

MINUTES
SPECIAL CITY COUNCIL MEETING/ROUNDTABLE
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA
February 1, 2011
4:00 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

Councilmembers Present: Stuart, Mendoza, Beeson, Brooks, Johnson and Mayor Krieger
Councilmembers Absent: McClendon
Staffmembers Present: City Administrator, Gregory K. Wilkinson
City Attorney, Steven W. Moore
Various Department Heads or their representative
City Clerk, Lynda L. Bushong

I. ORDINANCE O2011-03 ANIMAL CONTROL REGULATIONS

Wilkinson stated the purpose of today's discussion is to identify any additional amendments the City Council wishes to make to the animal control regulations as proposed by Ordinance O2011-13; staff has prepared a list of possible revisions.

Discussion

Public Input and Timing

- **Mayor Krieger:** The ordinance was tabled to the Regular City Council meeting of February 16, 2011. The City Council has the opportunity tonight to give the proposed ordinance introduction, with adoption following at the February 16, 2011 meeting. However, the ordinance can be changed prior to introduction, without delaying it further.
- **Stuart:** The time of this meeting has prevented some people who might want to comment from doing so; however, the public will have another opportunity to address City Council on these issues at the adoption of the ordinance.

Animal Control Officers

- **Johnson:** An Animal Control Officer would need to be a City employee, per Arizona Revised Statutes, Title 9.
- **Moore** clarified that he issued a legal opinion to the City Administrator regarding this issue. It's not the City's practice to hire Animal Control Officers. The City hires an Enforcement Agency, which performs animal control services for the City. The City could hire Animal Control Officers; however, if it does, such an officer would have to be a City employee. Staff is not proposing that the City hire Animal Control Officers.
- **Johnson:** Other sections of Arizona Revised Statutes authorize the City to perform the animal control functions and that, if the City were to have an Animal Control Officer, the officer would have to be an unarmed City employee.
- **Wilkinson:** Two different terms are involved: Animal Control Officer and Enforcement Agency. The City Enforcement Agent is not an Animal Control Officer.

Feeding Ban/"Fix and Feed"

- **Beeson:** How will the City enforce the ban on feeding stray animals? Such a ban is desirable, but it could create animosity toward the City. Those who are feeding the animals won't just stop because new rules are adopted. Perhaps the section establishing the ban should be deleted. Since some residents expressed opposition to the regulation at the last City Council meeting, perhaps the City could offer the residents an opportunity to help solve the problem – perhaps via a volunteer program or by creating a voucher program for members of the community to contribute to money to offset the trapping of feral cats. The people should be empowered to take care of the problem on their own.
- **Wilkinson:** The "fix and feed" regulations exclude animals that have been spayed/neutered from the feeding ban. **Beeson:** Fix and feed encourages spaying/neutering. However, the City shouldn't create laws that will undoubtedly be broken because people are compassionate.
- **Mayor Krieger:** Could people who insist on feeding stray cats be required to sign up with the Humane Society or a local veterinarian indicating their location and the number of cats in the colony? This would give the City the ability to monitor colonies and respond to disease outbreaks. **Beeson** hesitated to pass a law that prohibits someone from an activity on their own property. However, requiring people to sign up would be a fair compromise.
- **Mayor Krieger:** The intent of the "fix and feed" requirements is to address the feral cat issue by gaining better control of colonies.
- **Stuart:** The requirement is reasonable and may encourage those feeding feral cats to work with the City.
 - **Mayor Krieger** stated that he feels the ordinance may bring in new groups to help – organizations such as Alley Cat Allies and Feline Friends.
- **Mendoza:** What about the elderly person who puts out food occasionally. According to the proposal, that would be a Class 3 Misdemeanor, subject to fines up to \$750. People will be breaking the law in their backyards and, although the City is not going to look over fences, the neighbors might. The penalty is too high; it should be lowered to the level of a petty offense or left up to the Code Enforcement Agent's discretion.
- **Mayor Krieger:** The City shouldn't prohibit people from feeding their neighbor's cat in their backyards. However, people tend to put food out for the feral cats on the curb; maybe the provisions should address feeding of strays on City property.
- **Stuart:** There are other laws currently on the books that aren't being enforced. This should be left to the judgment of the Enforcement Agent. The ordinance is supposed to be a response to a community need; if people aren't happy with it, they will be vocal.
 - **Johnson:** The regulations will likely be enforced on a complaint basis only. But without this authority, the City would likely continue to see extreme animal hoarding cases.
- **Mayor Krieger:** Further discussion is needed on the penalties.

Motion (Johnson/Stuart): That Ordinance O2011-03 be amended as follows:

- At Subsection 130-003 (B), to replace the word "animal" with the word "dog" at any place where the word "animal" appears: and,
- At Section 130-006, to add the following language to the end of the paragraph:

"The Code Enforcement Officer, at his/her discretion, may issue a warning for the first offense. It is not a violation of this section for any person to feed or shelter feral cats while working with a licensed

veterinarian, animal control agency, or similar group registered with the City to spay or neuter feral cats, which may be referred to as “fix and feed”.

- At Section 130-110, to replace the section in its entirety with the following language:

“All rights, duties, responsibilities and authorities to enforce this Chapter may be delegated by the City Council. The City Enforcement Agent shall be designated by contract, or appointed by motion or resolution of the City.”

Roll call vote: **adopted** 6-0.

Motion (Johnson/Stuart): To introduce Ordinance O2011-03, as amended.

Discussion

Public Input and Timing

- **Mendoza:** Because the introduction of this ordinance was delayed to February 16, 2011, the City should wait to give introduction on that date.
 - Tonight’s meeting is not being televised.
 - Numerous people who had signed up to speak were told to wait until February 16th.
 - Most people are at work at 4:00 p.m. in the afternoon.
- **Wilkinson:** It is not staff’s intent to deny the public an open forum. However, the public is expecting the City Council to take action on this item – further delay would be counterproductive.
 - The public is expecting the ordinance to be introduced at the next meeting, which was the intent of the motion to table the introduction.
 - There is no mandate to adopt the ordinance the Regular City Council Meeting of February 16, 2011.

Amendment Process

- **Wilkinson:** Introducing an ordinance puts it before the public for comment. Introducing the ordinance tonight will not preclude further discussion at adoption. The ordinance could be amended even on February 16th.
- **Moore:** The first reading of an ordinance is its introduction; the second reading constitutes its adoption.
 - If there is a material change between introduction and adoption, the ordinance would require a new introduction. There is nothing to prohibit further amendments, but each introduction would push the final adoption to a later meeting.
 - Introducing the ordinance tonight does not preclude further amendments at a later date.
- **Wilkinson:** The amendments made tonight were based on public comment; additional amendments can be considered, at the City Council’s discretion.
- **Moore:** An ordinance becomes effective 30-days after adoption, unless the legislation includes an emergency clause.
 - The City Council can amend any ordinance at any time; however, the amendment process begins at the introduction of the amending ordinance.
 - If the City Council adopts this ordinance and then decides to revise it, an amending ordinance would need to be introduced and adopted to effect the change.

- It is not uncommon that the implementation of broad legislation reveals requirements that need revision.
- An amending ordinance can be specific to only certain sections of the original ordinance; staff appreciates the opportunity of reviewing the implications of amendments prior to their being offered for a vote and of wording the motion appropriately.

Refocus on the Purpose

- **Mayor Krieger:** Over \$400,000 is spent out of the General Fund currently to fund animal control.
 - The ordinance creates an impact fee situation, causing those creating the impact to pay for the services and protecting the City's General Fund.

Licensing/Fees

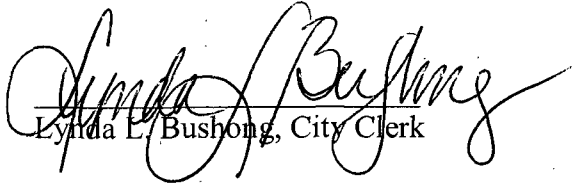
- **Brooks** asked for clarification on how licensing would work and where the fees would go. Wouldn't the City be in conflict with the Humane Society if it takes over licensing responsibilities?
- **Mayor Krieger:** Yuma County has contracted with the Humane Society to handle the licensing of dogs countywide; the Humane Society does not have direct authority to license. A portion of the licensing fees goes to the Yuma County Health Department.
 - Currently, none of the fees collected from City residents for licensing returns to the City, forcing the City to pay for animal enforcement with General Fund dollars with no recoup of costs.
 - If the City begins a licensing program:
 - It would apply only to City residents.
 - The fees collected would go into an Enterprise Fund and the monies could only be spent for animal control.
 - A portion of the fees collected would still have to go to the Health Department.
 - By law, licensing requires proof of rabies vaccination
 - Staff is looking at ways to make licensing and vaccination easier.
 - The City could contract with the Humane Society to continue its licensing, with a portion of the fees going to pay for their services. Veterinarians could also be used, so that they could issue the license at the same time the vaccination is given. Again, they would be paid for their services.
 - Online licensing is also being considered; tags would come in the mail.
- **Wilkinson:** The City's licensing would be tracked through a database manager, who would not have a local storefront. The Humane Society and local veterinarians would have access to the database; in this way, licensing could be made more convenient and people would find compliance easier.
- **Moore:** In order to adopt a pet from the Humane Society, the pet must be vaccinated, spayed/neutered and licensed. The Humane Society sees to all of these activities when the animal is adopted. That practice could continue.
- **Wilkinson:** The details of how these options would be implemented have yet to be worked out, but the ordinance would correct the situation where the City is getting no funding for its animal control efforts.

Roll call vote: **approved** 4-2; Mendoza and Brooks voting nay

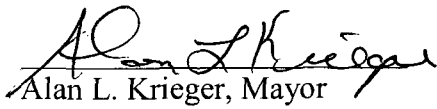
Beeson registered his disagreement with introducing the ordinance tonight and stated he would abstain from voting. **Moore** explained that an abstention for this reason is not a conflict of interest; therefore, Beeson's abstention will be the equivalent of a yes vote. **Wilkinson** noted that extensive outreach has been made to the community to keep them informed. **Mayor Krieger** stated that an article in today's newspaper drew attention to today's meeting and the meeting was properly posted.

II. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Krieger** adjourned the meeting at 4:57 p.m. No Executive Session was held.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

Approved at the City Council Meeting of: <i>April 6, 2011</i>
Deputy City Clerk: <i>Janet Person</i>