

Minutes of the Veneta City Council Work Session May 11, 2015

Present: Sandra Larson, Tim Brooker, Thomas Cotter, Victoria Hedenstrom, Thomas Laing

Others: Ric Ingham, City Administrator; Kay Bork, Community Services Director; Kyle Schauer, Public Works Director; Teresa Warrick, Code Enforcement; Carrie Connelly, Legal Counsel; Darci Henneman, City Recorder; Sgt. Billy Halvorson, LCSO; and Joan Mariner, Fern Ridge Review

1. CALL TO ORDER

Mayor Larson called the Veneta City Council work session to order at 6:05 p.m.

2. REVIEW VENETA MUNICIPAL CODE – DANGEROUS ANIMAL BEHAVIOR

Teresa Warrick, Code Enforcement reviewed her power point presentation and the City's current code.

Victoria Hedenstrom said Marion County's animal control code targets a person whereas Creswell and Lane County involve other animals and livestock.

In response to a question, Warrick said Marion County dangerous animal code appears to address attacks towards humans but other classifications are used for animal nuisances.

Victoria Hedenstrom said she felt that is where our code is hung up is that we're oriented toward harm to a person. She felt we should consider that.

Ingham asked if the Council had any questions about how other agency systems address the tiers or levels.

Victoria Hedenstrom said she preferred using the level system because it seemed easier to understand.

In response to a question from Mayor Larson, Sgt. Halvorson said a class system parallels state statutes where a felony violation is more serious.

Ms. Connelly said it may be related to trying to keep it out of a felony level. At a city level, we wouldn't want to have to provide a court appointed counsel or a jury trial if someone is being charged with one of these so instead of saying class, that implies state levels or state crimes. She said they want to non-criminalize it but still indicate that they are graduated. She said if she were advising the Council she would suggested we get away from the class system so we can differentiate between the levels and fine amounts.

In response to a question from Thomas Cotter, Ingham said we're not getting away from the level but "class A or B violation" system has a direct correlation back to state law. He said all of our violations are within Veneta Municipal Code (VMC) and are non-imprisonment offenses none of our citations are at that state level of Class A, B, or C. He said by moving away from classes, we would avoid the confusion with state law. He said we can keep the tiered system but avoiding a class level is a simpler process. He said the City of Creswell kept their code at the level system 1, 2, and 3, and got away from the class system.

In response to a question from Thomas Cotter, Ms. Connelly said by keeping the fine at no possible imprisonment for the owner/keeper, and doesn't relate to impounding the dog, and the fine under \$1000 a day, we keep it as non-criminal violations.

In response to a question from Mayor Larson, Ms. Connelly said if the owner were to use a dog as a weapon, the Council may want the matter to be written into Lane County Circuit Court. She said if someone were killed, the Council would rely on state law.

In response to a question from Victoria Hedenstrom, Ingham said all violations against VMC do not allow us to impose a prison sentence.

In response to a question from Tim Brooker, Warrick said current code doesn't impose restrictions once the quarantine period is over.

In response to a question from Thomas Laing, Warrick said if a dog is quarantined outdoors, it must be contained and secured; either on a leash in the backyard or placed in a secure enclosure. If quarantined in the home, it must be in a crate in another room and cannot be around other dogs, other than other pets in the home.

In response to a question from Tim Brooker, Warrick said the 10 day quarantine is to check for rabies and is enforced even if the dog has been vaccinated.

In response to a question from Thomas Cotter, Warrick said currently Veneta does not take any other action after the quarantine period is up. She said current code allows a quarantined dog can be walked on a leash after the quarantine period is up.

In response to a question from Mayor Larson, Warrick said currently Veneta code does not have any pre-court restrictions after the 10 day quarantine period is completed. She said the dog and owner must be found guilty before the court can impose any restrictions.

Ingham said Ms. Connelly did some research and found that Heppner County has language that addresses the time period between the incident and the trial, but it mainly outlines how does the animal control officer get the dog out of city limits.

Ms. Connelly said she was trying to find some support for what she anticipated that is the desire to impound the dog or impose penalties. She said this is all about deprivation – impounding the dog.

Thomas Cotter said restrictions could mean that if the dog were allowed outside, it would be required to wear a muzzle or we could require the dog and owner attend an obedience class either before or during that interim time. He suggested Veneta's code should be educational as well as punitive and he doesn't think that's an unreasonable request.

Ms. Connelly said the tension in the code is that a determination has to be made that the dog is "dangerous" or vicious". She said the Judge would have to issue some kind of warrant but that doesn't mean the person has to be cited into court but the dog's behavior needs to be witnessed by someone and sworn to the Judge. At that point, the City could deem the dog vicious and then the City could act on the Judge's determination before the owner was brought to court and provide post restriction appeal route. For example, we could say here's the notice to comply with and these are the things you need to do, if you refuse, you have a period of time to come before the Judge and challenge that determination. She said there's a pre restriction determination and a post opportunity to protest.

Victoria Hedenstrom suggested using the term "potentially vicious". She felt "vicious" assumes the dog is guilty and she would use the term "precautionary behaviors" need to be witnessed. She said she is concerned with a Judge identifying a vicious dog without a hearing.

Ms. Connelly said it's totally the Council's choice. She said clearly you don't need to impose any restrictions until a court hearing. She said if you use "potentially vicious" then the types of restrictions

imposed would be much lesser than a finding of a vicious animal and then we go back to the tiered approach.

Ingham said they almost become two separate issues. He said just because the Judge has issued a warrant or pre-trial restriction on the dog, doesn't mean a determination of guilt or violation has been found against the owner.

Ms. Connelly said you wouldn't have a finding from a Judge of potentially vicious with a citation for viciousness. She said we wouldn't aggravate the dog's behavior. She said the code enforcement officer would have to choose. She said we'll figure which behavior falls under what category. She said we can call it potentially vicious but it will never bump it up to the next level.

Tim Brooker said we can say a dog had demonstrated some vicious potential to be determined at court but until the court date, specific restrictions will apply. He said potential hasn't been proven.

In response to a question from Mayor Larson, Ms. Connelly said the citation would be potential vicious or vicious so there would be different categories

Ingham said we need to also keep in mind that many cities have court more than once a month. He said if a dog owner pleads not guilty and has a trial and then appeals the Municipal Court Judge's decision, then when is he available to continue. He said the matter is drawn out for several months.

In response to questions from Thomas Cotter, Ms. Connelly said the victim could be the witness. She said City of Springfield code states that the animal control officer, an officer of the city, an employee of the City, or a person who witnesses the bad behavior all can be a basis for the Judge to make a determination but that language has to be in the code prior to trial. She said she is under the impression that our Judge is still available to receive an emailed affidavit for probable cause and not be required to wait until the next court date.

In response to a question from Mayor Larson, Warrick said the only way any restrictions can be imposed by our Judge between the incident and the trial is if the dog is impounded but we don't have a place to hold it and in that situation, the dog would be transported to First Avenue Shelter in Eugene.

In response to a question from Victoria Hedenstrom, Warrick said the City contracts with First Avenue to provide quarantine and impound services.

In response to a question from Thomas Laing, Warrick said "dog at large" is defined by state law and refers to any dog off of its owner's property, not on a leash, (or in a designated dog park or field trials) and on City property or in any public right of way.

In response to a question from Victoria Hedenstrom, Warrick said a "level three" offense is considered a serious injury or death to a human and if the owner has more than one dog, the animal must be identified.

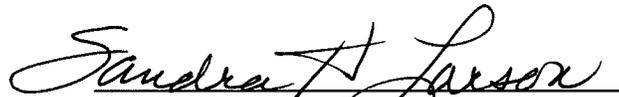
In response to a question from Thomas Laing, Ms. Connelly said the Council chooses the range of restrictions (which could include a pre-court process) to enforce and based on the facts, she suggested the Council pick the ones that are the most appropriate to be adopted by ordinance.

In response to a question from Tim Brooker, Ms. Connelly said we would have a list of code violations to impose and the Judge would determine, after the hearing, if those restrictions were violated. She said we really don't need pre and post-trial restrictions. It could be one continuous line of violations or a range of restrictions to apply in either case but this process would take place during the quarantine period.

3. OTHER
None

4. ADJOURN

Mayor Larson adjourned the Veneta City Council at 6:50 p.m.


Sandra H. Larson, Mayor

ATTEST:


Darci Henneman, City Recorder
(Minutes prepared by DHenneman)