



## City Council Minutes – January 9, 2012

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At 7:00 p.m. Mayor Dean Maxwell called the regularly scheduled Anacortes City Council study session of January 9, 2012 to order. Roll call found present: Eric Johnson, Ryan Walters, Erica Pickett, Brad Adams, Bill Turner, Cynthia Richardson and Brian Geer.

### **Amendment to AMC Chapter 6.32 and 6.38 (Title 6 – Animals)**

Assistant Planning Director Don Measamer presented a draft ordinance to revise Title 6 of the Anacortes Municipal Code regulating animals. He explained that in the past year staff had received complaints about a number of repeat violations of the barking dog section and found that the fines for violation are so low that they do not serve as a deterrent. Mr. Measamer reviewed the proposed increases in penalties: Revised AMC 6.32.050 would increase the civil penalties for violations from \$20 to \$150 for the first violation, from \$50 to \$250 for a second violation the same year, and from \$100 to \$250 plus a misdemeanor for any subsequent violations in the same year. Revised AMC 6.36.220 would increase the civil penalty fee for impoundment of potentially dangerous dogs from \$10 per day to \$20 per day, consistent with state guidelines, to cover the cost of impoundment. Mr. Measamer then described two proposed new sections, AMC 6.32.080 addressing habitual violators and AMC 6.32.090 addressing the appeal process. Mr. Measamer said staff was also asked to clarify AMC 6.38.040(l) which allowed some transport of exotic animals through the city. He said the proposed language defines “transport” to be uninterrupted transport through the city. He clarified that educational programs involving exotic animals continue to be exempt. Mr. Measamer concluded that the proposed ordinance aims to reduce complaints and repeat offenses and the considerable associated staff time and costs for enforcement. He advised that both City Attorney Brad Furlong and City Prosecutor Craig Cammock had reviewed the draft ordinance and felt it would work fine. Mr. Measamer said staff planned to bring the ordinance back to Council for action at the January 17, 2012 regular meeting. He pointed out that all the proposed language was highlighted in yellow on the draft ordinance in the Council packet and then read the language for the Council and audience.

Mrs. Pickett asked if overnight visitors traveling with an exotic animal could still do so. Mr. Measamer said yes, as long as the animal remains safely enclosed in the vehicle it is being transported in as part of the continuous trip.

Mrs. Richardson confirmed that the animal control officer typically works with offenders to resolve problems before issuing a citation but said the civil penalty wording applies to the entire chapter so that someone with a dangerous dog is treated the same as someone whose dog runs at large. She was uncomfortable with the same penalties applying to such a range of offenses. Chief Bowers clarified that the new fines apply to civil penalties whereas a dangerous dog is a criminal offense. She added that the patrol officers and the Animal Control Officer write very few citations, usually under half a dozen a year, for barking dogs. Mrs. Richardson asked if staff felt a higher penalty would reduce repeat offenses. Chief Bowers said yes. Mayor Maxwell stressed that the Police Department tries to get all animals back to their owners if possible rather than impounding them. Mr. Geer said he felt a lot of the proposed changes make sense but asked why \$150 was proposed for a first offense. Chief Bowers said it was modeled on the City of Mount Vernon code and that Mr. Cammock suggested it after speaking with the prosecutor in Mt. Vernon. Mr. Geer asked if anyone had ever requested a jury trial under this Chapter. Chief Bowers said yes but a jury trial was too expensive to prosecute. Mr. Johnson observed that based on the CPI since the current fees were set in 1978 the \$20 fee would be up to \$58 by now. He asked if higher fines wouldn't give offenders more incentive to request a jury trial. Mayor Maxwell said under the proposed revisions the remedy for repeat offenses would no longer be a jury trial but rather a series of increasing fines. Mr. Walters asked where the jury trial comes in. Chief Bowers said that after a number of repeat civil offenses it becomes a criminal offense which is entitled to jury trial and that the draft ordinance changes the violations to post-and-forfeit which is heard in front of a judge only. Mr. Turner said the proposals are reasonable but he would prefer a fine of \$100 rather than \$150 for the first offense. Mayor Maxwell polled the other councilmembers and they all preferred \$100 rather than \$150 for a first offense. Mrs. Pickett asked what happens if an offender doesn't pay the \$250 fine. Chief Bowers said then the City has civil remedies to collect. Mr. Adams asked if the few citations issued each year under this Chapter are

issued to repeat offenders. Chief Bowers said yes. Mr. Adams asked her to confirm that a citation is not typically the department's first contact with an offender. Chief Bowers said that the Animal Control Officer tries repeatedly to work with the pet owner to resolve the issue first.

Mr. Turner said based on comments from constituents he would like to discuss licensing cats and cats running loose. Chief Bowers said she would prepare information on that topic and circulate it to Council.

Mrs. Richardson returned to AMC 6.32.050, Civil Penalty, which state fines are "in addition to the billable costs to the city." She asked if the billable costs are boarding costs and suggested that the language be amended to add, "such as animal boarding costs." Mayor Maxwell said billable costs can also include veterinary expenses. Mr. Geer asked that the language not limit the billable expenses, only give examples of them.

Mr. Walters asked if the police issue civil infractions to violators. Chief Bowers said the Animal Control Officer issues civil infractions and has a limited commission to issue criminal citations. Mr. Walters said civil penalties require going to court to get a judgment and asked if civil infractions are not working. Chief Bowers said currently repeat civil infractions progress to criminal misdemeanor which can go to jury trial whereas the revised language makes it a civil penalty which is essentially a bench trial.

Mrs. Richardson asked about AMC 6.36.220 which addresses dangerous and potentially dangerous dogs which are not currently licensed and asked what happens with dangerous dogs that *are* licensed. Chief Bowers said that a dangerous dog that is licensed is released to the owner once the impound fees are paid and the dog is quarantined at home whereas if it is not licensed the dog is impounded and must be licensed and quarantined or proved to be vaccinated before it is released. Mr. Johnson suggested that dangerous dogs be required to have microchips implanted for future positive identification. Chief Bowers said that was an interesting idea she would discuss with the Animal Control Officer.

Mr. Walters asked that when ordinances are presented to modify existing code he would prefer that the changes be indicated with underlining and strikethrough rather than highlighting. Mrs. Pickett agreed. Mayor Maxwell said a draft would come back to Council in that manner after this initial review for feedback. Mr. Walters suggested that the Word Track Changes and Comments features have also been helpful in explaining revisions to a document. Mr. Walters asked that the "nuisance" addressed by Title 6 be better defined and asked if kennels are exempted from this section of the code. The mayor said there is a separate kennel ordinance and it is not at issue. Mr. Walters suggested some revisions for the habitual violator language in proposed AMC 6.32.080. Mayor Maxwell asked Mr. Walters to send his proposed language to Mr. Measamer for the next draft. Mrs. Pickett asked him to copy rest of the Council. Mr. Walters said the animal control section of the City website says that three or more neighbors have to sign a complaint and agree to appear in court and asked if that is still the case. Chief Bowers said yes, for a nuisance dog. Mr. Walters asked if that is in the code or just standard practice. Chief Bowers said she would review the code but that nuisance can result from multiple complaints from multiple people, or one person with three neighbors signing. Mr. Geer suggested remanding the draft ordinance to committee for further revisions and then bringing it back to a future study session. The mayor and Chief Bowers agreed. Mr. Turner said he would prefer to see all the proposed changes on paper for a more productive discussion.

Mrs. Richardson asked about the sentence in proposed AMC 6.32.090 – Complaints – Adjudication of Grievances that requires the appellant to pay the costs of the hearing and filing fee and asked if it is normal for a defendant to pay such costs. Mayor Maxwell said the City Prosecutor would look at the language. Mr. Measamer added that the habitual violator and appeal process sections were added at the suggestion of Mr. Cammock based on Mt. Vernon's municipal code. Mr. Measamer said he would revise the draft ordinance based on the input from councilmembers and take a revised draft to the Public Safety Committee for review, then bring it back to a future study session.

#### **Alternative to Jail City Work Crew Update**

Police Chief Bonnie Bowers provided an update on the Alternative to Jail work program. She reviewed the exponential rise in jail costs in recent years but said in 2011 the costs diminished due to mitigating

inmate medical costs and to the new work program. Chief Bowers said Skagit County has a work program but they charge cities to participate in it and it has an unacceptable time delay between sentencing and service. Following a challenge from the mayor last year, Anacortes set up its own program so offenders could work off their sentences within two weeks of sentencing. The program began in August 2011 as a collaboration between the Police Department, the Municipal Court, the Parks and Recreation Department, the Public Works Department and the Library. The Chief explained that offenders eligible for the program are those sentenced to ten days or less of jail time for misdemeanor or gross misdemeanor offenses. She said the Police Department screens out registered sex offenders, offenders with a history of violent felonies, and offenders enrolled in drug or alcohol rehabilitation and also those with medical conditions. The list of screened workers is then sent to Washington Park Manager Bob Vaux who assigns them.

Mr. Vaux said Public Works Operations Manager Sandi Andersen and Parks and Forestlands Manager Jonn Lunsford have provided most of the work positions but that the library is now participating as well. Mr. Vaux said the benefits of the work program have not only been economic. He described the teamwork among city departments, the respect with which offenders and staff have treated each other, and the positive outcomes for many of the offenders. Mr. Vaux concluded that the program is working very well and appreciated the vision to create the program.

Chief Bowers said the program runs two weeks out of each month so offenders can complete their entire sentence in a month. She said at the end of 2011 29 workers had completed the program and only four were non-compliant; those four offenders end up serving jail time instead. During the first four months of the program the City received 71 days of work which the courts value at \$15/hour for a \$5,000 value of labor and a \$6,000 savings in jail costs. The Chief said she was proud of the program, proud of the teamwork, and proud of the offenders.

Mr. Adams asked if work program participants spend any nights in jail. Chief Bowers said they don't spend any time in jail unless they don't successfully complete their work assignment. Mr. Adams asked how the work program differs from community service. Mr. Vaux said there is a dramatic difference and that work program participants are very highly motivated and much more likely to complete their sentences. Chief Bowers explained that community service is usually assigned in lieu of paying a fine whereas the work program is in lieu of jail time. Mayor Maxwell said the work program was great program and that he was proud of staff for making it work.

There being no further business, at approximately 7:50 p.m. the regularly scheduled Anacortes City Council study session of January 9, 2012 adjourned.