

August 6, 2018

Members present: Mr. Landon, Mr. Huddle, Mrs. Blevins.

With a quorum present, Mr. Landon called the meeting to order at 6:40PM.

Minutes of June 19, 2018 were read; Mr. Huddle moved to approve, Mrs. Blevins 2nd. Roll call: Ayes: Mr. Landon, Mr. Huddle, Mrs. Blevins, motion carried.

Minutes of June 19, 2018 are approved.

New Business: Animals within City Limits

Mrs. Laura Culp (648 Girard Avenue) addressed council about a loose dog (150-pound Rottweiler owned by Marcus Carr) in her neighborhood that killed two of her pet cats on her property in two different incidents over the last month. She states that the dog has been loose on other occasions and she has caught him. On 07/10, she was sitting out drinking coffee and feeding pets. She put her dog in the house to try to help him catch his dog. The dog attacked her sleeping cat on her porch and killed it right in front of her. She believes that cats do not have any value in the state of Ohio, maybe just Marion. She wants to change that. Her cat has every shot, vaccination, everything that she is a responsible pet owner and that is what you do for your animals. Last night, the dog came back again and killed another one of her cats (chased it across the street and caught it). She is here to ask council to instruct her as to what she can do so that she can help responsible pet owners, not feral cats (she is aware that there are a number of them). There are people who have pet cats and they care very deeply for them. She will do the work that she needs to do. She is upset about this and has brought supporters with her. She does not want another cat to die because Marcus's dog cannot be confined. The dog has brought violence to her house twice. She asked what choice she has should the dog return. His dog was shot once before. He had to pay medical bills, but he got it back. His dog got to go home with him. Whatever she needs to do to change this, she wants to do it. He has been cited three time for failure to confine and she would like dog to be deemed vicious.

Mr. Huddle discussed a chow on Forest Street that he has been told about. He has had countless complaints. Dog attacks everything. The person who owns dog has let them go repeatedly. People are afraid for their kids. He was over at a residence on Forest Street and saw the dog go after a girl and her dog. Then he found out that the sheriff's department is in charge of the dog wardens office and implementation of ORC.

Mrs. Blevins asked what city code addresses dogs running at large

Sherriff Tim Bailey is the county sheriff and has been charged with managing the dog pound. Major Utley is with him and she oversees day to day operations. They have two deputy dog wardens who work there. Their job is to enforce 955 and related sections of the ORC. If dogs are running loose, they cite the owners. Even if they do not see it, they can still cite them although it can be difficult lacking evidence. With today's technology, most people have cell phones. If a resident sees a dog loose, they ask them to get a photograph of it and that gets a time stamp on it. That gives them a piece of evidence to go to court with. The dog wardens are not peace officers. They cannot enforce city ordinances. They can only enforce the ORC.

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Mrs. Culp stated that a police man was there, and they said that they could not do anything. She said she was very scared and should have gotten her gun. She was in her house and could hear dog out there breathing. Police officer asked how he knew that it was the dog. She said she watched the dog walk down the street. Police officer said that you must contain your cats. No, she said cats do not have value in Marion. It does not matter if he comes on her property or not. That is what he told her. Police officer said she must contain her cats. No cats do not mean anything according to whatever statute. Need to get that changed. If people are going to be a responsible pet owner, as she has been, then he should have to be a responsible pet owner and she should not have to suffer any more loss. Three small children – 5 and under – live right next door. She has had to tell parents if dog comes out. She is a little bitty woman and Mrs. Culp does not know how she would get dog off her children. There are two other kids across the street. She is frustrated with the way that this has all played out. She needs some reassurance that she is not going to lose any more of her animals. She offered to call Donald Trump if she needs to.

Sherriff Bailey said that in both instances, the dog warden was called, and a citation was issued to dog owner for allowing dog to run free. Once an owner has been cited three times and found guilty, the dog can be deemed a vicious dog. In this case, it has not been found guilty three times. Pending that, they did what the code requires them to do.

Law Director Russell added to clarify what needs to change is 955.22 ORC. State statute is the uniform code for statutory cities in Ohio. It was modified in the past few years when there was a debate whether pit bulls should be deemed vicious by definition. They changed it (state legislature). It used to be that the second time your dog was at large it would be a misdemeanor 4th degree and they have watered it down when they made the pit bull revision. It used to be (before the modification) a dog could be deemed a dangerous if it had killed another animal. They removed another animal and now it is only dangerous if it kills another dog. You have made a mention that cats have no value and that is probably the relationship. For a dog to be determined to be dangerous, it has to kill a dog and a cat was dropped off the definition. Your challenge is to get cat added back in. when you talk to state representatives and state senators and people at state house because they are the ones who moved the law about 10-12 years ago when they were removing vicious pit bull.

Mrs. Blevins stated that in ORC 955.22 it says female, not male. Law Director Russell agreed to look at. It is a lengthy section.

Law Director Russell said that even if after they do convictions for failure to confine dog. They did change the process for having a hearing for a dog that may have killed another dog. They have to have a hearing to determine it dangerous and that it requires insurance. They utilize that process. They have used it with the assistance of the dog warden's office a couple of times in the last 6 months with a dog on Southland Parkway. It is more difficult than it was before, but they still can do it. If there is an issue going on in the neighborhood, they work closely with MPD. There could be a violation of criminal code for criminal damaging. The second time he killed cat, they may have a case of criminal damaging if he did it with a reckless element. Report it as Mrs. Culp did, let the agencies come out and respond, develop reports, and then talk with prosecutors to see if they can make a case.

Law Director Russell's recommendation is to ask legislatures and representatives to revise the law to protect cats. Right now, the state code does not protect cats. It says dogs period.

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Whatever Mrs. Culp can use to convince them – that may be signatures. She should make contact and ask how she can assist them to work to modify that section of ORC. If they modify, then the sheriff's office would enforce. This is an instance where the ORC says that they cannot enact a more stringent animal control code than the state code. They did not want municipalities to say pit bulls are vicious by breed. They must use our state section. At the same time, they took out other animals.

Mrs. Culp asked how many attacks have there been by different breeds.

Law Director Russell stated that was an argument that was being made when they ultimately removed pit bulls as vicious. What we see and what our experience is that one dog that attacks and kills an animal is typically going to repeat that.

Mrs. Culp asked what her recourse was, specifically, could she shoot and kill the dog on her property or would she go to jail?

Law Director Russell stated that in the last 10 years a homeowner shot a dog that was attacking his dog. In that case, the homeowner was not charged. He stated that he could not speak because Mrs. Culp's particular case has not happened yet. He encouraged her to NOT grab firearm, because that was not a safe situation. If the scenario had played out like case he was talking about, they would have treated it the same whether it was dog or a cat that was being attacked. There is no section that says that cats are of less value. What happens is that they removed kills another animal and left it as a dog. That may have implied that it is of less value. Both of them are property, even though they mean so much to us as animal lovers. Law treats them as property. In her case, if she is protecting her property and she can do it safely without harming anyone, she would not be charged with criminal damaging of neighbor's loose dog.

Mrs. Blevins asked what do we use city ordinance for?

Law Director Russell stated that the city codes mirror state codes and they try to keep them consistent. OVIs are a good example. They always use the state OVI code because they change it constantly. They cite person for OVI and use ORC 4511 because it is the most up to date. They do not use city code. They have a city code and in instances they may use it. But the state said that they must follow 955.22, so they rarely turn to 618. It exists and it has value, but they use 955.22.

Mrs. Culp stated that she plans to do something in 2018. People that care about their pets are going to be up in arms when they find this kind of thing out. They want something done. They do not want to allow this guy to do this, not again.

Law Director Russell asked if the Marion Police Department come out the previous night and take a report?

Mrs. Culp stated that she assumed that they made report, but she is not for sure. The first time this all happened it was new and she tried to get reports and no one would give them one. They said she could not have one because it was pending. Law director's office told her to get a copy of the ticket. She could not have any reports because it was still pending. So, then she called into court and confirmed he showed up because she sat over there waiting on him. This was near and dear to her heart. He did not show up for court. Dog warden came out too.

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Law Director Russell said that they will follow up on what happened on both situations. They will collect reports and if he can be cited with criminal damaging, they will look at it.

Mrs. Culp stated that she called Delaware and said license was expired. She said Bailey said that he wants to get rid of dog. She wants to know what happens to dog. What happens if it gets pawned off to brother? She wants to know that it really did happen and that he is not just misleading everybody.

Sherriff Bailey confirmed that they have been told that the owner wants to get rid of dog – that is rumor.

Law Director Russell stated that if they place they dog with a new owner, they may have a means. They have done that in the past.

Mr. Huddle talked about a chow that attacked girl. The guy that owned dog walked out door and he talked to him. Mr. Huddle had heard that the dog had been taken in probably 3-4 times and this guy has no problem just paying the fees. Curious, what are the general fees or fines for letting a dog loose.

Major Utley (MCSO) stated that they work with Law Director Russell's office and if that chow gets out again they are going to put some stricter penalties on him. They know the dog.

Mrs. Culp stated that it cost Marcus \$138 without his tags being expired, just for letting dog run lose.

Sherriff Bailey stated that if a dog attacks a person, they can be cited for that (not a cat). After three times if they are found guilty, it is deemed a vicious dog.

Mrs. Blevins asked about the registration process. Sherriff Bailey stated that all dogs over age of 8 weeks must be registered. Registration can be done at county auditor's office, dog warden, and sometimes satellite offices

Chris Dehavens (? 596 Girard Ave on behalf of "Homeless to Home". She is a volunteer and asked to read a statement prepared by director Jeanine Tarantino. The Directors of Homeless to Home Animal Rescue and Cat Sanctuary could not be present tonight but wishes to have a voice in the way in which cats are regarded in Marion. By way of introduction, Homeless to Home is a 501c3 nonprofit all volunteer shelter, rescue and adoption center. It is the only organization in Marion county available to help animals and the people connect to them 24/7 365 and the only shelter where no animal is ever turned away. Animals turned away by shelters continue to add to the population and most often suffer violent deaths such as they are discussing tonight. Homeless to Home responds to law enforcement, health department, Job and Family Services, and local businesses to help with animal problems. Most animals helped are cats and they feel they have an accurate perspective on the issue at hand. They are often told by people who move into Marion that they are stunned by the number of stray animals in Marion, especially cats, compared to where they lived before. This does not speak well for Marion. Spaying and neutering. Education alone is not working. Laura does her part to impact strays in community by spaying and neutering. In our opinion, only laws on spaying and neutering will impact the populations. We have been called to numerous situations where cats

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are attacked by stray or pet dogs. And the cats are often pets that are playing, sunning themselves or sleeping within the boundaries of their own yards or porches, as were Laura's cats. They often hear that people cannot enjoy walks with their own dogs without stray dogs or another resident's dog running after them or even attacking them. She has been victim as well while walking children and having to pick up a stick as a dog has pinned them while they are walking. That is the fear that the dogs that are going after cats or other animals that it could quickly turn to a child or anyone else being bitten. They must share the same risk that the cat does, other people and children. It is time that "it is just a cat" mentality goes away as well as the loose enforcement of dogs at large. They love and rescue dogs and recognize that the problem is most often the fault of the owner and laws and ordinances not being enforced. On behalf of beloved pets, the homeless strays, and residents desiring to safely enjoy a stroll; they are asking for the enforcement and penalties for the owners of dogs who repeatedly fail to control them. After hearing what has been said, it makes a little more sense how the laws are enforced. The statement was prepared prior to the meeting and prior to hearing what was said tonight. She expressed appreciation for listening.

Sherriff Bailey followed up with some statistics. Before he took over the dog pound, they were putting down 500-600 dogs a year in the gas chamber. He did away with the gas chamber. They put down before 10-15 dogs per year which are vicious ill or injured. All dogs are spayed and neutered before adoption unless someone comes in right after they catch a dog and then they sign document agreeing that they will take care of spaying or neutering. They have advanced considerably at the dog pound over previous management.

Mr. Schneider shared a similar situation where there was a dog in his neighborhood and luckily it did not turn out with any fatalities. He used to live across the street from the public library and children were playing in parking lot in the snow. His wife and he were out there playing with the kids. Neighbor was cleaning snow off his car and he went inside to get something and heard ruckus. Neighbors pit bull had attacked neighbor who an older man. They called the dog warden and they were prompt and came out and he found out through process what the laws for vicious dogs were and he was flabbergasted by it. He had actually called Law Director Russell about situation and he was flabbergasted by about how the laws had changed. Luckily, the young kid who owned the dog got rid of the dog, but it could have been his kids who are 9 and 10. He had to find out the hard way as well that those laws are what they are and a lot of times local municipalities and sheriff's offices hands are tied by what the state says that they must do and the trickledown effect that affects us here in local municipalities with what they decide to do in Columbus. He wanted to share his story for what it is worth. He feels your pain.

Catherin Neil (482 Windsor Street) has lived there for 31 years. Last summer, she had pit bulls attack in her own yard and my fence. They could not do anything to them when they called police. She started a home owner watch in her neighborhood 5-6 years ago. The pit bulls on her neighbor's side jumped his fence and attacked his beagle and had it on the ground by the neck and almost killed it. She yelled at neighbor, but he did not have his gun. He had ball bat and hit pit bull in head and thought it was dead because it fell over. 45 minutes it got up later and was fine. She said she told neighbor that he should have shot the thing because it is going to hurt a kid or somebody else. Beagle had marks on jugular but it lived. The neighborhood pit bulls attacked her caregiver in the driveway. Nothing they could do to them according to dog warden. No license on them. They are not made to buy them, but we have to. Why does she have to pay for a license if heroin addicts do not. What is the difference? Why can't they be made to pay shots and licensing and contain their animals keep them in their yards? Put them

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on leashes. What does it take for protection? At the end of last summer, lady at Windsor and Bellefontaine by her church was attacked by 2 pit bulls, bitten and taken to hospital. Another neighbor across street hollered at his wife to get the gun because he went down to try to help her. By that time, the police had been called and came. The dogs had run off. She went to hospital. Her little dog was hurt pretty bad. She does not walk anymore. She stays home in fenced yard. If they come in my yard, she knows what she would do. She is not going to take 48 stitches on my little body. She will not put up with it anymore. The police told them that we know those dogs, we know where they live (2 blocks away). They did not do anything. In California where her daughter lives, dog owners get 3 warnings and they take the dog. It is considered vicious and they put it down. What do we have to do to protect themselves? Do we have to have her grandson get hurt because a dog climbs up over and wrecks her fence that she paid for? She paid \$150 for a broken window from these heroin addicts last year. What does it take and what do we have to do?

Law Director Russell stated again that residents need to go to Columbus and tell them that we need more stringent dog control laws put back in place that were watered down 10-12 years ago when the legislature dealt with removing pit bull by definition from vicious dogs. We had these kinds of controls in our statute, and now they have been watered down. We need to change state laws in Columbus Ohio.

Mrs. Neil asked meanwhile how do we protect ourselves?

Law Director Russell stated that every time a resident has an incident as described, report it to agency. Their officers will talk to them as prosecutors and they will find a way to deal with it. They will look at reports to see if they can charge Mr. Carr with criminal damaging. They will use whatever tool they can use until they get the tools in place.

Mrs. Neil stated that she took Freys to court and got 5 and 10 years on the man and his daughter. She does not know them. She moved here. She knows the damage the dog has done to people. No license on any of these dogs. She cannot comprehend why the law does not protect people

Law Director Russell said that they work as a team to enforce the laws. So, where you think it is falling short, bring it to our attention. They believe in what they are doing. They do not want to hear stories like residents are telling them. Please come down and talk to him about specific situations.

Mrs. Culp said that she feels her pain about the dogs. Question is this when we see a dog running free, it is not always convenient because the dog warden is not always open, and they can call police, but they know that they have other matters. They have a lot going on and do not need to be chasing dogs. Is there a way that we could have in our budget a full-time dog guy on the clock? Why not?

Mrs. Blevins stated that she believed that they did have one at one time, but they do not have the money.

Mrs. Culp asked about situations where a dog gets lose and runs down the street and we know that he is dangerous. God forbid she would see a Rottweiler running down the street and they cannot get there in time. We do not want to let a dog continue to run. She is not afraid of this

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dog. She was last night, because she did not know what it was, and it was dark. She can go out and harness that dog and strap him a tree, which she did the very first time she met the owner. She had dog tied to tree because she had no idea. She was not afraid of him. She dealt with dogs her whole career. She never thought he would kill her cat. She thought he was coming at her not cats. That is the dilemma. A person can see it but does not want to let it continue to run because they know. Some of these pit bulls are not nice (some are). Any animal can be mean, if it has teeth it can bit you. That is a concern. If it is after hours by the time that the police get there, it is already gone 2-3 blocks away. We could not financially afford to put someone on full time on call or whatnot?

Chief Collins spoke. The dog warden is through the Sheriff's office. They are very accommodating when they try to call, but they have budget constraints just like anyone else does. They have two deputy dog wardens and they cover 7 days a week 365 day a year. Our guys get frustrated like the homeowner does. Situations like: there is this loose Rottweiler, but he has not done anything to anyone, so he is just a stray dog. They are not going to come out in the middle of the night for a stray dog. It gets passed on in the morning and they go and look to see if they can find it. He does not know how they find them anyway. A person could report a loose dog at Cherry/Bellefontaine and it could be at Davids Street by the time they get there. They do a great job trying to find the strays. Everyone deals with this issue. He just watched a video of one of his majors working on the shooting case the other day. He went to a door and was talking to the lady and the next thing you see is this pit bull jumping at him trying to bite him in leg and arm. The dog ran out of house and bit him. Very frustrating. He thinks Law Director Russell is probably on to some with the state. He had not even known that they had taken some of that stuff out. He showed Law Director Russell an old copy. They used to have that law after 3 times or bit some body, the dog would be deemed vicious. they have taken all of that out. They eliminated cat. He thinks the answer is to try to get those teeth back in the statute by the state.

Mrs. Culp thanked Sheriff Bailey and stated he does a great job. She knows there are always constraints as far as money. This is near and dear to her, so she is probably going to be persistent. She said that council and officials are going to see a lot of her. She is a Marion girl – born and bred. She does a lot of charity stuff here because she believes in Marion. We have got to make it safer. Not just for our children, but for our animals that are near and dear to us. She will do whatever they need her to do. She definitely wants to get some things changed so that she does not lose another animal. Or anyone else. Or a child. She will be talking to Sherriff Bailey.

Mr. Daniels stated that Marion is a statutory community. He wondered if we were a charter city if the answer on this be different.

Law Director Russell said yes. They can create own charter as given authority under state constitution. They can adopt laws that are more fitting to community. There is one county where the entire county is a charter county. He would not go so far that they could modify 955.22 because they cannot modify OVI laws even if they were charter city. They could not say that a dog that kills a cat is a vicious dog, but they might be able to adopt other laws. They might be able to find those other tools that could assist them. If criminal damaging does not work maybe they would need another tool or a law that they could adopt as charter. Most recent community that attempted was Bucyrus and it failed handily. It is not easy to do. It takes a vote of the people. Maybe we will be hitting head against wall when we talk to legislators –

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they watered it down the last time. Under the old law, it only took a dog causing serious physical harm to a person and at that point the dog was vicious after a hearing. If the dog killed another animal, it would be dangerous dog. That has been removed to. He thinks the simple answer is to see if they can get the attention of legislators to put some more teeth in to 955.22 and use some other rules on the book like criminal damaging. It only comes through communication. Charter is one option, but probably about the 3rd or 4th option.

Mr. Daniels stated that if he has inspired anyone about a charter community then it would be his assertion that if they were going to put a charter before the people it would resemble virtually what they have under statutory law now. Leaders do not do these things in huge gigantic steps and no one understands. If they do not understand, they vote no. He is not talking about changing seats on council or going to a city manager. Other communities have done that – Marysville and Delaware. But in researching that, they did not walk into that with this big gamut of government change. They walked in and said they are going to pass this charter because when these types of issues come up the charter gives us the power to pass more positive legislation than just the statutes given to us by the ORC. He has always been a cynic when it comes to probably a lot of things but particularly to Columbus. He knows that everyone has the aspiration that they can pick up the phone and call our state legislature and she is going to run right up here Marion to help. They are far removed from residents unless a donation is involved. With our local government, residents can come up here and say all kinds of stuff and we listen and maybe act. A charter might not be a bad idea. There are issues, but this is an example. In 6 months, something different might happen and perhaps we should give some thought to it.

Items not on the agenda

Mr. Landon stated that he would like to second what Mr. Daniels was talking about in relation to a charter city. He has been a proponent of Marion moving towards a charter city. Being on the local level, he is more accountable to the people than their state representative is. He is more inclined to hear thoughts and concerns than the state representative is. They serve a larger area than council does. We have more local control. We have more ability to change things and fix things that are difficult to go through a state legislature to do. It has been his intention to bring this forward to this committee and so he thinks that they should further discuss this. It is going to be a big agenda item. It takes a lot of work. It takes a lot of parties coming together to discuss it. It is his intention that they do this for the residents and it would be a good thing for the city of Marion. He thinks they are going to have a lot of work, but it will be better for them in the long run.

There being no further business, Mr. Landon adjourned the meeting at 7:28PM.

Chairman Landon

Clerk of Council