



Agenda Date: 9/13/2005
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NAPA COUNTY BOARD OF SUPERVISORS Board Agenda Letter

TO: Board of Supervisors
FROM: Janice Donovan for Gary Simpson - Sheriff-Coroner
Sheriff
REPORT BY: Janice Donovan, Sheriff's Administrative Manager, 259-8674
SUBJECT: Status report on vicious and dangerous animals

RECOMMENDATION

Environmental Management, District Attorney and Sheriff Departments to provide a status report on activities involving vicious and dangerous animals within Napa County and request direction for County Counsel to prepare an ordinance that provides for dog violations to be treated as an infraction or misdemeanor.

EXECUTIVE SUMMARY

On August 2, 2005, Jill Pahl, Acting Director of Environmental Management provided the Board with information regarding vicious and dangerous animals. The presentation today will provide more detailed information regarding how the County currently deals with dog bites; potential revisions to current ordinances; and plans for developing more educational prevention tools.

The current animal control ordinance has all violations as misdemeanors. The proposed ordinance change will add the use of infractions for minor, first time offenses. This should result in increased compliance through a more cost effective enforcement system. The use of misdemeanors and the penal code would still be available for repeat or more serious violations.

In addition, programs to encourage spaying and neutering of dogs are being developed with community groups that will also expand upon bite prevention education. The majority of the dogs at large picked up by the Sheriff's Animal Control are unaltered, and the majority of bites are from stray dogs. Efforts to encourage spaying and neutering should reduce the potential from bites.

FISCAL IMPACT

Is there a Fiscal Impact?	Yes
Is it currently budgeted?	No

What is the revenue source?	Possible general fund increase due to County's share of infraction fines collected.
Is it Mandatory or Discretionary?	Discretionary
Discretionary Justification:	A more cost effective and efficient system of enforcing animal code violations.
Is the general fund affected?	No
Future fiscal impact:	Similar to the first year.
Consequences if not approved:	Less misdemeanors processed and no infractions processed.
Additional Information:	None

ENVIRONMENTAL IMPACT

ENVIRONMENTAL DETERMINATION: The proposed action is not a project as defined by 14 California Code of Regulations 15378 (State CEQA Guidelines) and therefore CEQA is not applicable.

BACKGROUND AND DISCUSSION

At the August 2, 2005 Board meeting a brief discussion regarding animal bites was presented. Information was requested concerning what Napa County does with vicious animals. The Sheriff's Animal Control Division serves as the enforcement agent and they typically work with the District Attorney's Office for legal action. The Environmental Management Department's Animal Services Division provides quarantine services at the Shelter.

The District Attorney's Office, County Counsel and the Sheriff are working on revision to the County Code to allow discretion to charge most violations as either an infraction or a misdemeanor. Currently, all infractions are misdemeanors which can be cumbersome to enforce. The proposed amendment will allow the Animal Control Officers discretion to charge either as an infraction or as a misdemeanor depending on the severity of the violation. This should allow a greater compliance with the code. Staff is requesting direction to make this change in the ordinance.

The County's last fatal incident with dogs was 28 years ago. For the first half of this calendar year there have been about 90 bites reported of which 10 involved a pit bull or a pit mix. Dogs at large are the primary dogs involved with bites. Increasing the Animal Control Officers' ability to more simply cite dogs at large should reduce their occurrence. Napa County Code and the Penal Code provide mechanisms for handling dangerous animal violations:

- | Napa County code Chapter 6.16, Dangerous Animals, provides a hearing mechanism for designating a dangerous animal as a public nuisance and for issuing an order to abate the nuisance ranging from specific controls over the animal, e.g. caging or muzzling, to destruction of the animal. Violation of any order issued subsequent to a dangerous animal hearing is a misdemeanor pursuant to Napa County Code section 6.16.110.
- | Penal Code section 399 makes it either a felony or misdemeanor to allow a mischievous (vicious) dog to go at large or to be kept without reasonable care such that the dog causes serious bodily injury to a person, and makes it a felony if any person is killed. Penal Code section 399.5 makes it a felony or misdemeanor if the owner or person in control of a dog trained to fight, attack or kill fails to exercise ordinary care and such dog causes, on one occasion, serious physical injury to a person, or, upon two occasions, bites a person.

- 1 In addition, all violations of Napa County Code chapter 6.04, Animal Control and Rabies Prevention, including dog-at-large and failure-to-license, are misdemeanors. Since even simple dog-at-large violations are misdemeanors, all animal control violations have been made eligible for pre-filing diversion pursuant to Penal Code section 1001 et seq. Due process considerations require that pre-filing diversion be offered to all eligible defendants regardless of the severity of the violation.

The Sheriff's Department and the District Attorney's Office propose an amendment to chapter 6.04, Animal Control and Rabies Prevention, to allow charging an animal control violation as either an infraction or a misdemeanor. The pre-filing diversion eligibility for misdemeanor violations of the chapter would be withdrawn and serious violations would be prosecuted initially as misdemeanors. Minor violations would be handled as infractions with a fine as the sole remedy. Napa County Code section 6.04.100, Interfering with an Animal Control Officer, and any violation of a dangerous animal nuisance abatement order pursuant to chapter 6.16, Dangerous Animals, would continue to be charged only as misdemeanors.

In addition to allowing immediate prosecution of serious violations, the proposed amendment would also relieve the District Attorney's Office of a significant administrative burden. Under the proposed amendment, most animal control violations would be handled directly by the court as infraction citations whereas only the more serious violations would require a misdemeanor complaint from the District Attorney's Office.

Public education can play a significant role in preventing dog bites. The Animal Shelter provides information through brochures (both in English and Spanish), their website, over the phone and through outreach in schools to educate the community (especially children) on how to prevent bites. The rate of dog bite-related injuries is highest for children ages 5 to 9 years, and the rate decreases as children age. Dog bites are a largely preventable public health problem if adults and children learn, and practice safe prevention practices.

The Animal Shelter also contributes to several community organizations' efforts. The Shelter is partnering with Napa Humane, Napa Valley Dog Training and Napa Valley Spay/Neuter Network to develop a new Spay, Neuter, Information and Protection program (SNIP it) which will offer free spay/neuter, rabies, micro-chipping, licensing assistance and training services for pit bulls and pit bull mixes. The program will include a hotline, brochures in both English and Spanish on responsible pet ownership, and an animal safety day.

Since the majority of the dogs brought in as strays are unaltered (85%), the Shelter feels that encouraging spaying/neutering is an effective deterrent to dogs at large and their related bite reports. Napa Humane is developing an additional proposal for redeemed stray unaltered dogs, which if the owner is willing to voluntarily spay/neuter their dog, Napa Humane will provide that service at their low rates in a timely fashion.

The Shelter continues to work with the veterinarians in the community to encourage licensing and rabies vaccinations. The Shelter will be doing further research on implementing a program where licenses can be obtained through the local veterinary offices similar to what is done in Sacramento County. If there is interest on the part of the veterinarians, and it is practical for implementation by the Shelter staff, we will return with a recommendation for implementation.

SUPPORTING DOCUMENTS

None

CEO Recommendation: Approve

Reviewed By: Helene Franchi