog without a court order. Mr. Raynor also spoke to the process involved with filing a civil suit, which would be too lengthy when dealing with dangerous or potentially dangerous dog situations. Mr. Raynor advised the amendment to the Animal Services ordinance will empower an officer to take a dog into custody pending a hearing before the Animal Services Board.

In response to questions posed by Commissioner Edge, Mr. Harris confirmed dog owners are required to have a personal liability policy in the amount of \$100,000 and explained what would be required under the ordinance for a dog that had been seized to be returned to an owner.

Discussion followed regarding placement of the amendment to the Animal Services ordinance on the Board of Commissioners’ agenda. Mr. Raynor noted Mr. Harris had reviewed multiple county ordinances, all of which contained criminal penalties, and stated it is unusual for an Animal Services ordinance to contain only civil penalties.

MOTION: Commissioner Edge moved for the Policy Committee to recommend to the full Board the changes as proposed.
SECOND: Commissioner Faircloth
VOTE: Unanimous

Commissioner Faircloth recognized members of the public who expressed their concerns regarding issues associated with dangerous or potentially serious dog situations.

3. Other Matters of Concern

There were no other matters of business.

MEETING ADJOURNED: 10:00 AM.