

# ORANGE COUNTY BOARD OF COMMISSIONERS

## AGENDA

BOCC Regular Work Session  
April 8, 2014  
Meeting – 7:00 p.m.  
Link Government Services Center  
200 South Cameron Street  
Hillsborough, NC

- |                |    |   |
|----------------|----|---|
| (7:00 – 7:35)  | 1. | Follow-up Discussion on Potential Establishment of a Women’s Commission   |
| (7:35 – 8:40)  | 2. | Decision Items for the Unified Animal Control Ordinance   |
| (8:40 – 9:15)  | 3. | Energy and Environmental Updates – CFE Renewable Energy Work Group; Environmental Responsibility; State of the Environment 2014 |
| (9:15 – 10:00) | 4. | Next Steps - Strategic Communications Plan  |
| (10:00 – )     | 5. | CLOSED SESSION  |

“To discuss the County’s position and to instruct the County Manager and County Attorney on the negotiating position regarding the terms of a contract to purchase real property,” NCGS § 143-318.11(a)(5).

“Pursuant to G.S. § 143-318.11(a)(3) "to consult with an attorney retained by the Board in order to preserve the attorney-client privilege between the attorney and the Board.”

Approval of Closed Session Minutes

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** April 8, 2014

**Action Agenda  
Item No.** 1

**SUBJECT:** Follow-up Discussion on Potential Establishment of a Women's Commission

---

**DEPARTMENT:** Board of Commissioners

**PUBLIC HEARING: (Y/N)**

No

**ATTACHMENT(S):**

Attachment A – October 8, 2013 Agenda  
Abstract and Attachments  
Attachment B – Excerpt from Approved  
October 8, 2013 Work  
Session Minutes  
Attachment C – List of Interested Groups

**INFORMATION CONTACT:**

Clerk's Office, 245-2130  
Cheryl Young, 245-2307  
Commissioner Renee Price, 245-2130

---

**PURPOSE:** To discuss the potential establishment of a Women's Commission as an Orange County advisory board in follow-up to the Board's October 8, 2013 work session discussion.

**BACKGROUND:** At the June 18, 2013 BOCC Meeting, Commissioner Renee Price petitioned the Board regarding the establishment of a Women's Commission as an Orange County advisory board to be staffed by and receive technical support from the Orange County Department of Economic Development. Commissioner Price provided a draft resolution (included in Attachment 1), and stated that there is a disparity that persists between women and men in hiring for jobs that pay higher wages and salaries, with preference given to men over women; and women historically have received and continue to receive less pay and lower incomes than their male counterparts while fulfilling the same duties and responsibilities.

Commissioner Price noted that there currently was not an Orange County advisory board that addressed issues unique to women and to provide policy and program recommendations to the Orange County Board of County Commissioners since the former Commission for Women, established in 1978, was eliminated as an advisory board in 2010.

Commissioner Price suggested that the overarching charge of a Women's Commission should be to examine and expose the inequalities and inequities experienced by women in the business sector, the workplace, entrepreneurship, education and professional advancement and leadership in Orange County, and to advocate for women so as to give redress to such

imbalances and discrimination via policy and program recommendations to the Orange County Board of County Commissioners.

The functions of the original Commission for Women (CfW) were made a responsibility of the Human Relations Commission (HRC) in 2011, and CfW as a separate entity was sunset in April 2011.

The BOCC discussed the request at the October 8, 2013 work session. There were various opinions related to how to proceed and the advisability of establishing an independent group. There was consensus that the issue warranted further discussion.

The possibility of having the Human Relations Commission establish a subcommittee was among the ideas discussed. The Human Relations Commission has discussed this matter and voted against creating a subcommittee whose sole focus is on issues of gender inequality. The HRC opted, instead, to create a subcommittee entitled Diversity Matters which will address a cornucopia of issues of inequality for different minority groups, i.e. women and persons with disabilities. This decision was based on the idea that if the HRC created a subcommittee that focused only on women's issues, then there would be a need to create additional subcommittees with a targeted focus on a single minority group. The HRC is currently working on a written report for the BOCC regarding the HRC's role in addressing women's issues.

Conversations have occurred with groups interested in women's issues. A listing of interested groups is included on Attachment C.

**FINANCIAL IMPACT:** There is no financial impact associated with further discussing the potential establishment of a Women's Commission as an Orange County advisory board. If a Commission is established, potential budgetary and personnel impacts will need to be considered.

**RECOMMENDATION(S):** The Manager recommends that the Board receive the information and allow the HRC additional time to explore its role in addressing women's issues and give a written report to the BOCC at the May 20, 2014 regular meeting.

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**COPY**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** October 8, 2013

**Action Agenda**

**Item No.** 1

**SUBJECT:** Discussion on Potential Establishment of a Women’s Commission

---

**DEPARTMENT:** Board of Commissioners

**PUBLIC HEARING:** (Y/N)

---

**ATTACHMENT(S):**

Attachment A – Resolution to Establish the Women's Commission as an Advisory Board/ Commission to the Orange County Board of County Commissioners

Attachment B – Excerpt from Approved January 25, 2011 Minutes

Attachment C – February 1, 2011 Manager’s Memo Excerpt with Attached Memo from Tara Fikes

Attachment D – October 28, 2010 Memo from Tara Fikes

**INFORMATION CONTACT:**

Clerk's Office, 245-2130  
Cheryl Young, 245-2307  
Commissioner Renee Price

---

**PURPOSE:** To discuss the potential establishment of a Women’s Commission as an Orange County advisory board.

**BACKGROUND:** At the June 18, 2013 BOCC Meeting, Commissioner Renee Price petitioned the Board regarding the establishment of a Women’s Commission as an Orange County advisory board to be staffed by and receive technical support from the Orange County Department of Economic Development. Commissioner Price provided a draft resolution (Attachment 1), and stated that there is a disparity that persists between women and men in hiring for jobs that pay higher wages and salaries, with preference given to men over women; and women historically have received and continue to receive less pay and lower incomes than their male counterparts while fulfilling the same duties and responsibilities.

Commissioner Price noted that there currently was not an Orange County advisory board that addressed issues unique to women and to provide policy and program recommendations to the Orange County Board of County Commissioners since the former Commission for Women, established in 1978, was eliminated as an advisory board in 2010.

Commissioner Price suggested that the overarching charge of a Women's Commission should be to examine and expose the inequalities and inequities experienced by women in the business sector, the workplace, entrepreneurship, education and professional advancement and leadership in Orange County, and to advocate for women so as to give redress to such imbalances and discrimination via policy and program recommendations to the Orange County Board of County Commissioners.

The functions of the original Commission for Women (CfW) were made a responsibility of the Human Relations Commission (HRC) in 2011, and CfW as a separate entity was disbanded in April 2011. Eight women currently serve on the HRC (16 out of 18 filled positions).

**FINANCIAL IMPACT:** There is no financial impact associated with discussing the potential establishment of a Women's Commission as an Orange County advisory board. If a Commission is established, potential budgetary and personnel impacts will need to be considered.

**RECOMMENDATION(S):** The Interim Manager recommends that the Board discuss the potential establishment of a Women's Commission as an Orange County advisory board and provide direction to staff. If the Board proposes to establish a Women's Commission as a separate advisory group as proposed within the resolution, the Interim Manager recommends that, in lieu of placing this function within the County's Economic Development Department, it should be housed within Housing, Human Rights and Community Development. The Interim Manager further recommends that, prior to formal Board action, the Board direct staff to evaluate any potential budgetary and/or personnel impacts and provide that information to the Board.

## Attachment A

RESOLUTION TO ESTABLISH **THE WOMEN'S COMMISSION**  
AS AN ADVISORY BOARD/COMMISSION TO  
THE ORANGE COUNTY BOARD OF COUNTY COMMISSIONERS

**Whereas** on January 29, 2009, President Barack Obama signed the Lilly Ledbetter Fair Pay Act of 2009, the first bill that he signed into law to amend the Civil Rights Act of 1964 and the Age Discrimination in Employment Act of 1967; and

**Whereas**, a disparity persists between women and men in hiring for jobs that pay higher wages and salaries, with preference given to men over women; and

**Whereas** women historically have received and continue to receive less pay and lower incomes than their male counterparts while fulfilling the same duties and responsibilities; and

**Whereas** women historically have been neglected in cases of promotion, with promotions being awarded to or favoring men even though women have performed as well as or better than their male counterparts; and

**Whereas** no advisory board that addresses issues unique to women currently exists to provide policy and program recommendations to the Orange County Board of County Commissioners, since the former Commission for Women, established in 1978, was eliminated as an advisory board in 2010;

**Therefore be it resolved** that the Orange County Board of County Commissioners hereby establishes The Women's Commission as an advisory board to the Board of County Commissioners, to be staffed by and receive technical support from the Orange County Department of Economic Development; and

**Be it further resolved** that the overarching charge of The Women's Commission shall be to examine and expose the inequalities and inequities experienced by women in the business sector, the workplace, entrepreneurship, education and professional advancement and leadership in Orange County, and to advocate for women so as to give redress to such imbalances and discrimination via policy and program recommendations to the Orange County Board of County Commissioners; and

**Moreover be it resolved** that The Women's Commission, whenever possible, shall work in concert with other advisory boards, county departments and community organizations in fulfilling its purpose to help assure equity and achievement for women locally, regionally and nationally.

Commissioner Yuhasz said that he has a problem with this because this entity is funded primarily with Orange County funds but is not under the County's control.

Chair Pelissier said that there is enough concern that the Board should probably have a discussion specifically about this board.

Frank Clifton said that the Visitor's Bureau is under the County's control and that is the problem with some of the city partners.

Chair Foushee said that there needs to be a decision about whether this is going to be an Orange County department or a separate entity.

**Commission for the Environment:**

Chair Pelissier said that this board and others under the Department of Environment, Agriculture, Parks and Recreation (DEAPR) put their objectives in the context of the comprehensive plan. She said that she wanted to thank them for the layout of their goals.

**Economic Development Commission:**

The Board agreed to send a letter of acknowledgement for the work of the citizens on this board.

**Historic Preservation Commission:**

No comments.



**Human Relations Commission (HRC):**

Chair Pelissier said that she was concerned that there were no emerging issues in this summary report.

Commissioner Jacobs said that the HRC is still trying to get feedback.

Chair Pelissier suggested encouraging the HRC to forward their goals when they are ready.

Commissioner Gordon asked what happened with the Commission for Women and the issues with the HRC.

Chair Pelissier said that there is a report forthcoming, but the Board agreed to the concept of merging the two boards.

Donna Baker said that the status report would be coming through the Manager's Memo.

**Nursing Home Community Advisory Committee:**

No comments.

**Orange County Board of Adjustment:**

No comments.

**Orange County Parks and Recreation Council:**

Commissioner Jacobs said that there is no mention of working with non-profits.

Frank Clifton said that this is a new process for them and it has been advocated more at the staff level.

Commissioner Jacobs said that he would like to communicate to this board about this and Frank Clifton said that he would.

Commissioner Hemminger said that staff and this board had some disagreement as to what was to go in this report.

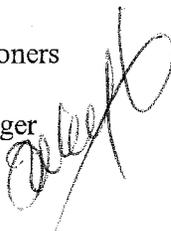
**ORANGE COUNTY**  
HILLSBOROUGH  
NORTH CAROLINA

*Manager's Office*

*Established 1752*

**MEMORANDUM**

**TO:** Orange County Board of Commissioners

**FROM:** Frank W. Clifton, Jr., County Manager 

**DATE:** February 1, 2011

**RE:** Periodic Updates on Significant Topics

I am providing several updates for you as summarized below and in the enclosed attachments. Please contact me directly with any questions. This will enhance my understanding of the particular issue as well as help ensure that your concerns, if any, are addressed.

**1. Orange County Housing Authority Annual Update**

Attachment 1 is a memorandum from James Anderson, Chair of the Orange County Housing Authority Board (OCHA), with an annual update on the OCHA's activities during the past year. Please contact me if you have questions or would like more information.

 **2. Update on Efforts to Combine the Commission for Women and the Human Relations Commission**

In follow-up to a request from the Board's January 20, 2011 regular meeting, Housing, Human Rights and Community Development Director Tara Fikes has provided at Attachment 2 an update on efforts to merge the Commission for Women and the Human Relations Commission. Please let me know any comments or questions.

**3. Update on Sheltering of Cats Concern**

Provided at Attachment 3 is a memorandum from Assistant County Manager Gwen Harvey and Animal Services Director Bob Marotto regarding the sheltering of cats. Ms. Robin Cutson has expressed some concerns with the sheltering cats at the Animal Shelter, and the memo updates the Board on County staff's discussions with Ms. Cutson and related activities. Please contact me if you have any comments or questions.

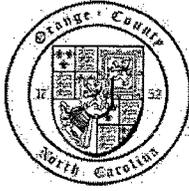
**4. News & Information on Significant Outside Agency Relationships**

The following provides updates on two agencies recently/currently funded by the County and on an opportunity critical to child care service delivery in the midst of State budget concerns.

**Adolescents in Need (AIN)**

The final performance agreement for AIN has been executed and services fulfilled for FY 2010-11. During the fall Department of Social Services staff met with AIN principals to ensure timely and appropriate transition of involved youth. The AIN project began in 1981 with venture capital

Attachment 2



**Orange County  
Housing, Human Rights and Community Development**

Date: January 27, 2011

To: Board of County Commissioners

From: Tara L. Fikes, Director

Subject: Commission for Women/Human Relations Commission Update

cc: Frank W. Clifton, Jr., County Manager  
Willie Best, Assistant County Manager  
Gwen Harvey, Assistant County Manager  
Bryant Colson, Human Relations Commission Chair  
James Spivey, Civil Rights Specialist

The purpose of this memorandum is to provide an update on efforts to merge the Commission for Women (CFW) with the Human Relations Commission (HRC).

In late October 2010, I talked with former CFW Chair Shannon Jackson and HRC Chair Bryant Colson about how the two groups could work together to address their respective issues. At that time, Shannon Jackson noted that she had not been able to contact her former board members for a variety of reasons including changes in family and work responsibilities, out-of-county relocations, the inability to add new members and re-appoint others during the BOCC review of all advisory boards and commissions and the manner in which the CFW was disbanded. As a result, she was the only interested member remaining. During our conversation she expressed an interest in continuing to champion women's issues and thinks the advisory role that the CFW had with the BOCC remains relevant. It should be noted that the HRC voted unanimously to incorporate the CFW function into their Commission.

Thereafter, the HRC agreed to recommend the appointment of Shannon Jackson to the Board of County Commissioners and her appointment was approved at your January 20, 2011. Further, Ms. Jackson has agreed to assist in recruitment efforts to engage others interested in women's issues. To accomplish this, we are pursuing advertising HRC vacancies in some non-traditional media outlets such as publications geared toward women's issues to recruit interested Orange County citizens. It is envisioned that a subcommittee on women's issues will be formed within the HRC as soon as recruitment has been completed.

In summary, James Spivey of my staff and I will continue to work with the HRC to "make this happen" and I will keep you informed of our progress. If you have questions or need additional information, please let me know. Thanks for your continued support.



## Attachment D

**Orange County  
Housing, Human Rights and Community Development**

Date: October 28, 2010

To: Frank W. Clifton, Jr., County Manager

From: Tara L. Fikes, Director

Subject: Commission for Women/Human Relations Commission

cc: Willie Best, Assistant County Manager  
Gwen Harvey, Assistant County Manager  
Donna Baker, Clerk to the Board of County Commissioners  
Brian Colson, Human Relations Commission Chair  
Shannon Jackson, Commission for Women Chair  
James Spivey, Civil Rights Specialist

On October 20<sup>th</sup> I participated in a telephone conference call with Human Relations Commission Chair Brian Colson, Commission for Women Chair Shannon Jackson, and Civil Rights Specialist James Spivey to discuss your August 27<sup>th</sup> letter regarding the possible “merger” of the Commission for Women (CFW) and the Human Relations Commission (HRC). Everyone understood from your letter that the Board of County Commissioners (BOCC) had asked that the two groups talk about how they could collaborate in addressing their issues collaboratively.

Shannon Jackson noted that she had not been able to contact her former board members for a variety of reasons including changes in family and work responsibilities, out-of-county relocations, the inability to add new members and re-appoint others during the BOCC review of all advisory boards and commissions and the manner in which the CFW was disbanded. As a result, she is the only interested member remaining. During our conversation she expressed an interest in continuing to champion women’s issues and thinks the advisory role that the CFW had with the BOCC remains relevant. Therefore, Shannon is interested in joining with the HRC and assisting in recruitment efforts to engage others interested in women’s issues. To that end, we talked about the possibility of advertising in some non-traditional media outlets such as publications geared toward women’s issues to recruit interested Orange County citizens. Thus, by copy of this memorandum, I am asking the Clerk to the Board Donna Baker to let me know of any prohibitions when advertising for Commission members. Also, during the call, Brian Colson informed everyone that the Commission discussed your letter during their October 11<sup>th</sup> meeting and the HRC membership voiced support of the CFW merging with the HRC.

Therefore, both Ms. Jackson and the HRC are ready to move ahead with the merger and the necessary recruitment of new commission members who are particularly interested in women’s issues. There are currently 10 vacancies on the HRC which can currently have a total of 24 members so there is sufficient space to add members.

James Spivey of my staff and I will continue to work with the HRC to “make this happen” and I will keep you informed of our progress. If you have questions or need additional information, please let me know. Thanks.

<p><b>ATTACHMENT B - Excerpt from October 8, 2013 BOCC Minutes</b></p>
--

APPROVED 1/23/2014

**MINUTES  
BOARD OF COMMISSIONERS  
BUDGET WORK SESSION  
October 8, 2013  
7:00 p.m.**

The Orange County Board of Commissioners met for a Work Session on Tuesday, October 8, 2013 at 7:00 p.m. at the Link Government Services Center in Hillsborough, N.C.

**COUNTY COMMISSIONERS PRESENT:** Chair Jacobs and Commissioners Mark Dorosin, Alice M. Gordon, Earl McKee, Bernadette Pelissier, Renee Price and Penny Rich

**COUNTY COMMISSIONERS ABSENT:**

**COUNTY ATTORNEYS PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** Interim County Manager Michael Talbert, Assistant County Managers Cheryl Young and Clarence Grier and Deputy Clerk to the Board David Hunt (All other staff members will be identified appropriately below)

Chair Jacobs called the meeting to order at 7:05 pm.

A motion was made by Commissioner Price, seconded by Commissioner Rich to add a closed session at the end of the meeting for the purpose of:

Per NCGS § 143-318.11. (3) To consult with an attorney employed or retained by the public body in order to preserve the attorney-client privilege between the attorney and the public body, which privilege is hereby acknowledged.

VOTE: UNANIMOUS

**1. Discussion on Potential Establishment of a Women's Commission**

Cheryl Young reviewed the background on this issue. She noted that at the June 18, 2013 BOCC Meeting, Commissioner Renee Price petitioned the Board regarding the establishment of a Women's Commission. She noted that the former Commission for Women, established in 1978, was eliminated as an advisory board in 2010.

She said Commissioner Price provided a draft resolution (Attachment 1 in their packets), and stated that there is a disparity that persists between women and men in payment rates and salaries. She noted that women historically have received and continue to receive less pay and lower incomes than their male counterparts, while fulfilling the same duties and responsibilities. She said Commissioner Price had suggested that the overarching charge of a Women's Commission should be to examine and expose the inequities experienced by women in the business sector, the workplace, entrepreneurship, education and professional advancement and leadership in Orange County, and to advocate for women.

She noted that Commissioner Price suggested this be placed under the Economic Development Department.

Commissioner Price said she has spoken with several women who were a part of the original commission, as well as some younger women in the community. She said the feeling is that this more of an economic development issue than a women's rights advocacy group.

She said it would be good to see where Orange County stands with this issue, as well as the private sector.

Chair Jacobs noted the blue sheets provided from a meeting in 2010 when the commission for women was disbanded. He noted that this was done over the objections of members of the Commission for Women, as well as some of the Commissioners. He said it is good that this issue has come back.

Commissioner Pelissier said she would like to hear from the Economic Development Director to see how this would fit in.

Chair Jacobs said this was discussed and the decision was not to put the economic development director on the spot. He said the interim manager would speak to this.

Commissioner Rich asked how often this committee would meet and if there would be enough work to facilitate creation of a separate committee.

Michael Talbert said he talked to Steve Brantley about this. He said Steve Brantley said economic development's primary goal is the recruitment and retention of industry. He gave the example of Hi-chew. He said this partnership has tremendous potential for this community, and he would not like to take away from that effort.

Michael Talbert noted that much of the existing industry in Orange County is government, University and non-profit. He said the County does not yet have the private sector presence that it hopes to have in the future.

He said the initial resolution seems more like a policy statement than a work plan. He does not believe that this proposed commission belongs in the Economic Development Department. He feels the best fit at this time is in the housing and human relations area.

He said if the board wants to go forward with this and provide funding, it should be considered for next year's budget process. He said the Board would need to determine who will be on the commission and what the charge will be. He said once these things are determined, staff can figure out how to make it work and how to proceed.

Commissioner Rich said that she does not know how effective this board will be, but she has not thought it through yet.

Michael Talbert said he does not know yet either. He said the Board needs to define the expected outcomes.

Commissioner Dorosin said he thinks the proposed charge is too narrow. He said a commission on women ought to deal with all critical issues of gender discrimination. He said this seems like a time limited charge, and it needs to be broader.

Commissioner Price said she was trying to be more realistic because she realizes the limited time that staff has to give. She said this could go beyond income and could look at what happens in the workplace. She felt that it would be more realistic to start narrower and then get broader.

She asked Commissioner Rich for clarification on her concern with the charge.

Commissioner Rich said she didn't understand where it goes, as it looks more like a study.

Commissioner Price said this would start out more like a study.

She noted that when the Board went on a tour of one of the schools, there were no girls in the technology class. She noted the implications of this in the future workplace.

Commissioner Gordon said there is a need for a women's commission and one reason to start with the business side is because women are not represented well, and there is not equal pay for equal work.

She said other things would be important, but equal pay is the key. She suggested that the Board could endorse this concept, but then she would like to see the concept fleshed out.

Commissioner Gordon said that staff needs to work on the charge, the budget, and which department this best fits.

Commissioner Gordon suggested that this proposed commission could possibly come under the direction of Assistant County Manager Cheryl Young.

Chair Jacobs said he is not opposed to a women's commission, but he would like to bring others to the table, such as the Women's center, the Human Rights and Relations Board, and the Health Department. He suggested a possible study to develop a framework.

He said there is not enough information available to move forward with this.

He noted that the Board took all the volunteers that had worked so hard on all of these issues in the past and then did not listen to them. He said he would argue against making a decision without bringing in the people who have worked on these issues.

Commissioner McKee said he is supportive of bringing this back for discussion. He said he is not inclined to put this under the auspices of the Economic Development Department. He noted that this department has limited staff and several large projects in the pipeline.

Commissioner McKee supported the suggestion that this be brought back during the budget process. He said he would also be supportive of bringing in other interested parties.

Commissioner Pelissier said when the then Board made the decision in 2010 not to have a freestanding women's commission, the intent was to include the Commission for Women as part of the Human Relations Commission. She said this sub-committee did not take off and continue the work.

She does not feel that this means that a free standing Commission for Women is needed. She said this is a human rights and human relations issue, and some things do work well under one umbrella.

Commissioner Pelissier said the lack of equal pay for equal work is a national problem, and it is a difficult issue. She does not think this is a problem that can be solved by the County. She said that the County does need to encourage women in entrepreneurs, and there are collaborations with existing organizations, like the Chamber of Commerce that could help with this.

Commissioner Price said one of the reasons she proposed this commission was because the original commission had been disbanded. She said there seemed to be a lack of focus and interest. She said the plight of women is such that there needs to be a stand-alone advocacy. She said the issues are there, and the issues are broad.

She said she chose a narrow focus because she had seen it disbanding when fighting the basic issue of women's rights. She said she has no problem with working with the rest of the Board. She said it just needs to be viable.

Commissioner Price said she spoke with many people, including Lucy Lewis, the original staff person. She said the thought is that the focus needs to be on women and the economy. She said this is about higher paying jobs across the board for women, not just higher level jobs.

Commissioner Price said she understands that the Economic Development Department is a small department. She was trying to stay away from being just another women's rights committee looking at the same issues.

Commissioner Rich said she hears the Board asking for more information. She asked if there is a way that the Board can have a review of why the women's group is no longer in existence. She said she would like to understand the lessons learned from the previous group.

She said this is human relations, and it could be re-birthed under the same committee, as a separate subdivision.

Chair Jacobs said time is limited tonight. He said the Board is not at a decision point, and there have been several visions expressed. He suggested some groups be identified to give input. He suggested that Staff Attorney Annette Moore and Housing, Human Rights and

Community Development Director Tara Fikes might answer the whys of the abolition of the Women's Commission in 2010.

He said that the conversation could be continued once these questions are answered, and the Board can decide on the direction.

Commissioner Gordon clarified that this needs to be resolved before the budget process, as the budget process has to do with funding.

She suggested that Cheryl Young be one of the staff members working to put this together. She suggested the retreat in late January as a good time to discuss this.

Commissioner Dorosin said that he is one of the three different visions that were mentioned. He said he would defer to the women on the Board regarding this issue.

## **2. Review the Process of Creating a Solid Waste Collection and Disposal System Service District**

Michael Talbert said the Board last held a work session in April, looking at four options for solid waste and recycling in Orange County. He said this evolved to a public hearing on April 23, reviewing the following top three options: 1) Create a solid waste management authority, 2) Create a solid waste service district; or 3) Eliminate curbside recycling.

He said, at the direction of the board, staff moved forward with determining willingness to participate, and ascertaining the needs and concerns of the towns with regard to the possible creation of a service district.

He said the Chair met with the three mayors, and adopted an interim funding plan for 2013-14, as directed. He said staff had also committed further investigation into a service district or authority.

He said the creation of an authority is actually creating a separate form of government. He said this would likely take more time than the County has to solve the recycling issues for the coming fiscal year.

He said the creation of a service district is similar to the creation of a fire district, and this could be accomplished by the end of the year. He said this is outlined on page 3 of the abstract.

He said a public hearing must be held in order to establish a service district. He said if the County is considering partnering with the three towns and the existing service district, this would mean 40-50 thousand property owners would have to be notified of a public hearing. He said this means up to 60 thousand parcels and multiple public hearings.

Michael Talbert said John Roberts has outlined a plan to make this work. He said towns can make an authorization. He said Chapel Hill put a section in their budget ordinance stating that the town "authorizes Orange County to provide recycling collection services within those areas of the town situated in Durham County and to impose and administer a fee for such services."

He said a similar statement could be used by all of the towns.

John Roberts said he has met several times in the past year with the town attorneys on this issue. He suggested that the municipal statutes in chapter 168 give specific authorization that towns can do recycling services within their jurisdictions and charge a fee for this service.

John Roberts said the towns initially did not agree with this, but he thinks Chapel Hill has had a change of opinion. He said if each of the towns is willing to do something similar to grant this authority to the County, the size of the solid waste district can be limited to the unincorporated areas. He said the municipal areas can continue under the authority delegated from the town.

## **Attachment C**

Human Relations Commission

Compass Center

Orange County Rape Crisis Center

Planned Parenthood

Orange County Health Department

League of Women Voters of Orange-Durham-Chatham

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** April 8, 2014

**Action Agenda  
Item No.   2**

**SUBJECT:** Decision Items for the Unified Animal Control Ordinance

---

**DEPARTMENT:** Animal Services

**PUBLIC HEARING: (Y/N)**

No

**ATTACHMENT(S):**

- A) Summary of Recommendations
- B) Work Sheets
  - 1. Livestock & Public Nuisance
  - 2. Appeal Process
  - 3. Trespass & Vicious Animals
  - 4. Watch Dogs
- C) School of Government Documents
  - 1. Trespass in Animal Control Ordinance
  - 2. Trespass Decision Diagram
  - 3. Parental Responsibility When Dog Bites Child
- D) ASAB My Dog Scenarios
- E) Excerpt from Approved October 1, 2013 BOCC Meeting Minutes
- F) Excerpt from Approved June 4, 2013 BOCC Meeting Minutes
- G) Clean Draft Unified Animal Control Ordinance

**INFORMATION CONTACT:**

Bob Marotto, Animal Services Director,  
919.968.2287  
Michele Walker, JD, Chair, Animal  
Services Advisory Board,  
919.448.8029  
Susan Elmore, DVM, Past Chair, Animal  
Services Advisory Board,  
919.541.3474

---

**PURPOSE:** To consider recommendations from staff and the Animal Services Advisory Board regarding the most challenging issues arising from prior discussion of the proposed unified animal ordinance and to provide direction to the County Attorney in making revisions in the proposed ordinance.

**BACKGROUND:** The Board most recently discussed the proposed unified animal control ordinance at its October 4, 2013 meeting. There was appreciation for the effort of Animal Services staff and the Animal Services Advisory Board (ASAB) and the overall effort to create a more coherent and comprehensible animal control code for Orange County residents.

At the same time, the Board asked staff and the ASAB to further consider several particularly challenging issues arising from the ordinance and to return to the Board with recommendations for addressing and ideally resolving these issues. These issues are:

1. Trespass: The issue of trespass is how to define trespass since a dog that bites a person who enters the dog owner's property may not be declared a vicious animal under the proposed ordinance if the bitten person is "trespassing".
2. Watchdog: There are additional exceptions to application of a vicious animal declaration for a dog that bites a person on the dog owner's property in the circumstance where a dog is acting in a security capacity. The formulation of one of those exceptions – if the dog is being a "watch dog" – concerns the need to recognize a necessary and lawful role for a dog watching over its owner's property.
3. Administrative appeal: Some procedural issues, such as whether there should be sworn testimony, are in need of clarification; and more generally, there is the question of the best format for appeals in the absence of an established standard.
4. Livestock and Public Nuisance: The issue of whether there should be a special provision for livestock in the public nuisance provision of the ordinance is included among these issues because historically it has needed clarification.

Each of these issues is addressed in more detail in separate work sheets (attached) which may serve to structure Board discussion. Each sheet includes background information, the pertinent portion of the proposed ordinance, and specific recommendations for Board consideration. A "Summary of Recommendations" including specific recommendations for each issue is also provided for convenience and ease of review.

Staff and the ASAB have worked closely in developing the recommendations being presented to the Board. The recommendations have been presented to the ASAB on two different occasions since the October 4, 2013, BOCC meeting and the ASAB unanimously voted in favor of the recommendations both times. At another meeting, the ASAB developed a list of scenarios involving "my dog" to help clarify issues and guide further discussion of the trespass and watch dog issues. It was believed that doing so would inform a policy discussion that should balance the rights of property and pet owners and the health and safety of the public.

In addition, this effort helped create the basis for a request for assistance from Aimee Wall, JD, Associate Professor, School of Government, University of North Carolina-Chapel Hill. As others pointed out in the various discussions of the proposed ordinance, Professor Wall is a recognized authority on animal control regulations (and the author of A North Carolina Guide to Animal Control Law).

Professor Wall and her associate, Christopher Tyner, analyzed the complex and critical issue of trespass in law and in the course of their analysis considered whether there might be a different approach to the watch dog issue. Based on their analysis they developed a flow diagram to help staff decide whether or not a trespass has occurred in a particular case (attachment). Professor Wall and Mr. Tyner also interviewed expert colleagues at the School of Government about the issue of administrative appeal and provided not only some procedural recommendations, but an overall word of caution.

Professor Wall and Mr. Tyner met with Animal Services staff and ASAB officers to discuss their analysis of trespass in the proposed ordinance, and the issues of watch dogs and administrative appeal. On this basis, they also revised and broadened their written analysis of trespass (attachment) to include children whose relation to negligence and hence trespass differs from adults. This is a welcomed addition since children are disproportionately represented among dog bite victims, and there is justified concern with how children are treated under the proposed ordinance.

Staff and ASAB officers identified specific revisions in the ordinance that could and should be made on the basis of the analysis provided by Professor Wall and her associate. They obtained confirmation from School of Government staff that these revisions were consistent with their written analysis in the case of trespass and watchdog and their verbal guidance regarding administrative appeal. With the exception of one or two consistent ideas emerging from prior discussions by the Board, these are the recommendations presented in the work sheets referred to above.

**FINANCIAL IMPACT:** There is no financial impact from the Board's discussion of the recommendations provided by staff and the ASAB or from the Board providing the direction needed to make the revisions required for further consideration of the proposed ordinance.

**RECOMMENDATION(S):** The Manager recommends that the Board discuss the recommendations and provide direction to the County Attorney in revising the proposed ordinance for further consideration by the Board.

## Attachment A

Summary of Recommendations:  
Proposed Unified Ordinance

BOCC Work Session

April 8, 2014

**LIVESTOCK & PUBLIC NUISANCE**Affected section of proposed ordinance: Sec. 4-45. - Public nuisance.

Substitute the following language into the public nuisance section (Sec. 4-45) of the proposed ordinance for (b) (6):

*Except in the case of domestic livestock, any animal at large off the premises of the owner or keeper. At large domestic livestock will be considered a public nuisance when it, in the judgment of the Animal Services Director, or designee, presents an immediate public danger, is destroying or damaging property, is violating property rights, or has been habitually at large.*

**APPEAL PROCESS: SCOPE AND FORM (PART I)**

Affected section of the proposed ordinance: Sec. 4-42. -Control of vicious animals; security dogs; Sec. 4-45. - Public nuisance; Sec. 4-54. –Appeals; Sec. 4-71. –Class I kennels.

1. Limit the process of administrative appeal in the proposed ordinance to two issues: (1) potentially dangerous dog declarations under state law (such appeals are currently conducted by a committee of the ASAB) and (2) vicious animal declarations. Identify any alternative appeal mechanism for administrative actions that would be taken under the proposed ordinance, i.e., an order to remove a nuisance animal or the revocation of a kennel permit.)
2. Define the judicial processes available for the appeal of civil citations for code violations and certain administrative actions in a manner that is readily available to residents.
3. Consider in due time whether there is a need for a more general administrative appeal process to be included in the unified animal ordinance.

**APPEAL PROCESS: PROCEDURAL GUIDELINES (PART II)**

Affected section of the proposed ordinance: None

1. Animal Services staff and the County Attorney should develop procedural guidelines for any administrative appeal processes conducted under the proposed ordinance.

## **Summary of Recommendations**

### **Page 2**

2. The procedural guidelines should include delineation of:
  - a. The role of Animal Services staff
  - b. The general structure of hearings
  - c. The swearing in process for witnesses
  - d. A process of indirect cross-examination
3. There should be appropriate training for ASAB members and/or others who are members of a body responsible for administrative appeals
4. Review of the procedural guidelines and proposed training should be requested from School of Government staff

## **TRESPASS**

Affected section of the proposed ordinance: Sec. 4-42. - Control of vicious animals; security dogs.

1. Develop ordinance language that defines willful trespass more explicitly according to whether there is
  - a. Apparent consent to enter onto the property in the absence of overt or express permission to do so, i.e., the absence of express consent.
  - b. Gross negligence on the part of the bite victim.
2. Consider further whether there can be ordinance language that that discriminates between children and others for the purposes of determining whether a willful trespass has occurred and if so develop such language for Board discussion
3. Develop language for a two-step process for "non-severe bites" on the property of the dog owner under the Unified Ordinance's vicious animal provisions
  - a. A citation for a first bite that serves to notify the owner of his or her dog's propensity without declaring the dog vicious in a manner that imposes conditions and restrictions.
  - b. A vicious animal declaration for a bite occurring after the issuance of the citation at step one that imposes conditions and restrictions on the dog.

## **WATCH DOG**

Affected section of the proposed ordinance: Sec. 4-37. - Definitions.; Sec. 4-42. - Control of vicious animals; security dogs.

1. Exclude watch dogs from the general category of security dogs in the proposed ordinance
2. Develop language to exempt a dog from being deemed vicious if the dog is being protective of person or property in circumstances in which either or both of the following apply:

***Summary of Recommendations******Page 3***

- a. There is an absence of consent (expressed or implied) for the bite victim to have entered the property on which s/he was bitten
- b. The bite victim could have avoided the bite by responding to signal behaviors from the dog and removing him or herself from the property (or some portion thereof) of the owner of the biting dog.

## Attachment B(1)

**LIVESTOCK & PUBLIC NUISANCE**Background

There has been an ongoing discussion of whether livestock should have a different status than companion animals such as dogs and cats in the public nuisance provision of the proposed unified ordinance. This discussion predates the presentation of the ordinance but it has continued since the ordinance was brought forward.

At the October 4, 2014, BOCC meeting, no Commissioner voiced opposition to making such a change in the proposed ordinance. Some spoke in favor of making such a change and one asked that the conditions under which livestock were excepted from general nuisance provisions be articulated more clearly in subsequent versions of the ordinance. The Commissioner specifically suggested that it would be beneficial to explicitly indicate that exceptions would be due to circumstances or factors outside of the control of a farmer.

There has been a fair amount of back and forth between the ASAB and the Agricultural Preservation Board (APB) about this concern.<sup>1</sup> After the October 5 Board meeting the ASAB Chair communicated with a member of the APB about this matter. Subsequently, the APB drafted the language that they preferred for the livestock exception (see below) and it was then reviewed and endorsed by the ASAB.

Recommendation

1. Substitute the following language into the public nuisance section (Sec. 4-45) of the proposed ordinance for (b) (6) (highlighted in the following section):

*Except in the case of domestic livestock, any animal at large off the premises of the owner or keeper. At large domestic livestock will be considered a public nuisance when it, in the judgment of the Animal Services Director, or designee, presents an immediate public danger, is destroying or damaging property, is violating property rights, or has been habitually at large.*

Proposed Ordinance Subject to Change

Only one provision of the proposed ordinance would need to be changed as a result of the recommendations being made to the Board. This provision from the version of the ordinance the Board reviewed on October 4, 2014 appears below.

**DIVISION 1. - GENERALLY****Sec. 4-45. - Public nuisance.**

- (a) In General. It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals.

---

<sup>1</sup> Animal Services staff and ASAB officers did not discuss this issue with SOG staff.

***Livestock & Public Nuisance******Page 2***

(b) Prima Facie Evidence. Actions deemed prima facie evidence of a public nuisance include the following activities of any animal, or conditions maintained or permitted by the animal's owner or keeper:

(1) Habitually or repeatedly, without provocation, chasing, snapping at or attacking pedestrians, bicycles, persons lawfully entering the property to provide a service, other animals being walked on a leash, or vehicles even if the animal never leaves the owner's property, except that this provision shall not apply if such animal is restrained by a pen, fence, or other secure enclosure. For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.

(2) Interfering with the reasonable use and enjoyment by neighboring residents of their property because of its odor or excessive noise making. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, and crowing only if the rooster is within the town limits of Carrboro, Chapel Hill, or Hillsborough.

(3) A female dog that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.

(4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causing injury to domesticated livestock or pets.

(5) Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.

(6) At large off the premises of the owner or keeper; except in the case of domestic livestock the Animal Services Director, or designee, shall have the discretion to determine a violation.

(7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, cats may be deemed a public nuisance when off the premises of its owner or keeper when they:

## Attachment B(2)

***APPEAL PROCESS (Part I)*****Scope and Form of Appeal****Background**

Commissioners appeared to support the availability of an appeal process for civil citations for code violations (e.g., failure to vaccinate a dog or cat for rabies) and administrative actions taken under the authority of the ordinance (e.g., a vicious animal declaration). Also, there were no strong concerns voiced about the process being quasi-judicial, that is, involving residents who had been appointed to a board with the function of providing an appeal venue for administrative decisions.

However, there was no agreement on how to provide administrative appeal. Some Commissioners favored having the Animal Services Advisory Board provide the appeal process (as it now does for potentially dangerous dog declarations made under North Carolina's statutes) recognizing the subject matter familiarity of board members and in order to avoid creating another county board.

Other Commissioners asked about the merits of other formats for the appeal process or whether there should be a two-step process of administrative appeal. Related to this approach are concerns raised by some residents that the close relationship between Animal Services staff and the ASAB may bias any administrative appeal process offered under the proposed ordinance.

The meeting with Professor Wall and Mr. Tyner made Animal Services staff and the ASAB realize the downsides to a comprehensive administrative appeal process for the proposed ordinance. Two especially notable concerns are 1) the potential liability to the county of providing such an appeal, and 2) the administrative burden that such a process would place upon Animal Services and other county staff.

Agreement emerged from the discussion with Professor Wall and Mr. Tyner that it would be beneficial to better define (or articulate) what appeals exist for residents through the court system. These are not well known to residents and Animal Services staff has been counseled to not refer residents to civil court to appeal civil citations and penalties. There was also agreement that it made the most sense to begin by extending the scope of administrative appeal in the proposed ordinance to the area in which such an appeal now applies in state law, namely, animals posing a danger to the public.

Animal Services presently declares dogs potentially dangerous or dangerous under state law on the basis of reports of bites or aggressive incidents that occur off the property of a dog owner. Animal Services may also declare an animal vicious under a county or municipal ordinance and in some circumstances this declaration is made to fill a void because state law does not apply even though there has been a bite. This is especially true with bites that occur on the property of the dog owner which do not result in "broken bones or disfiguring lacerations or require cosmetic surgery or hospitalization."

State law guarantees the owner of a dog declared potentially dangerous a right of appeal and a committee of the ASAB constitutes a three person board for such appeals. By contrast, there is no right or mechanism of appeal for the owner of a dog declared vicious under the county's current animal

***Appeal Process******Page 2***

control ordinance. The extension of the existing appeal for potentially dangerous dog declarations to also allow for appeal of vicious animal declarations thus has precedent and it is further justified by the fact that dogs deemed potentially dangerous and/or vicious become subject to additional restrictions under the proposed ordinance.

More generally, it was agreed that the costs and benefits of an administrative appeal needed to be examined more carefully before it became a general process but that approval of the proposed ordinance need not be dependent upon such examination. The reasoning for proceeding in this way is that there is no administrative appeal under the county's present animal control ordinance.

**Recommendations**

1. Limit the process of administrative appeal in the proposed ordinance to two issues: (1) potentially dangerous dog declarations under state law (such appeals are currently conducted by a committee of the ASAB) and (2) vicious animal declarations. (Identify any alternative appeal mechanism for administrative actions that would be taken under the proposed ordinance, i.e., an order to remove a nuisance animal or the revocation of a kennel permit.
2. Define the judicial processes available for the appeal of civil citations for code violations and certain administrative actions in a manner that is readily available to residents.
3. Consider in due time whether there is a need for a more general administrative appeal process to be included in the unified animal ordinance.

**Proposed Ordinance Section Subject to Change**

Three different provisions of the proposed ordinance would need to be changed based upon the recommendations being made to the Board. These provisions are from the version of the ordinance the Board reviewed on October 4, 2014, and they appear below.

**DIVISION 1. - GENERALLY****Sec. 4-42. - Control of vicious animals; security dogs.**

(j) Appeal. Any declaration that an animal is "vicious" may be appealed to the Orange County Animal Services Advisory Board as provided in this Chapter.

**Sec. 4-45. - Public nuisance.**

(c) Violation.

(1) Failure to Abate a Violation. If the public nuisance has not been abated after the time indicated in the Abatement Order, then the Animal Service Director shall notify the owner or keeper in writing

**Appeal Process****Page 3**

that the animal may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

(2) **Animals Removed from County.** The Owner or Keeper of any animal who has been required to remove the animal pursuant to this Section shall, within five (5) days after removal, inform the Administrator or designee in writing of the animal's present location, including the name, address and telephone number of the animal's owner or keeper. If the animal has been destroyed, the Administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

(3) **Subsequent Violations.** The Animal Services Director or designee may impound an animal if a third verified violation occurs within one year of any other previous violations of this Section.

(4) **Right of Appeal.** An Owner or Keeper shall have a right to appeal a citation or removal of an animal under this Section in accordance with Section 4-54 of this Chapter.

**Sec. 4-54. - Appeals.**

Any appeals of the Chapter shall be to the Orange County Animal Services Advisory Board within 5 days of the final decision of the action. The Animal Services Advisory Board shall adopt rules regarding the appeals of violations of the Chapter.

**DIVISION 2. - KENNEL AND PET SHOP STANDARDS****Sec. 4-71. – Class I kennels.**

(f) **Revocation.** A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for violation of another section of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

**Sec. 4-72. - Class II kennels**

(g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of this Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

## ***APPEAL PROCESS (Part II)***

### **Procedural Guidelines**

#### **Background**

In the Commissioners' discussion of the proposed ordinance, some issues arose concerning proper procedure for conducting administrative appeals. One issue was whether testimony should be sworn in administrative appeal and it was suggested that sworn testimony should be the standard for these appeal hearings.

Relatedly, there was a question of why testimony is not presently sworn in the potentially dangerous dog appeal hearings offered under state law by an ASAB committee. The County Attorney explained that one reason was that there were no appeals per se of the rulings of this committee but that second step appeals were conducted de novo to Superior Court.

More generally, there seemed to be a concern with what standards should apply in the administrative appeal process to ensure that the process was fair and conformed to due process principles. The question of standards may not have been formally and thoroughly discussed but ultimately it seemed to be a significant concern.

A significant outcome of the discussion with Professor Wall and her associate was to clarify some of the different issues entangled in the discussion of standards. As noted in the abstract, she had conferred with some of her School of Government colleagues regarding the issue of standards as well as the personnel who could and/or should be responsible for appeals.

There were a number of "take-aways" from the discussion with School of Government staff. One was that testimony should be sworn to ensure that witnesses had an obligation to be truthful in their testimony. There was mention that certain Animal Services staff could become notaries and swear in witnesses at hearings.

Another point was that there needed to be an appropriate form of cross-examination. It was agreed that indirect cross-examination by members of the appeal body combined with an opportunity for rebuttal by the involved parties in their closing statements, would ensure adequate cross-examination. All believed that this is the preferred approach given the high level of emotion that often characterizes discussion of pets and the distinct possibility that there could be safety concerns for those involved.

Two other notable "take-aways" are closely related. One was that the role of Animal Services staff should be carefully circumscribed, and even more specifically, that they should only be involved in the strictly administrative aspects of appeal hearings, e.g. scheduling and distribution of case files. Any role greater than this administrative role risks conflicts of interest since what essentially is at issue in a

**Appeal Process****Page 5**

hearing is the action of Animal Services staff (as in the decision to deem a dog potentially dangerous and/or vicious).

The other was that there needed to be proper training for members of the hearing body to ensure that administrative appeals were conducted satisfactorily. The discussion strongly suggested that this training should not be limited to substantive aspects of regulations and rules of evidence. In addition, there would need to be training on the procedures for the administrative appeal process itself.

**Recommendations**

1. Animal Services staff and the County Attorney should develop procedural guidelines for any administrative appeal processes conducted under the proposed ordinance.
2. The procedural guidelines should include delineation of:
  - a. The role of Animal Services staff
  - b. The general structure of hearings
  - c. The swearing in process for witnesses
  - d. A process of indirect cross-examination
3. There should be appropriate training for ASAB members and/or others who are members of a body responsible for administrative appeals
4. Review of the procedural guidelines and proposed training should be requested from School of Government staff

**Proposed Ordinance Section Subject to Change**

No provisions of the proposed ordinance include or make reference to procedures for the administrative appeal process. The above recommendations are not envisioned as revisions in the ordinance itself but there may be a question as to whether the documents that are developed should be included by reference in the proposed ordinance.

## **TRESPASS & VICIOUS ANIMALS**

### Background

A complex and challenging issue arising in the Commissioners' discussion is the way in which "trespass" should be defined and understood in the context of the Unified Ordinance. A primary reason for this is that how trespass is defined has consequences for whether a dog will be declared as a vicious animal when it bites someone who has come on its owner's property without invitation or permission.

Currently, the county's ordinance has a basic notion of trespass, namely, a person entering onto property without invitation or permission from a property owner. If a person is trespassing in this sense and s/he is bitten by a dog, the dog may not be regarded as a vicious dog (Sec. 4-37). By contrast, the Unified Ordinance proposed a more complex notion, recognizing that many different people enter onto other people's property without permission for many different reasons. Specifically, it used "willful trespass" in place of the essentially binary (or black and white) notion of trespass found in the existing ordinance as a basis for making exceptions to declaring a dog dangerous.<sup>1</sup>

At the October 4, 2013, Board meeting, there was a thorough discussion of trespass in relation to the flux of daily life in in our own and other communities. Some parts of the discussion were concerned with how people's own dogs would be affected if they behaved protectively on their property. Other parts of the discussion underscored the wide variety of diverse but entirely lawful reasons a person enters onto the property of another without permission or explicit invitation.

The discussion suggested that ideally the notion of trespass used in the proposed ordinance should be deepened in order to allow consistent and meaningful distinction between justifiable and unjustifiable bites to uninvited persons that occurred on the private property of a dog owner. The full range of such incidents was further suggested in the discussion "my dog scenarios" developed by the ASAB after the Commissioner's October 4, 2013 meeting to serve as an aid to further analysis of trespass and ultimately its definition in the Unified Ordinance.

It was in this context that Professor Aimee Wall and her associate, Christopher Tyner, responded to our request for assistance by providing a detailed analysis of the notion of trespass and developing a flow diagram for decision-making.<sup>2</sup> They met with staff and ASAB representatives to discuss their analysis of trespass (among other issues) and its implications for the Unified Ordinance. Subsequently, they revised their written analysis. The final version of their analysis and their decision-making diagram are among the attachments for this agenda item.

Among other things, their revised analysis addresses the legal issue of whether children can and should be held to the same standards of conduct as adults with regard to trespass. This was another issue that emerged at the Board's October meeting with Commissioners expressing varied opinions.

---

<sup>1</sup> In doing so, it constructed the ordinance on the basis of the precedent provided by and in a manner parallel to North Carolina's dangerous dog law (67-4.1), which uses the notion "willful trespass" as well.

<sup>2</sup> The diagram was not intended to become part of the ordinance but rather to serve as instrument staff would use in analyzing the "totality of circumstances" in particular cases.

## ***Trespass & Vicious Animals***

### ***Page 2***

Professor Wall and Mr. Tyner's analysis reveals that children and adults are not, in fact, treated the same in law, and at least suggests that social policy codified in the County's ordinance should somehow reflect their significant difference in standing, competencies, and responsibility.

Fundamental to the approach recommended by Professor Wall and Mr. Tyner is that it is not sufficient to determine whether or not the victim of a bite is on the property of the owner without some explicit permission from the owner.<sup>3</sup> The reason is that there is a substantial body of applicable law recognizing that there are many lawful reasons for a person to be on another person's property without explicit and/or prior permission. A critical question is, then, whether there is a willful trespass, i. e., a trespass in which a person willingly enters onto the property of another despite indications that s/he should not do so or should have reservations about doing so.

Whether there is a willful trespass, according to Professor Wall and Mr. Tyner, depends upon prevailing social customs. As a result of civil codes that have come into existence historically, there are many situations in which it is permissible or even expected that a stranger or uninvited person may enter onto the property of another. Going to a neighbor's house to borrow something is a very simple illustration. In situations of this kind, there is what Professor Wall and Tyner describe as "apparent (or implied) consent" based upon social (or community) custom, and according to their analysis, this is well recognized in trespass laws.

Determining whether an uninvited person has the apparent consent of an owner to enter onto his or her property depends upon various characteristics of the property. Some of these are quite explicit and unequivocal, e.g., signs declaring "No Trespass" or "Beware of Dog." Others take very material forms, e.g., fences and gates. Varied characteristics can and do combine in some powerful messages, for instance, stockade fencing with no trespass signs at frequent intervals.

Others characteristics of a property may indicate not only whether there is apparent consent but the scope of such consent. One illustration is a sidewalk from a public street that ends at a front door or breezeway. In this situation, it may be readily apparent that a person may approach the house but not nearly so apparent that there is an implied consent for them to go elsewhere on the property. Another illustration is a paved or gravel driveway that comes up to a house and then transitions to a dirt road that leads to outbuildings well beyond the house. As in the first illustration, the apparent consent for an uninvited guest to come onto the property may well end when s/he comes to the house and transition in the driveway.

---

<sup>3</sup> In no way does this approach discount the importance of knowing whether a person has been invited onto the property on which they were bitten by the dog owner. Such invitation is what Professor Wall and Mr. Tyner refer to as "express consent" and such consent essentially means that the victim of the bite was not trespassing. There could well be other reasons why the biting dog is not declared a vicious dog, e.g., the bite victim has tormented or abused the animal in the past or somehow provoked the person at the time of the bite. However, an exception may not be made to declaring the dog vicious because of trespassing when a bite victim has permission or express consent to enter onto private property.

## ***Trespass & Vicious Animals***

### ***Page 3***

An important corollary of Professor Wall and Mr. Tyner's analysis of the meaning of trespass in applicable law is that the behavior of the bite victim is not immaterial in the analysis of whether there is a willful trespass. A person's gross negligence in evaluating and acting on their perception of either express or implied consent to enter property should necessarily enter into an evaluation of whether a willful trespass has occurred. Negligence of this kind is varied and it may involve a variety of property characteristics including the presence of a dog and its behavior.

With regard to express consent, there may be a misunderstanding of the terms or scope of the permission someone has received from a property owner. For instance, a person may enter into a fenced backyard when they were actually told to come to the front yard to have the children play. Customary understanding of property characteristics will be most prominent in cases involving the question of whether someone had the apparent consent of an owner to enter his or her property. One illustration is a person opening a closed fence behind to approach a residence. Another illustration is a person who walks past a house and through a fence gate toward some distant outbuildings even as they hear dogs barking in the distance.

Two observations need to be made before closing this discussion. One is that during Commissioners' discussion at their meeting on October 4, 2013, one suggestion made was that a dog's first bite without justifiable cause on the owner's property could be addressed with a citation under Unified Ordinance. In this approach, the citation would serve to notify the owner of the dog of its propensity to bite and the owner's responsibility to ensure that the dog did not have the opportunity to do so absent a justifiable cause. Only the second time the dog bit on the owner's property without some justifiable cause would the dog be deemed vicious and subject to the conditions and requirements of a vicious animal as defined in the Unified Ordinance.

The second observation is about the role of local government in assuring public health and safety. Many dog bites occur on private property but these bites are only subject to action under the North Carolina's Dangerous Dogs law (67-4.1 through 67-4.4) if a bite results in "broken bones or disfiguring lacerations or require(s) cosmetic surgery or hospitalization." What this means is that under the statute it is not possible to place restrictions on the dog (such as being in a secure enclosure on the owner's property) in an effort to prevent someone else from being bitten by the same dog unless the bite is severe. Historically, this gap has been filled by local ordinances such as county and town vicious animal ordinances which can be constructed to cover the significant gap in state law that exists for bites that occur on the dog owner's property that do not reach the threshold of breaking bones, causing disfiguring lacerations or requiring hospitalization or cosmetic surgery.

***Trespass & Vicious Animals******Page 4***Recommendation

1. Develop ordinance that defines willful trespass more explicitly according to whether there is
  - a. Apparent consent to enter onto the property in the absence of overt or express permission to do so, i.e., the absence of express consent.
  - b. Gross negligence on the part of the bite victim.
2. Consider further whether there can be ordinance language that that discriminates between children and others for the purposes of determining whether a willful trespass has occurred and if so develop such language for Board discussion
3. Develop language for a two-step process for “non-severe bites” on the property of the dog owner under the Unified Ordinance’s vicious animal provisions
  - a. A citation for a first bite that serves to notify the owner of his or her dog’s propensity without declaring the dog vicious in a manner that imposes conditions and restrictions.
  - b. A vicious animal declaration for a bite occurring after the issuance of the citation at step one that imposes conditions and restrictions on the dog.

Proposed Ordinance Subject to Change

Only one section of the proposed Unified Ordinance needs to be changed as a result of the recommendations being made to the Board. Subsections that we would expect to be directly affected appear below. They are from the version of the Unified Ordinance the Board reviewed on October 4, 2014.

**DIVISION 1. - GENERALLY****Sec. 4-42. - Control of vicious animals; security dogs.**

(a) In General. It shall be unlawful for any person to keep any vicious animal within the County, unless under restraint and on the premises of the owner or keeper.

(b) Vicious Animal. Any animal, on or off the premises of its owner or keeper, which is three (3) months of age or older and who:

(1) Without provocation has bitten, killed or caused physical harm through bite(s) to a person;  
or

(2) Without provocation has attempted to bite a person or cause physical harm through bite(s) to a person; or

## Trespass & Vicious Animals

### Page 5

(3) Without provocation has injured, maimed or killed a pet or domestic livestock, except where such animal has bitten or killed a pet or domestic livestock that is on the land of another without permission or is defending a person; or

(4) Has been deemed potentially dangerous or dangerous in accordance with N.C. Gen. Stat. Chapter 67, Article 1A. Dangerous Dog.

**(e) Exceptions. The provisions of this Section do not apply to:**

(1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;

(2) A dog being used in a lawful hunt;

(3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting, herding or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or

(4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:

- a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or "No Trespassing" in a manner reasonably likely to come to the attention of an intruder'
- b. Committing a willful trespass or other;
- c. Tormenting, abusing, or assaulting the dog or has attempting to torment, abuse, or assault the dog; or
- d. Committing or attempting to commit a crime.

(5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.

## **WATCH DOGS**

### Background

Differences of opinion emerged between Commissioners and others in regard to whether there should be an exception to vicious animal declarations for a dog that bit someone on its owner's property while watching over the property. While closely related to discussions of trespass, it became clear in the course of further consideration and consultation that the issue of watch dogs is best treated separately (as it is in this section).

Under the existing ordinance, security dogs are generally defined as dogs that are kept by an "owner or keeper for the purpose of protecting any person or property" (Sec. 4-37). They are classified into patrol dogs, which must be registered and which are trained or conditioned to act aggressively upon command; sentry dogs which must be registered and which are trained or conditioned to act aggressively without command; and watch dogs, which act protectively but do not require registration or training. A watch dog is more specifically defined as a "dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose."

Under the county's existing ordinance, a "security dog" (Sec. 4-37) may not be deemed a vicious animal for "causing physical harm through bites to people (a person)" or biting or killing another animal except in limited circumstances. Thus the exclusion of watch dog from security dogs in the Unified Ordinance raises the question of whether dogs may legitimately watch over and protect a person or property without the risk of being deemed vicious for their behavior

In discussion of the Unified Ordinance, those who favored preserving the exception for watch dogs expressed the view that many dogs are kept to watch over private property (and persons on a property) and should not suffer consequences if they bite someone in performing their function. One Commissioner maintained that under the proposed ordinance residents would only be able to have dogs as watchdogs if these dogs qualified as security dogs. Since qualification as a security dog requires the costly training and registration of dogs, he lamented that many residents would no longer be able to keep dogs to watch over their property and persons.

Those opposed to keeping the category of watch dogs expressed the view that their exemption from being declared vicious in the current ordinance amounted to a "blanket" exception. They stressed that there was not a cogent way to distinguish between watch dogs and other kinds of dogs. Because any dog that bit someone on its owner's property can be described as a watchdog (provided it barks or threatens to bite), there ends up being a general rather than limited exception. This results in a lack of effective authority for exercising control over dogs that bite someone on their owner's property without cause in an effort to limit the future risk that the same dog may bite again without cause.

The discussion with Professor Wall and her associate cut both ways in the context of these opposing views. On the one hand, it affirmed the original decision to exclude watchdogs as a distinctive category of security dog because it essentially was the "exception that swallowed the rule" in the current

**Watch Dogs****Page 2**

ordinance. In practical terms, it makes it impossible for the county's animal control authority to deem any dog vicious that bites someone on its owner's property if the owner says the dog is a watchdog.

On the other hand, a strong sense emerged from the discussion with School of Government staff that their trespass analysis could provide a way to allow that a watchful dog could justifiably bite someone on the owner's property even when that person had no criminal intent. This is so because the more general analysis of trespass suggested that social customs and apparent consent must be taken into account and that they include the behavior of a dog watching over property and the behavior of the person who enters that property.

Whether there is apparent consent to enter on private property depends, among other things, on the presence and behavior of a dog on the property. Barking, growling and other observable behavior are one indication that there is not an implied consent for any visitor to enter onto the property without invitation or prior arrangement. Thus the behavior of a watchful dog must be considered as part of the array of factors that determine whether consent exists for someone to enter onto the property of another.

Similarly, the behavior of the person who entered onto private property without invitation or prior arrangement would need to be factored into the analysis of a given bite case. How a person behaved in the face of a dog exhibiting alerting or protective behavior would be essential to ascertaining whether the visitor had (knowingly or not) contributed to the bite that had occurred. Whether a dog was deemed a vicious animal under the ordinance could well depend upon whether a bite victim disregarded a barking dog when s/he walked up a driveway or exited a vehicle that they had pulled into the same driveway.

**Recommendation**

1. Exclude watch dogs from the general category of security dogs in the proposed ordinance
2. Develop language to exempt a dog from being deemed vicious if the dog is being protective of person or property in circumstances in which either or both of the following apply:
  - a. There is an absence of consent (expressed or apparent) for the bite victim to have entered the property on which s/he was bitten
  - b. The bite victim could have avoided the bite by responding to signal behaviors from the dog and removing him or herself from the property (or some portion thereof) of the owner of the biting dog.

**Watch Dogs****Page 3**Proposed Ordinance Subject to Change

Three provisions of the proposed Unified Ordinance refer to security dogs (absent the classification of watchdog" that appears in the county's current ordinance. These provisions are from the version of the ordinance the Board reviewed on October 4, 2014, and they appear below.

**Division 1.-GENERALLY**

## Sec. 4-37. - Definitions.

Security Dog: Any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog or sentry dog.

- (a) Patrol dog: A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.
- (b) Sentry dog: A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

**Sec. 4-42. - Control of vicious animals; security dogs.**

- (e) Exceptions. The provisions of this Section do not apply to:
  - (1) A dog being used by a law enforcement officer to carry out the law enforcement officer's official duties;
  - (2) A dog being used in a lawful hunt;
  - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting, herding or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
  - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:

**Watch Dogs,  
Page 4**

- a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or "No Trespassing" in a manner reasonably likely to come to the attention of an intruder'
- b. Committing a willful trespass or other;
- c. Tormenting, abusing, or assaulting the dog or has attempting to torment, abuse, or assault the dog; or
- d. Committing or attempting to commit a crime.

(5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.

(h) Effect of Citation.

(1) Upon payment of a citation or the conviction of the owner or keeper for having an animal which without provocation has committed any of the acts described in subsection (b) above, said animal is declared a vicious animal.

(2) Upon the payment of a citation or the conviction of the owner or keeper for having an animal which on or off the property of the owner or keeper and without provocation has killed or caused life threatening injuries through bite(s) to a person, the animal will be seized by the animal control officer and destroyed in a humane manner.

(3) Any animal previously declared vicious upon the payment of a citation or by conviction of the owner or keeper for a violation of this subsection, that commits a subsequent violation of the subsection, will cause the owner or keeper to be charged with that violation. Upon the owner or keeper's conviction of that violation, the animal will be destroyed in a humane manner.

(4) Any violation of this section may be a misdemeanor and subject to a fine of five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days.

(5) All persons owning security dogs as defined by this Ordinance shall register such animals with the Animal Services Director; the owner or keeper of any such dog shall place signs or placards on his premises noting "Beware of Dog" or other information noting the presence of security dog(s).

**Wall – “Trespass” in Animal Control Ordinance**

2-5-2014

**Question:**

Evaluate the implications of the exception from classification as a vicious animal for dogs that inflict injuries to persons committing a “willful trespass.”

**I. Overview**

Correspondence from Orange County Animal Services indicates that in the process of drafting a Unified Animal Control Ordinance staff members have determined that a draft exception from the “Vicious Animal” provisions of the Ordinance for dogs that attack or bite individuals who are committing a “willful trespass” presents difficult policy questions. Staff members are concerned that there is not a uniform legal definition of the term “trespass,” and that the definitions which do exist include some relatively innocent behaviors, the doing of which may not reasonably justify a person being attacked by a dog.

Staff members have expressed a desire to intelligently balance the rights of property and dog owners with the safety of the community at large, and, to this end, Animal Services has asked for an explanation of legal principles related to trespass law which may guide the construction and interpretation of this portion of the ordinance.

The draft provision at issue is reproduced below:

**Sec. 4-42. - Control of vicious animals; security dogs.**

*Subsections (a) – (d) are not reproduced here.*

(e) Exceptions. The provisions of this Section do not apply to:

*Sub-subsections (1) – (3) are not reproduced here.*

(4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:

- a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or “No Trespassing” in a manner reasonably likely to come to the attention of an intruder
- b. Committing a willful trespass or other tort;
- c. Tormenting, abusing, or assaulting the dog or attempting to torment, abuse, or assault the dog; or
- d. Committing or attempting to commit a crime.

(5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.

## II. Similar Provisions in Other States

It appears that exceptions in animal control regulations for dogs that attack trespassers are relatively common. At least eight other states have exceptions in state animal control law that specifically exempt dogs that attack or bite individuals who are committing a “willful trespass” from classification as a vicious or dangerous animal. *See* S.D. Codified Laws § 40-34-15 (“No dog may be declared vicious if an injury or damage is sustained to any person who was committing a willful trespass or other tort”); Cal. Agric. Code § 31626(a) (“No dog may be declared potentially dangerous or vicious if any injury or damage is sustained by a person who, at the time the injury or damage was sustained, was committing a willful trespass or other tort”); Va. Code Ann. § 3.2-6540.1(C.) (“No animal shall be found to be a vicious dog if the threat, injury, or damage was sustained by a person who was . . . (ii) committing, at the time, a willful trespass upon the premises occupied by the animal's owner or custodian”); 3 Pa. Stat. Ann. § 459-507-A(b) (“This article shall not apply if the threat, injury or damage was sustained by a person who, at the time, was committing a willful trespass or other tort”). *See also* Minn. Stat. Ann. § 347.51; 510 ILCS 5/15.1(Illinois); Okla. Stat. Ann. tit. 4, § 46.

Unfortunately, as is the case in Article 67 of the North Carolina General Statutes, most of the other jurisdictions which specifically identify an exception for attacks on willful trespassers do not explicitly define the behavior which constitutes a “willful trespass.” One exception to this general trend is Nebraska’s dangerous dog statute which contains an exception for injuries inflicted by a dog upon “an individual who, at the time, was committing a willful trespass as defined in section 20-203, 28-520, or 28-521, [or] was committing any other tort upon the property of the owner of the dog.” Neb. Rev. Stat. § 54-617. The cross references in Nebraska’s statute reference the statutory tort of invasion of privacy (requiring a trespass which “would be highly offensive to a reasonable person”) and the crimes of first and second-degree trespass. This Nebraska scheme is similar to a cross reference to the NC statutes for criminal trespasses that appears to have been at one time included in a draft version of the Unified Ordinance.

Given that the animal control regulations of other states tend to be as vague as North Carolina’s provision in G.S. 67-4.1 (b)(4) (analogous to the exception in the draft Unified Ordinance), it is helpful to examine the broad concept of trespass in tort law in order to better understand what behavior may constitute a “willful trespass.”<sup>1</sup>

## III. Trespass Generally & Within the Context of the Ordinance

Trespass in civil tort law is an “ancient action” and the term has been used to describe all manner of wrongs ranging from the general to the specific. *Fowler v. Valencourt*, 334 N.C. 345, 348 (1993). At its most general, “a trespass is sometimes said to include any wrongful invasion

---

<sup>1</sup> For a case looking to the traditional legal meaning of the term “trespass” in the absence of an explicit definition see *State v. Johnson*, 628 P.2d 789, 790 (Or. App. 1981) (“The Portland City Code does not define the term ‘trespasser.’ It is a term, however, that has a well defined legal meaning, and it should be given that meaning in construing the ordinance.”)

of the rights of another,” but North Carolina law has long recognized that the “more natural and usual meaning” of the term trespass is “restricted to unlawful acts done to the person or property of another.” *Brown v. Walker*, 188 N.C. 52 (1924).

It is probably reasonable, for purposes of the Unified Ordinance, to further restrict the interpretation of the term “trespass,” to trespasses against real property because the other common forms of trespass, those to personal property and to persons, tend to be criminal offenses as well as other specifically identified torts. *See e.g., Fowler*, 334 N.C. at 349 (noting that the torts of assault and false imprisonment, each of which is also a crime in North Carolina, fall within the “umbrella” of trespass). The Unified Ordinance provides a separate exception for dogs inflicting injury to individuals committing or attempting to commit crimes, as well as catchall language referring to “other tort[s],” and these separate exceptions may be better suited to handling forms of trespass other than trespasses to real property.<sup>2</sup>

Another area of tort law where the concept of trespass frequently arises is that of premises liability for injuries to others occurring on a land occupier’s property. Largely, the definitions of trespass in the law of premises liability and in the law of the trespass tort overlap. A person who commits the tort of trespass to real property such that she may be liable to an occupier of the property for damages would, with narrow exception, typically be considered a trespasser under the law of premises liability. *See* 2 DAN B. DOBBS ET AL., *THE LAW OF TORTS* 68 (2d ed.2011) (explaining that historically the “trespassers category . . . included all those who might be sued for trespass”) [hereinafter DOBBS]. While this notion is perhaps obvious, it is important to note because the bodies of law often do not look to each other for guidance, and the cases in each area tend to focus on different issues.

The conceptual similarity between premises liability legal theory and the policy considerations which likely underlie the trespasser exception in the Unified Ordinance provides further support for the proposition that the trespass exception in the Unified Ordinance is likely meant to be understood as applying to trespasses to real property rather than other forms of trespass. The general theory of premises liability law is that the standard of care owed by a landowner to others to prevent injuries from occurring on her property varies depending on whether the injured person has permission to be at the place where he is injured. *See Nelson v. Freeland*, 349 N.C. 615 (1998) (discussing the historical development of and modern trends in premises liability law). This idea seems to comport with the likely justification for the trespass exception.

---

<sup>2</sup> For examples of the broad circumstances implicated by interpreting the willful trespass exception as encompassing trespasses other than those to real property, see *Kirby v. Jules Chain Stores Corp.*, 210 N.C. 808 (1936) (characterizing a civil action for damages for a miscarriage allegedly caused by defendant’s frightening and profane admonishment of plaintiff regarding a debt as a “willful trespass to the person”), and *Meibus v. Dodge*, 38 Wis. 300, 306 (1875) (defendant argued that an “act of trespass upon the defendant’s sleigh [parked on a public street and guarded by a dog]...by interfering with the property...would protect the defendant from liability” where a child was bitten by the dog).

As email correspondence identified, trespass to real property encompasses a broad range of actions including behaviors that are relatively innocent. *See e.g.*, 2 DOBBS at 69 (“[T]respassers could be quite different one from another. One might be a burglar...another might be...a neighbor who takes an uninvited shortcut across the lawn.”). The North Carolina Supreme Court has stated that “every unauthorized entry on land in the peaceable possession of another constitutes a trespass, without regard to the degree of force used and irrespective of whether actual damage is done.” *Matthews v. Forrest*, 235 N.C. 281, 283 (1952). It is common to find the elements of an actionable trespass to real property identified in case law as (1) possession of the property by the plaintiff when the alleged trespass was committed;<sup>3</sup> (2) an unauthorized entry by the defendant; and (3) damage to the plaintiff from the trespass. *See Broughton v. McClatchy Newspapers, Inc.*, 161 N.C. App. 20, 32 (2003); *Singleton v. Haywood Elec. Membership Corp.*, 357 N.C. 623, 627 (2003). A relatively similar definition is offered in premises liability cases where it is often stated that “[a] trespasser is one who enters the land of another without permission.” *Hoots v. Pryor*, 106 N.C. App. 397, 407 (1992).

For purposes of analyzing and interpreting the Unified Ordinance, the common factor between the definitions – an entry which is unauthorized – is likely the most important to consider.<sup>4</sup>

#### IV. State of Mind

The Unified Ordinance, by its use of the phrase “willful trespass,” may set a higher standard for the degree of culpability of the state of mind of a potential trespasser than that required under traditional tort law. A question arises as to why the Unified Ordinance (or the General Statutes which contain the same language) would join the term “willful” with “trespass” unless some degree of culpability greater than that of the traditional tort was intended. Were this not the intent of the Ordinance, the exception could be written to apply to individuals committing any tort without need to specifically identify trespass as among those torts covered.

While the term “willful trespass” is not uncommon in tort law, its precise definition is elusive. *See e.g.*, *Wood v. Weaver*, 92 S.E. 1001, 1004 (Va. 1917) (“The legal meaning of the word ‘willful’ in [trespass law] is a technical one, which the courts and text-writers have found it impossible to define in set terms which will fit every case.”; “the act which constitutes a willful

---

<sup>3</sup> Throughout this document the individual who is aggrieved by a trespasser is referred to by various terms including landowner and land occupier. It is not necessary that the aggrieved party actually own the land or premises in question. Control of the land under right, by a tenant for example, is sufficient to bring a trespass action.

<sup>4</sup> With regard to the other elements identified by the trespass tort definition, possession by the plaintiff will probably be relatively easy to ascertain and damage is presumed when the first two elements are proved. *See Whitley v. Jones*, 238 N.C. 332, 336 (1953) (explaining that every unauthorized entry constituting a trespass entitles the aggrieved party to “at least nominal damages”). Likewise, in premises liability cases the issue of possession tends to be relatively binary, and damages caused by the trespass are not considered as the issue in contention tends to be recovery for damages caused to the trespasser.

trespass may be anywhere in the domain of the law which extends from the region of felonies down to gross negligence, but is never found below the border line of the latter in the region of mere negligence”); *Barnes v. Moore*, 98 S.E.2d 683, 686 (Va. 1957) (“if the evidence was sufficient to justify the belief that [defendant’s] error or mistake was committed in bad faith, or recklessly, or in willful disregard of the rights of others, or induced by his utter failure to do what an ordinary, reasonable, and prudent man would have done, in view of all the surrounding circumstances, then his conduct constituted gross negligence” sufficient to find a willful trespass); *Richardson v. Flowers*, 11 So. 2d 808, 809 (Miss. 1943) (suggesting willful trespass is equivalent to gross negligence); *Tennessee, Alabama & Georgia R. Co. v. Zugar*, 18 S.E.2d 758, 762 (Ga.1942) (“A wilful trespass has been characterized as a wanton trespass and as one made in bad faith.”); *Welty v. Indianapolis & V.R. Co.*, 4 N.E. 410, 412 (Ind. 1886) (a willful trespass requires “something more than mere negligence”). The preceding cases suggest that, in at least some jurisdictions, a willful trespass requires, at minimum, a grossly negligent action.

It should be noted that the phrase “willful trespass” was used in some North Carolina cases in the early Twentieth Century to refer to criminal trespass, but the language of the Unified Ordinance linking “willful trespass” to “other torts,” along with the separate provision for criminal acts, suggests that the ordinance contemplates willful trespass as being a civil tort.

The Unified Ordinance’s exception for dogs causing injury to a person committing a willful trespass arguably requires that the trespasser have a more culpable or blameworthy state of mind, relative to that required for a traditional trespass, with respect to two distinct factors: (1) the act of entry, and (2) the existence of authorization to enter or engage in certain actions after entry.

#### **A. State of Mind Regarding the Act of Entry**

The traditional rule for civil trespass liability is that the tortfeasor need not intend to interfere with the possession of another’s property in order to incur liability so long as she intends the act which constitutes the unauthorized entry. By way of example, an actionable trespass occurs were a person intentionally enters onto the land of another under either the mistaken belief that he is entitled to do so, or the mistaken belief that he owns the land. *See York Indus. Ctr., Inc. v. Michigan Mut. Liab. Co.*, 271 N.C. 158, 163 (1967) (so stating). This traditional rule of trespass law has been characterized as imposing “a limited kind of strict liability” upon the intruder. 1 DOBBS at 131. In contrast, it has been recognized that a “willful trespass” requires something more than an entry which is caused by an intentional act because, if it did not, “every trespass would be willful.” *Wood* at 1004. An intruder’s entry, in addition to being intentional, may need to constitute wrongful or grossly negligent behavior in order to rise to the level of a willful trespass.

The distinction between an intentional entry and a willful entry onto land has been made in North Carolina case law in an attempt to illustrate the traditional rule that an individual may be liable for trespass even when she did not mean to go onto another’s land. The Supreme Court explained that “trespass to land requires an intentional entry thereon . . . [i]t does not, however, require that such entry be willful.” *York Indus. Ctr., Inc.*, 271 N.C. at 163. The defendants in

*York* bulldozed trees and shrubs, a behavior that they would certainly have known to be prohibited on land belonging to another individual absent authorization. The defendants, however, were under the mistaken belief that they were on their own land. Though the court found that a trespass occurred, by distinguishing a willful entry from an intentional entry, *York* may demonstrate that a willful trespass requires knowledge that the land entered belongs to another. *See also Payne v. Consolidation Coal Co.*, 607 F. Supp. 378, 382 (W.D. Va. 1985) (“If an act of trespass is done accidentally, by inadvertence or by mistake not induced by gross negligence, it is not willful.”) (citing *Wood*, 92 S.E. at 1003). *Compare York* 271 N.C. 158, with *Weitz v. Green*, 230 P.3d 743, 756 (Idaho 2010) (where it was “apparent that under the facts of this case the [appellants] were not committing an innocent mistake in re-entering the property, cutting down vegetation, and erecting a fence,” such action constituted a willful trespass).

The cases above suggest that a willful trespass occurs where, in addition to intending the act which constitutes entry, an intruder knows or reasonably should know that the act of entry is wrongful or grossly negligent.<sup>5</sup>

#### (i) The Special Case of Children

North Carolina law contains special rules regarding the capacity of children for contributory negligence. Contributory negligence is a tort law concept that essentially limits the liability of an individual who has negligently injured another when the injured person contributed to the injury through their own negligent behavior. For example, a motorist who strikes and injures a person crossing the street may argue that the injured person’s manner of crossing was reckless, and as a result the injured person’s contributory negligence limits the motorist’s liability. *See Coley v. Phillips*, 224 N.C. 618, 620 (1944). While perhaps not directly applicable to the willful trespasser exception in the Unified Ordinance, the law’s willingness to account for the unique nature of children in the contributory negligence context may be helpful in a willful trespass analysis with respect to child trespassers because of the arguable requirement that a state of mind evidencing gross negligence accompany an intentional entry.

In North Carolina, children under seven years of age are incapable of contributory negligence as a matter of law. *State v. Harrington*, 260 N.C. 663, 666 (1963). Children between ages seven and fourteen are presumed to be incapable of contributory negligence, but the presumption is rebuttable “by evidence showing capacity [for negligence].” *Id.* at 648. For children over the age of fourteen there is a rebuttable presumption that the child has the same capacity for contributory negligence as an adult. *Hoots v. Beeson*, 272 N.C. 644, 647 (1968). The question of whether the presumptions of negligent capacity or incapacity can be rebutted is approached on

---

<sup>5</sup> Connecticut’s statute imposing liability on dog owners for injury caused by their dogs to persons or property contains an exception for liability where the person injured was committing a “trespass or other tort.” Conn. Gen. Stat. § 22-357. The courts of that state have interpreted the provision as requiring “more than a mere entry [because] the plain intent of the statute is to bar recovery where the plaintiff was committing or intending to commit some injurious act.” *See Verrilli v. Damilowski*, 100 A.2d 462, 464 (Conn. 1953).

a case-by-case basis. In the analysis, “[t]he child's discretion, maturity, knowledge, and experience interact in rebutting the presumption.” *In re T.S.*, 133 N.C. App. 272, 277 (1999).

The special contributory negligence rules provide at least two guiding principles which may be useful to a person tasked with making a determination about whether the willful trespass exception applies to a given dog bite case. First, the rules recognize that, as a general matter, the capacity of children to appreciate and avoid negligent behavior develops over time and is distributed along a spectrum. A very young child may not be capable of recognizing and understanding certain boundaries whether they be between properties or behaviors. In contrast, an older child may have accumulated sufficient experience in the world to conform her actions to societal norms.

The second useful principle, illustrated by the rebuttable presumptions for children over seven, is that individual children have varying capacities that must be accounted for on a case-by-case basis by analyzing characteristics of both the particular child and the circumstance. A very mature child, for example, may understand that societal custom suggests that she should not wander onto her neighbor's property without consent. Likewise, a child who has been specifically warned against going onto a neighbor's property, or who has been warned of the presence of a territorial dog may be more culpable than an ordinary child when those warnings are disregarded.

As the preceding examples suggest, each case where a dog bites a child will present unique facts, but borrowing notions from North Carolina's contributory negligence law may provide a decision maker with flexible parameters within which to evaluate a given situation.

## **B. State of Mind Regarding Authorization to Enter**

The previous discussion of state of mind regarding the act of entry is perhaps most applicable to situations where the nature of property makes it difficult for a person to discern whether she has entered upon the property of another. Another common situation that arises in trespass law is when a person is on property which she knows belongs to another, but acts under some claim of privilege or permission to be in the place.

Authorization to enter onto land may be obtained by either express or implied consent. *Holcomb v. Colonial Associates, L.L.C.*, 358 N.C. 501, 510 (2004). Implied consent may arise where societal custom grants an individual the privilege to enter property, or where an owner, upon becoming aware of an entry, makes no objection. *Id.* Express consent, on the other hand, exists where an owner makes an affirmative manifestation to another authorizing entry onto the owner's property.

### **(i) Implied Consent**

In *Holcombe*, a premises liability case, the defendant property management corporation contended that it was shielded from liability for plaintiff's dog-related injuries due to the fact that

plaintiff was a trespasser on defendant’s property at the time of being injured. *Id.* The court explained that “[w]hether a person has implied permission to enter another’s land must be evaluated on the basis of the reasonableness of the visitor’s entry, with due regard given ‘to customs prevailing in the community.’” *Id.* at 510 (citation omitted). At trial the jury found that plaintiff was not a trespasser at the time at which he suffered injuries while fleeing from aggressive dogs on defendant’s property. Evidence showed that defendant “placed a ‘For Sale’ sign on its property and allowed buyers and their agents to inspect the property . . . [and] [p]laintiff, an employee of a prospective buyer, entered the property for the sole purpose of inspecting it for a potential purchaser.” The court found that this evidence supported the jury’s finding that plaintiff was not a trespasser at the time of his injury despite the fact that he had not been given express permission to enter defendant’s property. The court reasoned that the plaintiff was a lawful visitor by virtue of an implied consent customarily recognized in society to enter and inspect property which is publicly advertised for sale.

Implied consent to enter property based on societal custom was also found in *Smith v. VonCannon*, 283 N.C. 656, 661 (1973). In *Smith*, the court found that the defendant cab driver was not a trespasser at plaintiff’s house when he drove his cab into the driveway in the process of dropping off a passenger who claimed to live at the residence. Upon entering the driveway, the cab driver was attacked by his passenger, who had lied about living at the house, and the taxi rolled into plaintiffs’ house causing damage. The court reasoned that societal custom is such that “the construction of a driveway or a walkway leading to the entrance of a residence may, in the absence of notice to the contrary, be reasonably construed, not only by acquaintances of the landowner but also by strangers, as an expression of the landowner’s consent to their entry thereon for the purpose of approaching and entering the house on any lawful mission.” *Id.* at 662. Under this reasoning, the court found that the plaintiffs could not recover for damages under a trespass theory.

Implied consent to approach a home’s front door in an effort to interact with the occupants is a commonly recognized societal custom. In *Garrard v. McComas*, 450 N.E.2d 730 (Ohio Ct. App. 1982), the court found that there was evidence of implied consent for the plaintiff to approach the defendant’s home, and that the lower court erred by determining that the plaintiff was a trespasser as a matter of law at the time that she was injured while being chased by defendant’s dogs. The court explained:

It is probably a matter of judicial notice in this community that a person has implied consent, absent an express warning contrary, to approach a residence to ask for directions or to find out if she is at her friend’s home. The alternative of remaining at the curb honking or hollering is not attractive. 450 N.E.2d at 733.

Similarly, In *Jones v. Manhart*, 585 P.2d 1250, 1253 (Ariz. Ct. App. 1978), the plaintiff was knocked down and bitten by the defendant’s dog while conducting a door-to-door commercial survey. The dog owner argued that he was not liable for the plaintiff’s injuries due to the fact that plaintiff was a trespasser at the time she was injured. The court found that where “[t]here was nothing putting appellee on notice that she could not come up the walk and knock on the

door,”<sup>6</sup> she had the implied consent of the dog owner to do so and could not be considered a trespasser.

In *Messa v. Sullivan*, 209 N.E.2d 872 (Ill. App. Ct. 1965), the court found implied consent to enter certain areas of a building because, due to the appearance of the building, “people like the plaintiff could only surmise that the entire building was devoted to business purposes and that it was intended that they should come there on business.” *Id.* at 875. As it turned out, certain areas of the building were used for residential purposes and upon wandering into such an area, plaintiff was attacked by the defendant’s dog. Despite the presence of signs warning about the dog, the court found that the plaintiff was lawfully on the defendant’s premises because of the nature of the building.

In *Bramble v. Thompson*, 287 A.2d 265 (Md. 1972), a premises liability case, the plaintiffs docked their boat at and disembarked onto the defendants’ pier whereupon they “were attacked and injured by the [defendants’] dog which was known by its owners to have vicious propensities.” *Id.* at 267. The court rejected the plaintiffs’ contention that, despite established premises liability law whereby property owners owe a minimal duty of care to trespassers, the defendants were “nonetheless liable for the attack . . . because the trespass was inadvertent, not willful.” *Id.* While the plaintiff’s claim in *Bramble* was unsuccessful as recovery was precluded under the applicable law even if plaintiffs were inadvertent trespassers, the distinction that the plaintiffs attempted to draw between an inadvertent and willful trespass is illustrative, and similar to that recognized by the court in *York*.

*Garrard, Jones, Holcombe, VonCannon, Messa, and Bramble* are all cases where implied consent was analyzed by reference to general societal custom.<sup>7</sup> Consent may also be implied, however, by specific behavior of a property holder. This particular type of implied consent is sometimes referred to as apparent consent. See *Rawls & Associates v. Hurst*, 144 N.C. App. 286, 292 (2001) (“There does not have to be an invitation to enter the land, it is sufficient that the possessor’s conduct indicates that he consents to the entry.”).

In *Rawles*, the court found apparent consent where a property owner knew, due in part to the fact that he attended a groundbreaking ceremony, that various construction items including a mobile office had been placed on his property. The plaintiff failed, however, to make any objection regarding the trespass for several months. Consequently, the court found that he had exhibited apparent consent to the intrusion. *Id.* at 292-93.

While the apparent consent found by the court in *Rawles* was based the land occupier’s inaction in the face of knowledge of a trespass, apparent consent may, of course, also be found

---

<sup>6</sup> The court dismissed the presence of a “‘cartoon type’ sign depicting a dog’s head with teeth bared saying, ‘Trespassers will be eaten’” due to the fact that such a sign could be interpreted as a joke.

<sup>7</sup> It is also important to note here that in all of the cases discussed in this section except *Bramble*, it was determined that the individual alleged to be a trespasser was in fact not a trespasser whatsoever, much less a “willful trespasser.”

due to a land occupier’s actions. In *Harris v. Carbonneau*, 685 A.2d 296 (Vt. 1996), for example, the court upheld a jury’s finding of apparent consent to enter a home where the occupant opened the front door for a deputy serving a summons and backed up her wheelchair as the deputy stepped through the door. *Id.* at 299. Though the plaintiff had not affirmatively invited the defendant to enter her home, her actions could be reasonably interpreted as an invitation or consent to enter.

## (ii) Presence of a Dog as a Component of Implied Consent

An interesting case where the presence of a dog influenced the court’s evaluation of a claim for damages suffered by a door-to-door salesman is *Gomes v. Byrne*, 333 P.2d 754 (Cal. 1959). The *Gomes* court presented the facts of the case as follows:

As [the plaintiff salesman] walked along the sidewalk approaching the gate leading to defendant's door, the dog in the enclosed yard followed him along the inside of the fence for about fifty feet, barking continuously all the way. Plaintiff nevertheless opened the gate and walked into the yard, whereupon the dog bit him on the right lower leg, causing a puncture wound and superficial abrasions. 333 P.2d at 754-55.

On appeal, the plaintiff argued that he was lawfully on the defendant’s premises at the time of the attack, and, therefore, the lower court erred by denying him recovery. The court found it unnecessary to reach this contention, and found that plaintiff assumed the risk of injury by entering the fenced area. While this holding clearly does not bear directly on the question of implied consent, one could reasonably argue that in the obvious presence of a continuously barking dog, societal custom suggests that a visitor may need to obtain some clear indication from the landowner that the visitor is authorized to approach the front door. To put it another way, in an implied consent analysis, both the visitor and the landowner are charged with conforming to societal custom. While a landowner must expect unannounced visitors from time to time, such visitors should carefully consider a decision to stride headlong into enclosed areas containing barking dogs.

The implications of *Gomes* as described in the previous paragraph may have some relation to the concerns expressed by Animal Services regarding the removal of “watch dog” as a subdivision of the “security dog” definition. Correspondence from Animal Services suggests that there was a concern that the definition of watch dog was too broad, and, therefore, the definition was removed. An apprehension in response to the removal was that removing the watchdog subdivision may deprive property owners of the right to have a dog protect their property. These competing positions may be able to be resolved through the willful trespass exception if it is accepted that the presence of a “dog that barks and threatens to bite an intruder” (a partial quote from the removed definition of “watchdog”) influences societal custom with respect to implied authorization to enter property. First, it is important to note that a “watch dog” – like any other dog – is exempt from classification as a vicious animal in the event the dog bites a willful trespasser (whatever that term may mean). Beyond this, as discussed above, societal custom may suggest that a dog which barks and threatens to bite intruders is a signal to

visitors that some greater degree of implied consent is required to enter the property than that which exists from simply having a driveway or a walkway to the front door. An unannounced visitor who encounters a threatening barking dog should perhaps reasonably become aware that, absent a clear invitation, the land occupier has suggested by implication that he does not consent to an entry upon the land.

### (iii) Express Consent

Situations of express consent have the potential to be relatively straightforward for purposes of trespass analysis. The email correspondence offers the hypothetical of a person entering a fenced portion of his neighbor’s property to borrow something he has permission to borrow. Most likely, this entry is not a trespass because it was explicitly authorized.

While situations of express consent often present factual circumstances where it is relatively easy to identify the moment of manifestation of consent as well as the scope of consent, they are not altogether without complication. There are cases, for example, which hold that a defendant is insulated from trespass liability by way of the land occupier’s express consent to enter even where the consent is obtained by misrepresentation. In *Keyzer v. Amerlink, Ltd.*, 173 N.C. App. 284, 290 (2005) *aff’d*, 360 N.C. 397 (2006), the Court of Appeals found that defendants who falsely represented themselves to an attorney as prospective clients, specifically denied working for a certain party, and secretly taped interactions within the attorney’s law office could not be held liable for trespass because plaintiff, though pursuant to deception, consented to their entry. The court noted its agreement with the Fourth Circuit that “‘consent gained by misrepresentation is sometimes sufficient’ as a defense to a claim of trespass.” *Id.* (citation omitted). *But see Food Lion, Inc. v. Capital Cities/ABC, Inc.*, 194 F.3d 505, 519 (4th Cir. 1999) (although consent based on misrepresentation was initially sufficient to defeat trespass claim, the consent was nullified by defendants’ subsequent tortious conduct).

Another situation where express consent can be problematic is where one receives express consent to enter onto land from a person who has no authority to grant such consent, but the would-be trespasser has no reason to know the grantor lacks authority.<sup>8</sup> This situation occurred in *Sligo Furnace Co. v. Hobart-Lee Tie Co.*, 134 S.W. 585 (Mo. 1911), where an individual granted to defendants the timber rights to a piece of land which the grantor did not own. In the resulting suit for damages – where a designation of defendants as willful trespassers would substantially affect the amount of recoverable damages – the appellate court agreed with the trial court’s finding “that the agents of defendant were not willful trespassers, but had cut the timber

---

<sup>8</sup> It is worth briefly noting that a related issue in situations of express consent occurs where a person other than the owner or occupier of land has the permission to grant consent to others to enter the land, but may exceed such permission by authorizing certain objectionable actions. *See e.g., Miller v. Brooks*, 123 N.C. App. 20, 28, (1996) (“Defendants assert that, as plaintiff’s wife, defendant Miller was authorized to enter the house and could give others the right. . . . Even if she had permission to enter the house and to authorize others to do so, there is also evidence to create a genuine issue of material fact as to whether defendants’ entries exceeded the scope of any permission given.”)

by mistake, believing it to be located on land from which they had bought the timber.” *Id.* at 586.

#### (iv) Scope of Consent

Whether consent is express or implied, the scope of consent circumscribes the activities authorized. Sometimes an individual who has authorization to enter onto land commits “subsequent wrongful acts in excess or abuse of his authority to enter” and thereby becomes a trespasser. *Blackwood v. Cates*, 297 N.C. 163, 167 (1979). In *Blackwood*, for example, the North Carolina Supreme Court found that the defendant was liable for trespass where he had implied authorization to enter a home but upon entry caused the plaintiff to be falsely arrested. The Court noted that the defendant’s liability was the result of this “later wrongdoing.” *Id.* See also *Smith v. VonCannon*, 283 N.C. 656, 660 (1973) (“One who enters upon the land of another with the consent of the possessor may, by his subsequent wrongful act in excess or abuse of his authority to enter, become liable in damages as a trespasser.”); *Freeman v. Gen. Motors Acceptance Corp.*, 205 N.C. 257 (1933) (“it is the law of this jurisdiction that although an entry on lands may be effected . . . with permission of the owner, yet if, after going upon the premises of another, the defendant . . . commits such acts as are reasonably calculated to intimidate or lead to a breach of the peace, he would be liable for trespass”). If, for example, the person who entered his neighbor’s fenced property to borrow something which he had permission to borrow proceeded to traipse around areas of the property which he had not been authorized to enter, he may become a trespasser despite the fact that his initial entry was authorized if he had reason to know he had exceeded the scope of his authorization.

In *Allstate Ins. Co. v. U.S. Associates Realty, Inc.*, 464 N.E.2d 169, 171 (Ohio Ct. App. 1983), the trial court denied the plaintiff recovery for injuries she sustained in the backyard of the defendants’ house. The plaintiff was inspecting the defendants’ house, which was for sale, with a real estate agent when she entered the backyard, encountered the defendants’ large dog, and fell breaking her wrist. The defendants had expressly prohibited potential buyers from entering the backyard unless accompanied, and, thus, the trial court found that “[plaintiff] was a trespasser at the time of her canine encounter.” *Id.* The appellate court disagreed and found that, while a land occupier can “expressly limit” the scope of an invitation to enter land, because such limitation was not communicated to the plaintiff, she was not a trespasser at the time of her injury and was entitled to recover damages.

## V. Conclusions Regarding Civil Trespass

The preceding discussion reveals certain guidelines which may be useful to an individual tasked with evaluating a dog bite case under the draft Unified Ordinance in its current form. If the decision to declare a dog a vicious animal hinges upon a determination of the status of an injured individual as a “willful trespasser,” without any further explanation within the Ordinance of the term, case law from across the country suggests that the term describes a trespass that is

more blameworthy than the inadvertent unauthorized entry which characterizes the traditional tort.

One method of evaluating the blameworthiness of the trespasser is by analyzing her state of mind with regard to the entry itself (is it inadvertent or purposeful?), and also analyzing her state of mind with regard to her authorization to enter or act (does she have express or implied consent?). Within each of these analyses there are gradients of behavior which may have to be explored on a case by case basis. Determining whether an entry is the result of negligence, gross negligence, recklessness, or some other state of mind, and deciding which of these states of mind justifies a vicious animal exception are important issues for Animal Services to consider. Likewise, particular societal conventions or specific behaviors of the parties involved need to be evaluated in order to determine whether express or implied consent authorizes an entry onto land.

## VI. Criminal Trespass

In comparison to the behaviors which amount to civil trespass, those which constitute criminal trespass are relatively discrete as they are defined by statute and constrained by the elemental approach of the criminal law. Additionally, criminal trespasses tend to require factual circumstances which evidence that the trespasser was engaged in behavior which she knew or should have known was prohibited. These realities combined with the fact that the Unified Ordinance has a specific exception to the vicious animal provisions for dogs inflicting injuries to persons committing or attempting to commit a crime, suggest that criminal trespasses are less likely to present the policy difficulties which may arise in the context of civil trespasses. That is, it is less likely as a factual matter that a dog that bites a person engaged in criminal trespass will have bitten an innocent visitor or passerby as could be the case where a civil trespasser is bitten.

The following trespass crimes may be relevant to understanding the term for purposes of the Unified Ordinance (descriptions & notes from JESSICA SMITH, NORTH CAROLINA CRIMES: A GUIDEBOOK ON THE ELEMENTS OF CRIME (UNC School of Government, 7<sup>th</sup> ed. 2012)):

### A. First Degree Trespass

#### §14-159.12. First degree trespass.

(a) Offense.—A person commits the offense of first degree trespass if, without authorization, he enters or remains:

- (1) On premises of another so enclosed or secured as to demonstrate clearly an intent to keep out intruders; or
- (2) In a building of another.

(b) Classification.—First degree trespass is a Class 2 misdemeanor.

### Notes

**Element (3)(a).** The premises include the entire piece of real estate—not just the building but the land as well, provided it is so enclosed or secured as to clearly demonstrate an intent to keep intruders out. A locked six-foot-high chain link fence, for example, is likely to demonstrate such an intent.

**Defenses.** It is an affirmative defense to trespass that a defendant entered with reasonable grounds to believe in a legal right to enter, even though the defendant did not actually have such a right. *State v. Baker*, 231 N.C. 136 (1949); *State v. Faggart*, 170 N.C. 737 (1915).

## B. Second Degree Trespass

### §14-159.13. Second degree trespass.

(a) Offense.—A person commits the offense of second degree trespass if, without authorization, he enters or remains on premises of another:

- (1) After he has been notified not to enter or remain there by the owner, by a person in charge of the premises, by a lawful occupant, or by another authorized person; or
- (2) That are posted, in a manner reasonably likely to come to the attention of intruders, with notice not to enter the premises.

(b) Classification.—Second degree trespass is a Class 3 misdemeanor.

### Notes

**Element (4)(a).** This element would be satisfied if a homeowner tells a defendant to leave the homeowner’s front yard and the defendant refuses, or if a homeowner tells a defendant never to come back onto the homeowner’s property but the defendant re-enters the property. However, if the unauthorized entering or remaining occurs in a building, first-degree trespass should be charged.

## C. Domestic Criminal Trespass

### §14-134.3. Domestic criminal trespass.

(a) Any person who enters after being forbidden to do so or remains after being ordered to leave by the lawful occupant, upon the premises occupied by a present or former spouse or by a person with whom the person charged has lived as if married, shall be guilty of a misdemeanor if the complainant and the person charged are living apart; provided, however, that no person shall be guilty if said person enters upon the premises pursuant to a judicial order or written separation agreement which gives the person the right to enter upon said premises for the purpose of visiting with minor children. Evidence that the parties are living apart shall include but is not necessarily limited to:

- (1) A judicial order of separation;

**Wall – “Trespass” in Animal Control Ordinance**

2-5-2014

- (2) A court order directing the person charged to stay away from the premises occupied by the complainant;
- (3) An agreement, whether verbal or written, between the complainant and the person charged that they shall live separate and apart, and such parties are in fact living separate and apart; or
- (4) Separate places of residence for the complainant and the person charged.

Except as provided in subsection (b) of this section, upon conviction, said person is guilty of a Class 1 misdemeanor.

(b) A person convicted of a violation of this section is guilty of a Class G felony if the person is trespassing upon property operated as a safe house or haven for victims of domestic violence and the person is armed with a deadly weapon at the time of the offense.

**D. Forcible Trespass****Statute**

This is a common law offense. *State v. Bates*, 70 N.C. App. 477, 480 (1984); David J. Sharpe, *Forcible Trespass to Real Property*, 39 N.C. L. REV. 121 (1960–61).

**Elements**

A person guilty of this offense

- (1) (a) makes an unpermitted and unlawful entry on premises *or*  
(b) willfully refuses to leave the premises after being ordered to do so
- (2) (a) using force against the occupant,  
(b) threatening to use force, *or*  
(c) appearing so as to inspire fear
- (3) when the occupant is present on the premises *and*
- (4) is in peaceful possession of the premises.

**Punishment**

Class 1 misdemeanor. G.S. 14-3(a). See the heading “Offense Class” under “Misdemeanors” in Chapter 4 (Punishment under Structured Sentencing).

**E. Trespass to Land on Motorized All Terrain Vehicle****Statute****§ 14-159.3. Trespass to land on motorized all terrain vehicle.**

(a) No person shall operate any motorized all terrain vehicle:

- (1) On any private property not owned by the operator, without the consent of the owner;  
or
- (2) Within the banks of any stream or waterway, but excluding a sound or the Atlantic Ocean, the adjacent lands of which are not owned by the operator, without the consent of the owner or outside the restrictions imposed by the owner.

(b) A "motorized all terrain vehicle", as used in this section, is a two or more wheeled vehicle designed for recreational off-road use.

(c) A violation of this section shall be a Class 2 misdemeanor.

#### **F. Trespass for Purposes of Hunting, Etc.**

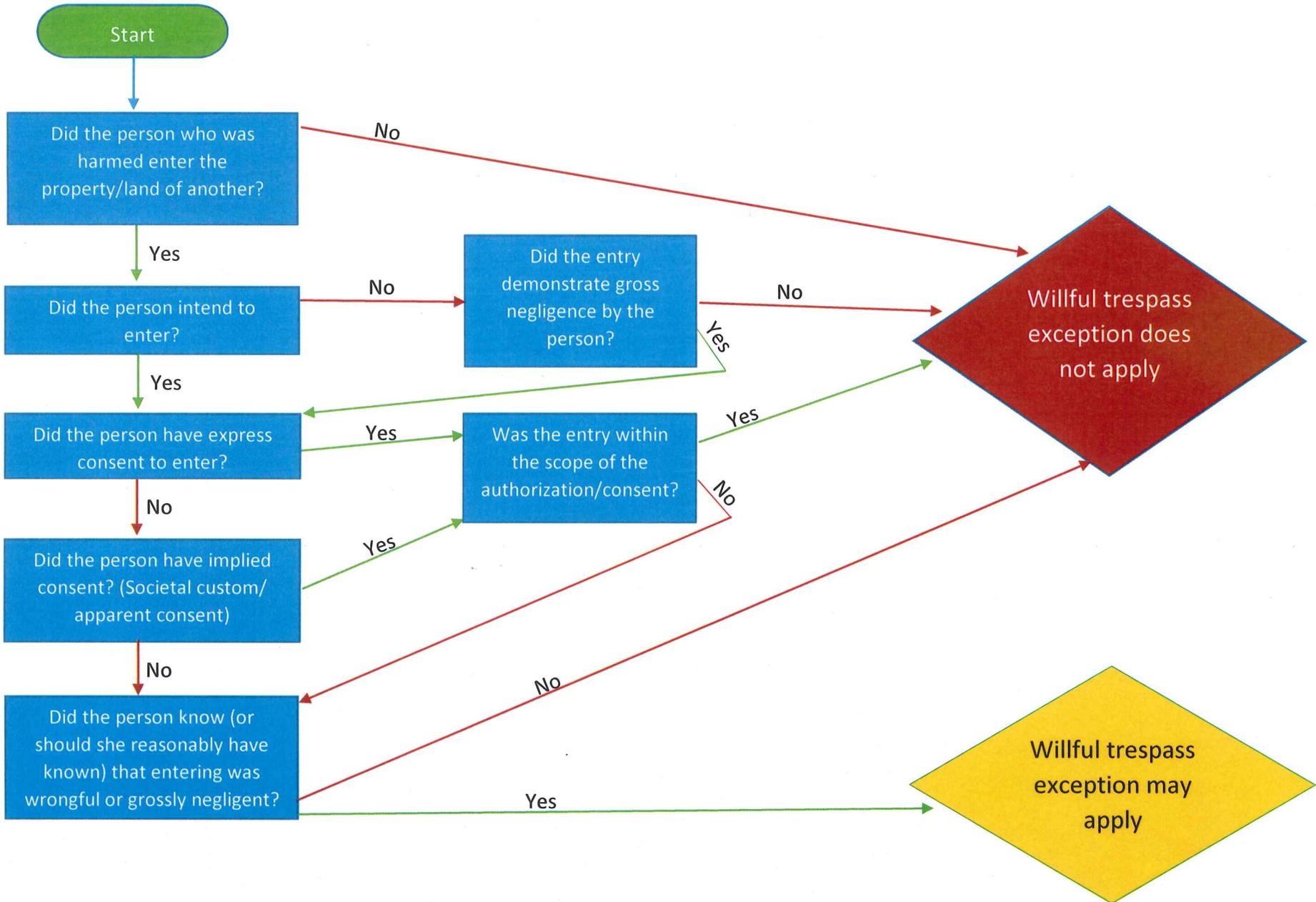
##### **§ 14-159.6. Trespass for purposes of hunting, etc., without written consent a misdemeanor; defense.**

(a) Any person who willfully goes on the land, waters, ponds, or a legally established waterfowl blind of another that has been posted in accordance with the provisions of G.S. 14-159.7, to hunt, fish or trap without written permission of the landowner, lessee, or his agent shall be guilty of a Class 2 misdemeanor. Written permission shall be carried on one's person, signed by the landowner, lessee, or agent, and dated within the last 12 months. The written permission shall be displayed upon request of any law enforcement officer of the Wildlife Resources Commission, sheriff or deputy sheriff, or other law enforcement officer with general subject matter jurisdiction. A person shall have written permission for purposes of this section if a landowner, lessee, or agent has granted permission to a club to hunt, fish, or trap on the land and the person is carrying both a current membership card demonstrating the person's membership in the club and a copy of written permission granted to the club that complies with the requirements of this section.

(b) Any person who willfully goes on the land of another that has been posted in accordance with the provisions of G.S. 14-159.7(1), to rake or remove pine needles or pine straw without the written consent of the owner or his agent shall be guilty of a Class 1 misdemeanor.

(c) It is an affirmative defense to a prosecution under subsection (a) or (b) of this section that the person had in fact obtained prior permission of the owner, lessee, or agent as required by those subsections but did not have on his or her person valid written permission at the time of citation or arrest.

Q: Under both state law (G.S. 67-4.1) and Orange County's draft ordinance, a dog that bites, attacks or threatens someone who is committing a willful trespass will not be considered a dangerous, potentially dangerous, or vicious dog. How can animal control officials decide when this exception applies?



**Parental Responsibility When Dog Bites Child**

3-3-2014

**Question From Bob's Email:**

The practical question is how we respond to the objection that the parent is responsible for the child who enters the property of another and gets bitten even if the child was not in the company of a parent (or other adult) at the time of the bite. The theoretical question is more or less the same but probably has to do with whether in law there is an absence of contributory negligence on the part of the parent of the child who suffers harm in a variety of scenarios given the parents different duties.

**Response:**

The question regarding how the responsibilities of a parent of a child who has been bitten by a dog interface with a vicious animal determination under the Unified Ordinance is difficult as a matter of both practice and theory. On one hand, there is a general societal interest in preventing harm to a child who is not acting with a blameworthy state of mind even when the child may be committing a technical trespass. On the other, it is not reasonable to expect a dog to distinguish between the various possible states of mind or capacities for negligent behavior of a child who has entered upon the property of the dog's owner. Resolving the tension between these points is largely a policy determination that must be made by Animal Services.

From a legal perspective, the law does not contemplate a parent's poor supervision of her child changing the nature of a tort committed by the child while being poorly supervised. For example, a technical trespass by a five year old child (an age at which the law attributes to the child no capacity for negligence) does not become a willful trespass by virtue of a parent's negligent or grossly negligent supervision. Instead, the law provides for an independent civil remedy against a parent if a plaintiff proves that the parent's negligent supervision proximately caused (by way of the child's tort) damage for which recovery is allowed. *See e.g., Anderson v. Canipe*, 69 N.C. App. 534, 537 (1984) (recognizing a cause of action against a parent for negligent supervision where child allegedly committed an intentional tort). Strong's North Carolina Index, a publication which provides a general overview of North Carolina law in many areas, describes the State's view on parental liability as follows:

Ordinarily, a parent may not be held liable for a tort committed by his or her child solely by reason of the relationship. However, the parent may be liable if the child, in committing the tort, acts in some way in a representative capacity. A parent's liability for acts of an unemancipated child is not limited to those situations in which the parent specifically approved the child's act or in which the child acted strictly in the capacity of the parent's agent or employee; rather, the parent of an unemancipated child may be held liable in damages for failing to exercise reasonable control over the child's behavior if the parent had the ability and the opportunity to control the child and knew or should have known of the necessity for exercising that control. Before it may be found that a parent knew or should have known of the necessity of exercising control over the child, it must be

shown that the parent knew, or in the exercise of due care, should have known of the child's propensities and could have reasonably foreseen that failure to control those propensities would result in injurious consequences.

Liability for the torts of their minor children may be imposed on parents if they know, or in the exercise of reasonable care should have known of the child's habits, tendencies or propensities toward the commission of a particular tort, have the opportunity and ability to control the child, and have made no reasonable effort to correct or restrain the child.

The parent may also be liable for directly aiding, abetting, soliciting, or encouraging the wrongful act, participating in, or commanding, advising, or encouraging the commission of the tort.

23 N.C. Index 4th Parent and Child § 15 (Liability of Parent for Torts of Child) (citation omitted)

An example within the context of the Unified Ordinance may be helpful in assessing the state of affairs where a negligently supervised trespassing child has been bitten by a dog. Suppose a five year old child entered upon her neighbor's property in a manner that could be considered grossly negligent if done by an adult, and while on the property was bitten by her neighbor's dog without provoking the dog. Arguably, the willful trespass exception would not shield the dog from categorization as a vicious animal because the child lacks the capacity for negligent behavior in the eyes of the law. The dog's owner, however, may assert that the child's parents were responsible for the child being bitten because the parents should have been supervising the child more effectively. In this case, under the current proposed Unified Ordinance, one interpretation of a practical answer to the dog owner's assertion of parental responsibility is that no exception prevents the dog from being classified as a vicious animal under the Ordinance, but the dog owner may have an independent claim against the child's parent's for damages which are the consequence of the incident. These damages could theoretically include, among other things, the cost to the dog owner of complying with the vicious animal restrictions of the Ordinance.

As can be seen from the hypothetical example, neither party is likely to be satisfied by the outcome of an incident where a negligently supervised child has been bitten. The dog owner may be upset by the potential categorization of the dog as a vicious animal, while the parents of the child – in addition to their displeasure with any injury suffered by the child – may be upset by their potential exposure to independent civil liability.

## Attachment D

## WHAT IF MY DOG BITES A PERSON ON MY PROPERTY THAT:

- Note: unless indicated, no criminal intent is assumed
- I think is trying to break into my house but I have no proof?
- is clearly trying to break into my house (i.e. is climbing through my window (assume criminal intent)
- accidentally stepped on his paw while walking through the yard?
- looks different from me so the assumption is criminal intent?
- opened and walked through a closed gate of my front fence (uninvited and invited)
- opened and walked through a closed gate of my back fence (uninvited and invited)
- walked through my front or back gate with a no trespassing or beware of dog sign (uninvited and invited)
- came into my fenced backyard to swim in my pool uninvited?
- Same scenario but uninvited and had frequently swum in the pool before
- walked into my house through an unlocked door by mistake
- was fleeing through my property. [A woman carrying a baby flees through my property.]
- walked through the electric fence that confines my dog onto my property. Marked? Unmarked? (uninvited and invited)
- entered my property to provide me with service, i.e. mail delivery, meter reader, UPS, etc.
- entered my property to canvass, petition, solicit, campaign. If a “no soliciting” sign posted? If a “no soliciting” sign is NOT posted?
- is a neighbor who came onto my property to borrow a household item.
- came onto my property after having an accident or other emergency and required assistance..
- came onto my property to ask permission to do something, i.e. photograph a waterfall?
- I don't know but who came to my back door instead of my front door?
- is a child who was walking on the sidewalk leading to my front porch, or was on my front porch?
- is a child who came over my fence into my backyard to retrieve a ball.
- Is a child who came over my fence to retrieve a ball after tormenting my dog from the other side of the fence?
- Is a child who came onto my property who had previously tormented my dog.
- What if my dog bit a neighbor that often visits but took the liberty of letting herself in without knocking?
- What if my old dog sleeping on his bed bit the repair man that accidentally stepped on his foot when he was moving a large piece of

equipment through the house?

- What if I posted a sign saying “no trick or treaters” on my mailbox and a neighbor thought that it didn't include her kids and sent them down my long driveway in costumes in the dark for candy?
- What if my fenced backyard backs up to a neighborhood park and the kids playing ball there hit the ball into the yard repeatedly and climbed over the fence to grab it and one scares the dog and gets bitten?
- What if I send my kid out to my car with my dog on a leash and another kid sees him and runs up my driveway, into my yard to say hi and the dog protects his kid by biting the one running into the yard?

APPROVED 12/10/2013

Attachment E -- Excerpt from Approved October 1, 2013 BOCC Meeting Minutes
---

**MINUTES**  
**BOARD OF COMMISSIONERS**  
**REGULAR MEETING**  
**October 1, 2013**  
**7:00 p.m.**

The Orange County Board of Commissioners met in regular session on Tuesday, October 1, 2013 at 7:00 p.m. at the DSS offices, in Hillsborough, N.C.

**COUNTY COMMISSIONERS PRESENT:** Chair Jacobs and Commissioners Mark Dorosin, Alice M. Gordon, Earl McKee, Bernadette Pelissier, Renee Price and Penny Rich

**COUNTY COMMISSIONERS ABSENT:**

**COUNTY ATTORNEYS PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** Interim County Manager Michael Talbert, Assistant County Managers Clarence Grier, Cheryl Young and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

**NOTE: ALL DOCUMENTS REFERRED TO IN THESE MINUTES ARE IN THE PERMANENT AGENDA FILE IN THE CLERK'S OFFICE.**

**1. Additions or Changes to the Agenda**

Chair Jacobs noted that Commissioner Pelissier would be arriving late. Chair Jacobs reviewed the following items at the Commissioner's places:

- Two hand outs from individuals speaking on Veterans' affairs
- White-PowerPoint for item 7a, Unified Animal Control Ordinance

**PUBLIC CHARGE**

*The Chair dispensed with the reading of the public charge.*

**2. Public Comments**

**a. Matters not on the Printed Agenda**

Jesse Torres is an Orange County resident and a member of the military order of the Purple Heart, Chapter 637. He reviewed the history of the Purple Heart. He indicated the hand out at the Commissioner's places, which is a proposed proclamation to have Orange County designated as a Purple Heart county. He noted that the back side of the sheet lists all the counties that have already gone through this process.

Marshall Morris is here on behalf of Jesse Torres. He noted the handout at the Commissioner's places from the Veteran's Administration, indicating that there are 7000 veterans in Orange County who receive compensation. He said this equals \$26 million per year in compensation and pensions given to wounded veterans. He said this information is to support Jesse Torres' request.

Don O'Leary said he agreed with most of the Board's decisions, with the exception of the topic of ICLEI. He said the government has shut down the wrong departments, and all three branches of the government should have been shut down.

**b. Matters on the Printed Agenda**

Chair Jacobs said maybe this can be analyzed when there is more staff support available, to see if Orange County can help out more financially.

**PUBLIC COMMENT:**

Marshall Morris said, being a disabled veteran, he was unaware of this mode of transportation. He asked if there is a schedule posted for this transportation entity so he can share it with other veterans, especially amputees. He asked if the transportation is handicap and wheelchair accessible.

Craig Benedict said there is information available. He said he would provide phone numbers for door to door service with handicap accessibility. He said there is a circulator route and a 420 bus to take people down to UNC Hospitals.

He said information is available on the website, through the Planning and Inspections Department and Orange Public Transportation.

A motion was made by Commissioner Rich, seconded by Commissioner McKee to close the public hearing.

**VOTE: UNANIMOUS**

A motion was made by Commissioner Gordon, seconded by Commissioner McKee to approve the annual FY 2013/2014 ROAP grant application and certified statement and authorize the Chair and Interim County Manager to sign.

**VOTE: UNANIMOUS**

**7. Regular Agenda**

**a. Unified Animal Control Ordinance**

The Board considered approving revisions to the current Orange County Animal Control Ordinance to make it a Unified Animal Control Ordinance.

Chair Jacobs said he has asked staff to track some of the language changes that are made as this goes along. He said if a good stopping point cannot be reached tonight, this will be moved to the next meeting. He noted that there are some grammatical and typographical mistakes to be corrected.

*Commissioner Pelissier arrived at 7:44 pm.*

Bob Marotto reviewed the following PowerPoint slides:

**Unified Animal Control Ordinance**

October 1, 2013 presentation

**Background**

- Orange County's Animal Control ordinance has not been updated since it was created in 1987
- Orange County Animal Services (OCAS) was created as a department in 2004/2005
  - part of the BOCC timeline included updating the ordinance
  - ordinance has yet to be updated to reflect the changes involved in the county integrating sheltering and animal control operations

### **Municipalities**

- Historically, Animal Control provided service to the unincorporated parts of the County
  - Hillsborough has received service from the county since the 1987 ordinance's adoption
  - Chapel Hill contracted with Animal Protection Society prior to OCAS creation (2004)
  - Carrboro had separate Animal Control officer until 2013 (on-call provided previously by OCAS)
  - Mebane continues to provide its own Animal Control services (despite overtures from OCAS)

### **Reasons to Unify**

- To create a coherent and integrated ordinance for Orange County as a whole
  - The municipalities that receive animal control services each have different ordinances
  - Ordinances are confusing to public, staff and judiciary process
- To provide necessary & overdue updates
  - Reflect consolidation of sheltering and animal control operations in OCAS
- To fill critical gaps
  - Years of judicial process have identified important gaps within each of the ordinances
  - Hampers department's ability to protect the public and animals of the county

*Staff Attorney Annette Moore, presented the following slides:*

### **Summary of Recommendations**

- Updating ordinance to reflect OCAS department creation
- Keeping & displaying of wild animals
- Creating an appeal process for administrative orders and civil citations
- Designating only animal control staff as cruelty investigators
- Creating authority for assuring humane treatment of animals and humane euthanasia
- Adding differentiation of public nuisances created by cats
- Establishing authority sufficient to effectively regulate potentially dangerous dogs

### **Summary of Public Concerns**

- Livestock as nuisance animals
  - § 4-45. (b) (6) added: "at large off the premises of the owner or Keeper, except in the case of domestic livestock the Animal Services Director shall have the discretion to determine a violation" [pg 23, strikethrough version of recommended ordinance]
- Dangerous vs. Vicious
  - Existing county ordinance includes vicious animals
  - Any added language comes from Chapel Hill and Carrboro ordinances
- No appeal process for vicious dog declaration
  - Existing ordinance has no appeal process, but proposed unified ordinance does contain an appeal process for vicious dog declarations, as well as other administrative orders
- Dual declaration appeals

- Existing ordinance has no appeal process for vicious dog declarations. Proposed ordinance allows the appeal of both declarations to be considered in a single appeal hearing.
- That proposed ordinance makes it responsibility of owner to prove intruder came onto property with criminal intent
  - § 4-42. (e) (4) deleted: “Committing a willful trespass or other tort as provided in N.C. Gen. Stat. Chapter 14, Article 22B” [pg. 18 in strikethrough version of recommended ordinance]
  - Language now similar to that found in state statute and Carrboro ordinance
  - Summary of Public Concerns cont.
- Watchdog definition
  - Existing language in current ordinance: § 4-37. “A dog that barks and threatens to bite any intruder that has not been specially trained or conditioned for that purpose.” [pg 8 in strikethrough version of recommended ordinance]
  - Barking and threatening to bite on owner’s property does not qualify the dog as potentially dangerous or vicious- hence the definition is meaningless. Once a dog bites, it no longer meets requirements of watchdog
  - This language was removed from proposed ordinance
- The distinction between rural and urban has been removed
  - Where significant differences occur between the municipal and county ordinances, they will be retained in the municipal code of ordinances
    - Examples: tethering, crowing roosters, livestock, chicken coops
    - none of these examples are included in the unified ordinance

Chair Jacobs acknowledged Susan Elmore’s work on the ASAB and with this process. *Susan Elmore, ASAB Chair, DVM presented the following slides:*

#### **Summary of Public Concerns cont.**

- No School of Government involvement and no public input
  - Susan Elmore, ASAB Chair, DVM

#### **ASAB and Public Process**

- ASAB Chair spoke with Associate Professor Aimee Wall, UNC School of Government
- ASAB & Agricultural Preservation Board officers, along with senior staff of Animal Services and DEAPR, met to discuss livestock concerns with ordinance
- ASAB Chair also spoke with a local farmer on matters related to at-large livestock and other issues that might affect county farmers
- ASAB considered the ordinance 3 times prior to June 4th BOCC meeting
  - ASAB is comprised of Orange County residents who have been appointed by the BOCC to review such issues
  - One meeting dedicated to vicious/dangerous dog declarations and residents were invited to speak and their concerns were heard
- Since June 4<sup>th</sup> BOCC meeting, ASAB met again to discuss ordinance and they unanimously recommended BOCC adoption
- The ASAB 2014 work plan will include a review of targeted items on the unified ordinance

Bob Marotto reviewed the following slide:

### What the Unified Ordinance Is

- A unification of the existing ordinances that
  - fills gaps
  - makes it possible to efficiently protect the public and carry out services
  - avoids existing confusion within department, public and court system
- A fluid document that still allows for differences between municipalities and county where needed

Annette Moore said there needs to be a due process for administrative orders and civil citations.

She said the designation of cruelty investigators will be helpful in instances of large scale seizures. She said there needs to be a balance of sheltering and keeping these animals as well.

Chair Jacobs said the Board has requested attachment 3, pages 20-21 at agenda review, and it was useful information.

She said additional language has been added with regard to dangerous and vicious dogs, and this language was taken from Chapel Hill and Carrboro's ordinances. She said language has also been added to designate repeat offenders, which expands the authority to restrict this dog to the property. She said there is also a new requirement to micro-chip repeat offenders, in order to prove their identity.

Annette Moore reviewed the slides regarding public concerns. She reviewed background regarding livestock as nuisance and said the new language captures the concern over whether the Animal Services Director has discretion in these situations.

She reviewed the background and reasons for further definition of the term "trespasser." She said the new language clarifies willful trespass.

Susan Elmore said Amy Wall agreed that it was a good idea to unify first with minimal but critical changes.

She said discussions about the livestock concerns were productive. She said no one wants a farmer to be cited for livestock that is off their property for reasons beyond their control. She said the hope is that this new language will suffice. She said the Agricultural Preservation Board will meet later this month to discuss this further.

Bob Marotto said he feels that a framework has been created that will allow for some differences within the unincorporated areas of the county and the towns.

Commissioner McKee asked about the appeals process, as listed on page 49 of the packet, section 4. He asked if this is assumed to be after the Animal Services Director has had a chance to review.

Bob Marotto said yes.

Chair Jacobs asked if this designates 5 business days or 5 calendar days.

Annette Moore said it is 5 calendar days.

Commissioner Price asked about the appeals process and who would be involved in this process. She feels this would be more of a quasi-judicial action, similar to the Board of Adjustment. She said the people on these boards are specifically chosen. She asked if the people doing appeals would need to have certain qualifications. She said this seems to tread into legal matters.

Annette Moore said the ASAB does currently provide a quasi-judicial function, and all members have received annual training. She said she and Bob Marotto provide the training regarding the law and the consideration of dangerous dog appeals.

John Roberts said it is not unusual for an advisory board to also serve as a quasi-judicial body, or for a legislative board to also serve as quasi-judicial body. He said there is not usually extra training, but there is legal counsel available.

Bob Marotto said his experience with the ASAB in other locales is that these boards hear dangerous dog appeals and are obligated to act within the law with the provision of evidence.

Commissioner Price asked if there is a rigid schedule of issues in making decisions.

Annette Moore said this is done now.

Susan Elmore said she has served on the appeals board for many years, and the law is followed very rigidly. She said statements are heard from both parties, and all documents are read. She said this is taken very seriously and it has been 100% fair in her experience.

Bob Marotto said the board does have findings of fact that are the basis for a final determination. He said, in the case of a hearing, the elements are conducted and a document is completed, signed by the board and given to both parties. He said these are quasi-judicial hearings that are mandated by state law. He said the Board of County Commissioners has given this authority to the ASAB. He said there is an option to appeal to the Superior Court as a second step in the appeal process.

Commissioner Dorosin referred to page 445, regarding the at-large language. He said one issue with the language is the broad discretion it offers. He noted that Susan Elmore used more specific language – “domestic livestock at large, through no fault of the owner.” He said this specificity is needed to make things more clear.

Commissioner Pelissier said some of the concerns of the public relate to the watchdog issue. She asked if cases have occurred where the owner ends up with a dog labeled vicious when the owner did not know that the dog would bite, because this not a normal behavior for the animal.

Bob Marotto said there may be a known propensity of the owner that the dog will bite or it may be a trait that has not been seen yet. He said there may be a trigger that sets off the behavior, such as chasing a bike. He said the number of bites is large and the reasons are varied.

Commissioner Pelissier asked for clarification on the legal definitions for what would be considered provocation.

Annette Moore said a definition for provocation is included on page 29 of the packet, and this is a new definition that did not exist before.

Bob Marotto gave an example of a child who was bitten after going into a house with a dog who had not previously bitten.

Commissioner Gordon asked if people who testify are sworn in when the ASAB hears appeals. She asked if all cases can be appealed to the Superior Court.

Bob Marotto said that the NC general statute provides the right to an appeal process with the local government, and there is an opportunity for a second step appeal within ten days of that first decision

Commissioner Gordon asked if this applies to all cases.

Bob Marotto said yes.

John Roberts said this would be the final administrative piece of the process, and for any final decision, there is the option to go to the courts after that.

Commissioner Gordon asked if all testimony is sworn.

Annette Moore said this is not currently in place, but it can be.

Commissioner Gordon asked why this is not in place.

John Roberts said it goes to the courts in the form of a de novo appeal; which means everything is repeated again, so there is no need for this first appeal to have sworn testimony.

He said if the Board of County Commissioners wanted sworn testimony then that could be provided.

Commissioner Rich asked why the watch dog definition is being taken out. She also asked for the definition of "specially trained and conditioned" and clarification on who is responsible for this training and conditioning. She said she is referring to the strikethrough on page 30, item c.

Bob Marotto said this is a point of contrast with the preceding two types of security dogs, which are professionally trained attack dogs. He said this can be done in private training or police training for security or police dogs. He said this would be the kind of training for those first two other types, and not to the watch dog. He said, in addition to the training that would be professionally done to certify a dog as a sentry or patrol dog, there would be required registration for these types of dogs. He said the watch dog is neither conditioned, trained or registered in contrast to these two types.

Commissioner Rich asked if a watchdog is considered to be a dog that bites, versus just a dog who barks.

Annette Moore said this can include any dog that barks to keep an intruder out, which includes any dog. She said this makes the definition is meaningless.

Commissioner Rich asked about a case where someone tries to enter her house and her dog bites the person in response.

Annette Moore said once the dog bites it is not a watch dog, according to the definition.

Commissioner Rich said she disagrees with this.

Commissioner McKee said if the term watch dog is generic and meaningless, then why not leave it in. He disagreed with taking it out.

Annette Moore said this term makes the reader think that there are greater or fewer rights given. She said that any dog that barks or threatens to bite an intruder on personal property is a watchdog. She said there is nothing wrong with a dog that barks or threatens to bite on your property; there is no legal issue with that.

Commissioner Price said her fear is that if someone has a watch dog that is barking, and a person comes onto the property, and the dog bites this person, then the County can say this is a dangerous dog.

Annette Moore said the board is looking at the terms in isolation. She said if an intruder comes on to property and the dog bites, under the ordinance this is not a vicious dog - it is a trespass. She said if an intruder innocently trespasses, and the watch dog barks or threatens them, that has no legal meaning.

Commissioner Price asked if micro-chipped animals need to have rabies tags.

Bob Marotto said this differs for dogs and cats. He said state law does not require cats to wear a rabies tag. He said the County does not require it as long as proof of vaccination can be provided. He said the statute does not allow this for dogs. He said the microchip only provides identification if a scanner is available.

Commissioner Rich asked about input from municipalities, since there are no animal control officers in those towns. She asked who was contacted for input.

Bob Marotto said the board spoke with the members of the Carrboro police department. He said the board spoke with Chapel Hill Police Chief Blue, as well as staff and the town attorney. He said it has been a holistic approach with the municipalities from the beginning.

Commissioner Rich asked if the municipalities have seen this draft ordinance.

Bob Marotto said the municipalities have seen it and are fully on board. He noted that it will still have to go back to the elected bodies for a vote. He said there has been an enormous amount of work from all of these entities.

Commissioner Price said dog fighting is illegal in Orange County. She asked why the ordinance lists precautions rather than a statement that it is illegal.

Bob Marotto said there was a case a few months ago, where the County had to ride with police on a drug warrant. He said there was information that there were 15 dogs involved with illegal dogfighting. He said there was no direct testimony available, but paraphernalia was found, and it was used to build a case. This is the reasoning for the precautions.

Commissioner Price asked where the ordinance against dog fighting is located.

Bob Marotto said the County resorts to state statutes for that.

Chair Jacobs asked if there are fire standards for kennels.

Bob Marotto said, for most kennels, there is a planning and zoning process. He said Animal Services has been responsible for the animal welfare and less for the building structure.

#### **PUBLIC COMMENT:**

Kris Bergstrand has been a Veterinarian for 33 years. She said she has experience in small animal practice, academia, pharmaceutical research and toxicology. She said she has been on the ASAB in the past, and during that period of time she heard many dangerous dog appeals. She said there was always a veterinarian on board, with ordinance in hand during the process.

She said she was here to show support for this unified ordinance. She said there has been a tremendous amount of work and cooperation between the County and the towns. She found during the tethering ordinance-process, that residents on both sides criticized the board, and made wrongful assumptions.

She gave the Commissioners a hand out regarding statistics about dog bites in rural versus urban areas.

Ed Johnson said he is submitting public comment on behalf of Bob Epting, who was unable to attend. He submitted the following written statement from Bob Epting:

#### **FROM BOB EPTING:**

I have just received the materials you are being provided for your agenda item pertaining to revision of the animal control ordinances into a Unified Ordinance.

While the original idea of consolidating the several Town and County ordinances into a Unified Ordinance was a good one, the revised drafts go far beyond the simple consolidation the Board envisioned and directed. We appeared and complained about this gross enlargement of authority, resulting in the elimination of citizens' rights under the existing laws, at your meeting before the summer break.

Sadly, the draft "Unified" ordinance retains the features we complained about, and still exceeds your charge of simplification and consolidation.

In particular, I note that the provision in the existing law permitting a person to keep a watchdog, and protecting the animal and its owner from vicious animal designation and legal liability, (if the animal bites a trespasser on the owner's property), has been deleted. Thus, the intruder is to be protected, while the owner is directed to lock up his dog for the rest of its life, all for doing what the owner expected to protect his family and property.

Those who propose the "Unified" ordinance say they have retained the "sentry dog" designation, which requires the animal to be trained or conditioned (no definition, discretion of the AS Director, I suppose), and the property to be marked "No Trespassing." They argue

this will make it easier to enforce the law. I have seen the way these squishy provisions, leaving discretion in the hands of AS Officers and the AS Director, are simply avenues for uneven treatment of citizens from one case to the next.

In a case I was in last summer; defending a property owner whose dogs were declared vicious animals" because one of the two had bitten a trespasser who had crept up from the distant rural road through adjacent woods to the very steps of my client's home, we found that the AS Officer was not even aware of the watchdog provision in the existing ordinance, had no idea how his being an intruder affected the case, and had no interest in his having been arrested several times in Alamance County for criminal trespass, or how that affected the matter. WE DO NOT NEED MORE DISCRETION IN THE AS OFFICERS OR THEIR DIRECTOR.

What we need is to have you act to preserve the citizen's right to keep a watchdog, especially in rural Orange County, a natural human right that has existed since before there were laws, and ought to continue to be recognized and defended by our elected officials. Please do not vote to remove the present watchdog category, as the "Unified" ordinance proposes to do.

Secondly, please be sure that the appeals Board, to which a citizen may appeal arbitrary, baseless, or otherwise patently incorrect decisions that affect their animals, their homes and their purses, is an independent appeals Board. The "Unified" ordinance requires that appeals be heard by the Animal Services Board. In my opinion, the appeal ought to go to a judicial authority, and I believe the "Unified" ordinance is unconstitutional because the right to appeal agency decisions to judicial review is fundamental to the principle of due process. But at least make the appeal's first step to a body consisting of a majority of citizens not directly associated with the AS Board.

Finally, there are many places in the proposed "Unified" ordinance where sentences are incomplete or nonsense words or phrases remain, even after our pointing them out previously. Couldn't we at least expect that their product would have been edited so as to be in a form you might adopt, rather than still needing the assistance of outside editors?

Bob Epting

Ed Johnson read his own statement, as follows:

I am glad that Animal Control has listened to both the Board and to us citizens who have made complaints and offered suggestions. My appearance last time was prompted by my dog's being declared "vicious" for biting someone. After I pointed out that my dog was acting as a watchdog and had bitten a trespasser, the declaration was rescinded.

In the June draft of the unified ordinance, Animal Control deleted the category of watchdog and watered down the idea of a trespass. Under the new ordinance, my dog would be nailed as "vicious." You told Animal Control to come back with a new draft that makes no new laws.

Animal Control has now presented you with a new draft that presumably makes no substantive changes from what already exists. Presumably, substantive changes will be added later.

On page 2 of the Agenda Abstract, Animal Control says that rather than presenting the ordinance for an up or down vote, the Board is given a "menu of choices" where they can say yea or nay on each of seven issues. This is a quote: For example, it is possible to adopt the ordinance while preserving watchdogs as a category of security dog." The "menu" is on page 14. It does not contain the promised watchdog issue.

People in the country have dogs for two reasons: As pets and as guardians. I rely on my dog's bark to alert me that someone is approaching. This is part of her job. So I would like to see the category of watchdog retained. I'd even be willing to have her officially registered with Animal Control as a watchdog.

In the new ordinance, my dog would be *off* the hook for biting a trespasser if my property had placards "noting the presence of such animal." What does this mean? What should the sign say? And in regards to placards, I'd like to say two things: 1. Do we really want to clutter the countryside with the thousands of signs necessary to protect dog owners from having their dog called vicious. And, 2, any competent lawyer will tell you that by posting a "beware of dog" sign, you are admitting that you regard your dog as dangerous and opening yourself up to legal liability.

I could say a lot more with extra time but I want to close with an amazing example of why the draft ordinance needs more work. Take a look at the definition section on pages 69 and 70. Imagine you are bitten by a dog. Would you rather have an "injury" or a "severe injury?" In the definition section a severe injury entails broken bones and lacerations. But an injury requires "immediate medical attention to prevent death."

#### OTHER POINTS I'D LIKE TO MAKE

1. Why does Animal Control want to retain both categories, "vicious animal" and "dangerous dog?" The County's designation "vicious animal" is only slightly different from the State's designation of "dangerous dog. The double designation leads to cases such as I cited at the June BOCC meeting where a single event led to an animal's being called both "vicious" and "dangerous." This caused the dog's owner a lot of unnecessary grief and caused Animal Control to have to spend a whole lot of additional time on the case.
2. The proposed ordinance is filled with dozens of instances where the public is at the mercy of the judgment or discretion of an Animal Control officer or of the Animal Services Director. In my own case from last winter, my wife and I fell victim to this discretion issue when we opted to keep our dog at home for the required 10-day quarantine after she bit a trespasser. I had no argument with the quarantine. But I did have to leave the county for a short trip and asked if Animal Control could keep the dog overnight and then return her to my custody. They said yes but when I went to pick her up, they said no. After a heated discussion, they said yes again. Then they said no once more and finally after a face-to-face meeting said yes again. Five changes of mind is four too many. Certainly there must be some provision for experts to exercise professional judgment. But it would help the ordinance if some of these discretionary points were fleshed out so as to let the public know what to expect.

3. The designation of a dog as "vicious" is really serious. In essence it terminates any freedom the dog previously enjoyed. He must be kept inside the owner's house. When kept outside, it must be in a specially constructed pen built to Animal Control's specifications and inspected annually for which the owner must pay an inspection fee. When off the owner's property, the dog has to be on leash and wear a muzzle. When outside on its owner's property, it must be on a leash. It is crucial that the owner be provided an opportunity to appeal the designation to a quasi-judicial body that is independent of Animal Control. The current Advisory Board certainly has the expertise to serve as an appeal board but it is so intimately concerned with the inner workings of Animal Control and its Director (and other personnel) that it simply cannot qualify as an independent judicial body.  
END.

Bonnie Hauser said it is hard to have an ordinance that satisfies both rural and urban areas. She said direction is needed to get this on sound footing. She said this is not the time to introduce changes or to increase the authority of Animal Services. She said this ordinance does not accurately reflect the public's concerns. She discussed several examples of this.

She asked for a unified ordinance without changes and with assurance to the public that there would be a transparent public process to change any ordinance. She said an independent appeal process needs to be a priority. She said once an appeal process is in place, then the other issues can be discussed.

Michelle Walker is the Vice Chair of the ASAB and is an attorney. She wanted to address the appeals' process. She said this is a critical due process need that is supported by state statutes for dangerous dogs. She said it is good to have the ASAB as the appeals' board, because it is made up of Orange County residents from different backgrounds. She said the board does not issue citations, so the people reviewing the decisions are not the same people who made the original charge. She said there is an established process that it is working.

She said changes are sometimes necessary for operations and due process purposes. She said the background behind the watchdog and trespass involved consideration of a lot of scenarios. She said another way of describing this watchdog issue is to say that it creates an exception that swallows the rule, as it means any dog that bites anyone on its property could be considered a watchdog. She said the goal is to identify dogs that have bitten people without provocation.

Don O'Leary said dogs have different personalities. He said micro-chipping of dogs has statistically been shown to cause cancer, and he encouraged people to try to avoid chipping of animals.

Chair Jacobs said Don O'Leary brought this up last time and he asked him to send his citations to the county.

Kris Bergstrand noted that the health services director oversees quarantine of animals, and not animal services.

Chair Jacobs referred to page 3 and noted that unless all of the Board approves this ordinance, it will come back at the next meeting. He said it is not necessary to resolve all of the issues tonight.

Commissioner Dorosin asked John Roberts for clarification on the approval process for this ordinance

John Roberts said any ordinance that does not require a public hearing, is required to have a unanimous vote to pass on the first meeting. Otherwise, it must come back to the Board.

Commissioner Dorosin asked if the ordinance could pass without unanimous vote at a subsequent meeting.

John Roberts said yes.

Commissioner McKee asked for clarification on Michelle Walker's comment regarding lack of a due process for appeals.

Annette Moore said the state statute requires an appeal process for dangerous dogs; she said the current ordinance does not have an appeal process.

Commissioner Price asked for clarification regarding the terminology of owner versus keeper. She asked why it is required that someone over 18 be the person responsible for caring for the animal.

Bob Marotto said experience shows that there will be some people who are keepers, rather than designated owners. He said the keeper notion has some applications that can be helpful, such as in transfers of ownership.

Annette Moore supported Bob Marotto's statement with past examples.

John Roberts referred back to Commissioner Dorosin's earlier question. He said if the board votes on this tonight and it does not pass, it is defeated. However, if the Board votes tonight and it passes without a unanimous vote, then it will need to come back for a second reading, where it will only need a majority vote to pass.

He said if this is sent back with further changes and no vote, the vote at the next meeting will still have to be unanimous.

Commissioner Dorosin referred to the watch dog issue. He noted that under current ordinance, there is a blanket lack of liability for an owner if someone comes onto their land. He said the concern of dog owners is that this will be turned 180 degrees to imply a strict liability if the dog bites anyone. He said these are two extreme positions. He said the case of a break-in is clear, but the case of a neighbor's child is not so clear.

He said he does not think the goal is to give land owners blanket liability, but to give language that allows for a case by case analysis. He is not in favor of this "blanket immunity." He said the purpose of the appeals process is to make case by case determinations.

Commissioner Dorosin said if the appeals process is honed, it is reasonable that it be done with the ASAB. He said members of the public serve on this board and advice is available from legal counsel. He said if this quasi-judicial process is implemented, this is the place to do it.

Chair Jacobs noted that time is limited and it seems that Commissioner Dorosin has brought up the issues that most Board members are concerned with - watch dog/trespassing and the appeals process with the ASAB. He asked if these items could be discussed in order.

Commissioner Rich said she likes this idea. She agrees with Commissioner Dorosin on the watch dog issue. She would like an expanded definition of a watch dog. She said she is in the middle of the two extremes. She would like to find out what happens to that person in the middle- the owner with the dog that doesn't normally bite and then does bite.

She said she would like to keep the ASAB as the appeals board.

Commissioner Pelissier said she agrees with the other Commissioners' comments. She said taking out the watch dog definition will take out one of the extremes, as people will not be able to excuse any aggression because their dog is a "watchdog." She said people are upset that their dog may be deemed dangerous, when the only requirement is that residents put up signs or fence the dog.

She said the ASAB will assess each case individually and will look at the whole situation. She asked that the board look at how many cases have come under the new ordinance and then assess how it is working with balancing people's right to have dogs.

Commissioner McKee said the wording will be hard to define. He said security dogs are trained to attack. He said there are hundreds or thousands of dogs in the County that are

kept for the purpose of increasing a feeling of security; however, only a small percentage of those dogs bite. He said the problem with taking out the definition of watch dog is that it only leaves the option for people to spend thousands of dollars and increase their liability by having a trained attack dog on their property. He said no dogs are allowed to run free, and these dogs will have to be contained. He said he agrees that a middle ground needs to be found, but he wants to keep the watch dog definition in there, with a way to define it.

Commissioner McKee said Durham County has a different solution for appeals. He said their appeals board resides in the sheriff's office and is made up of three members of county staff and two members of the general public. He is in favor of an independent appeals board. He does not question any motives of the ASAB, but he feels that residents will be more comfortable if these two boards are separate.

Commissioner Price echoed Commissioner McKee's comments. She said she would like to keep the watch dog definition and come up with better definition of trespassing.

She said her concern about the appeals board is that the members should be vetted if their responsibilities are to be expanded.

Commissioner Gordon said good points have been made regarding the two extremes related to the watch dog definition. She thinks this issue should be addressed.

She feels the appeals process needs to be worked on, and there should be sworn testimony. She has not made up her mind yet about who should be the appeals board, but she does feel there should be work done on the definition of trespassing;

Chair Jacobs said he originally thought there should be another step between ASAB and the courts, and he still thinks this is a possibility. He is comfortable with the ASAB hearing appeals at the current time. He said he is also amenable to another step.

He said he is very uncomfortable with the issue of trespassing. He said there are very few innocent trespassing incidents in the rural areas. He said, in the case of a trespassing child, a parent should be in a position of supervision. He said there is a middle ground that needs to be found.

He said there may not need to be a definition of a watchdog, but there needs to be definition of an animal that is on its property minding its own business when a human comes on to the property and is not minding their own business. He said things do not have to reach a point of going so quickly from a benign situation to a quasi-judicial situation.

Commissioner Dorosin said the problem with the current definition of watch dog is that it encompasses every single dog that exists. He does not see a way to make a separate category.

He thinks that the idea of some intermediate step before the vicious dog determination is a good one. He said all of the facts need to be looked at per case.

He said there is an implicit invitation to be solicited unless there is a sign that says otherwise; and this is one reason why the appeals process is so important for providing a case by case analysis.

Commissioner Pelissier said she feels the watch dog definition is useless. She asked the attorney if there could be a different definition of trespassing.

John Roberts said the trespassing definition can be modified. He said the best idea is to modify it to refer to the criminal trespass statutes, as provided in NC General Statute 14, article 22b. He said there are two different trespass statutes provided in that article; one would cover someone who climbs over your fence, and the other would cover someone who comes onto or stays on your property after being told to leave.

Commissioner Pelissier gave the example of someone being bitten by a dog when it was not a case of trespass. She asked if this dog is automatically declared vicious if it is not normally aggressive. She said this needs to be clearer.

Bob Marotto said there is a review process, and all circumstances are reviewed to see if there is provocation. He said there are routine instances of this, and these are evaluated individually.

Bob Marotto said the language regarding dangerous dogs is permissive and allows for decisions by qualified staff, based on the facts of evidence.

Commissioner McKee said the general public identifies with the term watch dog. He noted that dogs are not supposed to run free in Orange County. He said this ordinance shifts responsibilities to the owner rather than to the person trespassing.

Commissioner Gordon thanked all the individuals who drafted the ordinance and she recognized that it is a difficult task. She said there are certain basic aspects of the ordinance that need to be addressed before the Board can effectively consider it. She said some of these issues have already been discussed, and noted two specific issues, as follows:

- Use of the word “injury” on page 28 and page 30 – The definitions of “injury” (page 28) and “severe injury” (page 30) need to be revised.
- Lack of clarity in wording on page 42, section 4-43, regarding Impoundment. The paragraph beginning “Any animal found at large...” needs to be revised.

Commissioner Gordon recommended that the Board ask ASAB and staff to look at the substantive issues. She said there are fundamental issues that need to be addressed, along with consideration of written comments from the Board of County Commissioners and the public. She suggested there should be no vote tonight, and that staff should bring the ordinance back for first reading, with the proposed revisions.

Commissioner Gordon said she has one other issue. She questioned why there is a difference between dogs and other animals, and she referred to pages 45 and 47.

Commissioner Gordon said staff needs to go through and deal with the internal inconsistencies in the ordinance, and then deal with the substantive issues.

She said she has read through all of this, and she realizes that it is very difficult to merge three different ordinances.

Chair Jacobs referred to page 49 and said the section on the appeals process should say “5 working days” rather than “five days.”

He referred to the language on page 42 regarding animals put to death. He said there should be language noting that the owner be notified to be made aware of what has happened. Chair Jacobs said he would rather not assume that the planning department has approved the fire standards of kennels and facilities. He would rather the Animal Services go back and find this information and bring it back to the Board.

Chair Jacobs reviewed the following list:

Main issues:

- General comfort level of ASAB being part of appeals process – Is there need for an intermediate step?
- Watch dog issue- Is it too extreme? Can the term be related to trespassing?
- Term of trespassing – This needs to be addressed and clarified.
- Dog bites – How are these regarded? Is there another mechanism of punishment to be considered for the owner, if not the animal?
- Notes and suggestions – Board members and staff are directed to give hand written notes and suggestions to the board.

Chair Jacobs suggested staff address the main sticking points, and bring this back in two weeks or however long it takes to satisfy the majority of the Board.

Annette Moore referred to Commissioner Gordon's question about the definition section. She said a lot of these definitions come directly from state statutes, and efforts were being made to conform to these. She asked if this was a request to change that language.

Chair Jacobs said if the statutes seem contradictory then that should be indicated, and there should be some clarifying language to bridge what makes sense and what the statutes say.

Commissioner Gordon said some of the definitions used in the ordinance do not conform to established factors. She said some of these things are common sense issues, such as the idea that "injury" should be less severe than "severe injury." She said a key provision to the whole ordinance is the issue of injury, and this definition must be addressed.

Commissioner Price said the definition of wild animals needs to be clarified. She said there also needs to be a limit for cold weather as it relates to animal cruelty.

Commissioner Pelissier said she is concerned that the Board is not giving clear direction for the watch dog issue.

Chair Jacobs said the Board is not clear on that point, and that is why there is a request for more clarity from the experts.

A motion was made by Commissioner Price, seconded by Commissioner McKee to table this item for staff/ASAB to have time to review proposed suggestions from the Board and provide responses to Board concerns.

Commissioner Gordon asked John Roberts if this motion is acceptable.

John Roberts said yes.

Commissioner McKee suggested that Professor Wall from the School of Government might be made available to provide more direction.

Commissioner Gordon asked how the Commissioners can provide additional written comments.

Michael Talbert said any written comments should be sent to the Manager's office.

VOTE: UNANIMOUS

**b. Orange County Volunteer Application-Proposed Revisions**

The Board considered proposed revisions to the Orange County Volunteer Application for boards and commissions. A committee including Commissioner Gordon, Commissioner Pelissier and Clerk to the Board Donna Baker had been charged by the Board to bring back recommendations for Board consideration.

Commissioner Pelissier said she petitioned the Board in the spring to bring this forth to add additional questions for particular boards. She said, for each of these five boards there were some suggested additions. She talked with some board members and Donna Baker did a survey of other boards and commissions.

She noted that there was an additional question suggested, outside of the charge. She said this is included in the packet.

Commissioner Gordon said Donna Baker provided examples from other governmental entities in the region and out of state.

She said the main discussion should be regarding the additional questions for the selected boards.

Commissioner Price had concerns about the questions. She asked for an explanation of the goal or purpose of these additional questions. She liked the four basic questions, but she said she does not understand the need for some of the others.

She said the question regarding gender and ethnicity should be optional.

She said the term "domicile" is a bit ambiguous.

APPROVED 9/5/2013

MINUTES  
BOARD OF COMMISSIONERS  
REGULAR MEETING  
June 4, 2013  
7:00 p.m.

The Orange County Board of Commissioners met in regular session on Tuesday, June 4, 2013 at 7:00 p.m. at the DSS offices, in Hillsborough, N.C.

**COUNTY COMMISSIONERS PRESENT:** Chair Jacobs and Commissioners Mark Dorosin, Alice M. Gordon, Barry Jacobs, Earl McKee, Bernadette Pelissier, Renee Price and Penny Rich

**COUNTY COMMISSIONERS ABSENT:**

**COUNTY ATTORNEYS PRESENT:** John Roberts

**COUNTY STAFF PRESENT:** County Manager Frank Clifton, Assistant County Managers Michael Talbert, Clarence Grier and Clerk to the Board Donna Baker (All other staff members will be identified appropriately below)

**NOTE: ALL DOCUMENTS REFERRED TO IN THESE MINUTES ARE IN THE PERMANENT AGENDA FILE IN THE CLERK'S OFFICE.**

**1. Additions or Changes to the Agenda**

The Chair went through the items at the County Commissioners' places:

- Pink sheet – for Item 7c, additional information for Refund Requests for Inaccurate Square Footage Calculation
- White sheet- PowerPoint – for Item 4-b, Potential Orange County Fair – Preliminary Background Report
- White sheet- for item 7b, Unified Animal Control Ordinance
- White sheet - for Item 6a, Executive Summary - CDBG Program – North Carolina Tomorrow Grant

A motion was made by Commissioner Price, seconded by Commissioner Gordon to add a closed session to the agenda for the purpose of:

“To consider the qualifications, competence, performance, character, fitness, conditions of appointment, or conditions of initial employment of an individual public officer or employee or prospective public officer or employee” NCGS § 143-318.11(a) (6).

VOTE: Ayes, 3 (Commissioner Price, Commissioner Gordon and Chair Jacobs); Nays, 2 (Commissioner Pelissier and Commissioner McKee)

*Commissioner Rich and Commissioner Dorosin had not yet arrived.*

**PUBLIC CHARGE**

*The Chair dispensed with the reading of the public charge.*

*Commissioner Dorosin arrived at 7:04pm.*

**2. Public Comments**

**a. Matters not on the Printed Agenda**

Bill Holmberg read the following prepared letter:

Hello Commissioners and thank you for hearing me.

In regard to the proposed site of the White Cross fire station on Neville Rd., I simply want to state the following.

space. She said that the wings of the building have memories' and because of this the community would like to see if it is financially feasible to save the wings for future uses.

She agreed that there should be a defined group who can be given a charge. She said that this will not prevent others from giving feedback into the group discussion.

Commissioner McKee said the moment the sign-up sheet for input was laid out, a formal group was established. He said it is worrisome to see the proposed expansion costs. His main concern is that a very expensive structure will be built that won't provide any services, which is not the point. He said the services that will be available are important, as is the historical significance of the facility. He said one way to kill a project is to make it too expensive

Commissioner Rich said it would be nice to see budget figures on some proposed services such as a library, Cybrary and others.

Jeff Thompson said as part of the preliminary plan process, this can be vetted out and brought back in the fall.

Chair Jacobs said this is a circular argument. He said that investigating more possibilities creates more expenditure. He said the cost of looking at the three proposed alternative uses is \$40,000' versus the \$168,000 for the other consulting. He feels this is a comparatively small additional cost.

Chair Jacobs said the community simply wanted a library/Cybrary, and a community resource; and it was someone else who brought up all these other services. He said this is not about duplicating other service models. He said the main reason, other than safety issues, that staff recommended closing the old library was because it cost \$125,000 to heat/cool that one room. He said the people criticizing the board for spending money should know that the library was closed to save money. He summarized that the Board wants a formal structure, scope of services, charge, time, and specific membership, with background information presented at the next meeting.

Commissioner Gordon said there should be a formal group established and nothing should be done between now and 18<sup>th</sup>.

Commissioner Dorosin asked what is going to come back on the 18<sup>th</sup> if there are no meetings between now and then.

Commissioner Gordon said the formal charge, timeline, structure and the membership list will be established. She said none of this exists now, so this information should come back on June 18<sup>th</sup>.

Commissioner Price asked when the community will have input.

Commissioner Dorosin said there have already been community meetings.

Commissioner Price said more are needed and this needs to move forward with community input.

Chair Jacobs said there is still an issue with understanding what the community said and staff will bring back these notes on June 18<sup>th</sup>

Frank Clifton said there were several community meetings with Commissioners participating in them. He said a variety of issues were discussed, including services. He mentioned the overriding issue of the septic system and reviewed engineering issues that limit expansion. He said many of the decisions are not staff driven and these issues and the discussion points can be presented at the next meeting.

Chair Jacobs said the Board wants background information, including a review of past public comments; formal structure; timeline; cost; membership; and scope of services within the current septic limitations.

This was agreed to by Board Consensus.

Chair Jacobs said the discussion group is open to general public and interested parties should sign up.

#### **b. Unified Animal Control Ordinance**

The Board considered amending the Orange County Animal Control Ordinance to make it a Unified Animal Control Ordinance.

Bob Marotto introduced himself and Annette Moore, staff attorney. He said this is an amendment to set the basis for a more unified animal control ordinance' and the backbone is the existing county ordinance. He said this effort has involved staff from Carrboro and Chapel Hill Animal Control, as well as

the town manager, the police chief of Hillsborough and the Animal Services Advisory Board (ASAB). He said staff met with the ASAB three times this year in developing the ordinance being presented tonight.

Annette Moore said the court system was confused about which ordinances would apply to a case. The issue was confusing for Animal Services itself, since there are three ordinances in effect in Orange County. She said the advisory board used Orange County's ordinance as a base and merged the three ordinances into one; but there were still missing pieces. She referenced examples, such as no set appeal process and no humane euthanasia plan for suffering animals. She reviewed information from the ordinance and the abstract below:

Background: Beginning July 1, 2013, Orange County Animal Services will be providing Animal Control Services to all parts Orange County except for the portion of Orange County within Mebane. Despite the increasing integration of animal services through Orange County Animal Services, there are three different animal ordinances in force (all available online <http://orangecountync.gov/AnimalServices/info.asp>). Orange County, Chapel Hill and Carrboro all have their own ordinances, while Hillsborough has adopted the County's ordinance. The differences in the local Ordinances have proven to be complicated and confusing, not only for staff charged with responsibility for regulatory functions and the Court system, but perhaps most importantly for the residents of Orange County.

Because animal services within the County have become more unified and integrated than they have been in the past, for the past year County staff has been working on a proposed Unified Animal Control Ordinance with the Towns of Chapel Hill and Carrboro.

In this context, County staff initiated the effort to create a unified animal ordinance by convening a work group of staff from the involved jurisdictions. Staff from Chapel Hill and Carrboro have been integral to the process responsible for the proposed ordinance, and upon County adoption of the ordinance, the towns' staffs will present the ordinance for consideration by their respective governing boards.

More specifically, the work group has consisted of the staff attorney for the Chapel Hill Police Department with animal control responsibilities, the Carrboro Police Chief and a Carrboro Police Captain, the staff attorney for County Animal Services, and the County's Animal Services Director and Animal Control Manager. Hillsborough staff elected not to participate in the work group but are fully aware of this project. Most recently, the Town Manager and Police Chief received a copy of the draft unified ordinance and an invitation to offer comment.

The objectives of the work group were to:

1. Create a unified ordinance. The group's work practice has essentially been to compare the same or similar sections of the three existing ordinances and decide which made the most sense in light of experience providing effective animal services in the different jurisdictions. The County's current Animal Control Ordinance remains the backbone for the proposed unified ordinance. In addition, the comparative methodology assured a finished product that was complete, strong and worthy of designation as a unified ordinance for the County.
2. Fill in necessary "gaps" in the Ordinance to create the needed authority to assure the public health and safety and welfare of animals within Orange County. One illustration of such authority would be to have an animal euthanized for humane reasons in exigent circumstances. Another illustration would be the authority to hold a vicious animal that has repeatedly bitten or attacked members of the public. While there may well be a need for new laws under the animal control ordinance, staff did not make any effort to create new laws but deferred such efforts until it could occur under a unified ordinance. Throughout the process requests to create new law were resisted to ensure there was no "scope creep". Staff attempted to propose changes to the existing Ordinances that would not be controversial, refined existing services being provided, and assured the public health and the safety of animals.

During the initial process, the existence of "gaps" in the existing ordinances become apparent in trying to address and resolve the concerns of residents in different parts of Orange County.

Staff has tried to work around the gaps in the Ordinance in close collaboration with staff attorneys from the County and municipalities to respond to animal control issues and to protect public safety and the welfare of the animals. In addition to Staff review of the Ordinance changes, the Animal Services Advisory Board (“ASAB”) also reviewed and suggested changes to the draft Unified Ordinance.

The ASAB discussed the proposed changes to the Ordinance on three occasions:

- At the initial meeting (February 20, 2013), the Animal Services staff attorney discussed the effort to create a unified ordinance, its rationale and its scope.
- In a subsequent meeting (March 20 2013), the Animal Services Director and staff attorney went through a draft version of the proposed ordinance distributed in advance of the meeting for review by board members. This was a page-by-page review in which feedback was provided for additional consideration.
- At the May 15, 2013 ASAB meeting, the focus was on the status of vicious animals in the proposed unified ordinance. The Animal Services Director presented a summary to identify the “gaps” that were being in-filled by the proposed ordinance as well as the logic of state and local laws and their articulation and limitations. At the meeting the ASAB made some suggestions for further consideration (which staff has incorporated) and unanimously recommended that staff bring its effort to create the unified ordinance to as soon as possible.

This detailed examination of the Vicious Animal section of the Ordinance was done to assure that issues voiced by concerned residents about the laws surrounding vicious animals at the March 20, 2013 meeting were fully discussed. It also had the added benefit of completely clarifying how the unified ordinance would strengthen the County ordinance given that the BOCC Chair and Vice-Chair had previously requested such consideration from staff and the ASAB in response to resident concerns about the death of a dog as a result of an attack by a declared dangerous dog in the resident’s neighborhood.

*The only area in which amendments that would be considered a change are being proposed is in the area of animal recovery. These changes are being proposed on the basis of the recommendations made by the ASAB and Animal Services staff to the BOCC at the Board’s February 12, 2013 Work Session. The changes are part and parcel of the County’s five year plan for managing pet overpopulation in order to both reduce the euthanasia of potentially adoptable animals and to contain and control the medium and long-terms costs of providing animal services. There are three specific changes that are incorporated into the unified ordinance on the basis of this effort. These changes are to create:*

1. A requirement for micro chipping stray cats and dogs upon their first recovery;
2. A tiered and differential fee schedule for the recovery of cats and dogs depending upon the number of times they have been recovered and whether they are reproductive or sterilized;
3. A refundable spay/neuter deposit for cats and dogs recovered three or more times.

Bob Marotto said subsequent to County adoption of the ordinance, as previously indicated, staff from the towns of Chapel Hill and Carrboro will present the unified ordinance for consideration by their respective governing boards. There has already been legal review of the Ordinance in each jurisdiction and there is ongoing consideration of the best way for the towns to enact the Unified Ordinance. Significantly, the towns of Carrboro and Chapel Hill are expected to retain some portion of their ordinances that have been designed to address unique circumstances specific to that jurisdiction or where there is no corresponding component in the Unified Ordinance in the other jurisdictions: (i.e. tethering, permitting chicken, and keeping livestock). Where a Municipality may have a more restrictive Ordinance in an urban area than the County does for rural areas, the Ordinance provides for the greater restriction in the municipalities than in the County. Communication from the Hillsborough Town Manager indicates that Hillsborough will essentially adopt the County’s new unified ordinance. The Town has done and will continue to do so on the

basis of the action of the Town Board of Commissioners, as it is codified in the Town's own animal ordinance, which allows it to depart from the County's code where they wish to do so. Presently, the Town of Hillsborough does so only through the prohibition of roosters and permitting requirements for farm animals within city limits.

The North Carolina General Statute §153A-45 provides that in order for an ordinance to be adopted on its first reading it "must receive the approval of all the members of the Board of Commissioners. If the ordinance is approved by a majority of those voting but not by all the members of the board... it shall be considered at the next regular meeting of the board." The Board then has 100 days after introduction of the ordinance to adopt the change to the Ordinance.

Staff Attorney Annette Moore said that if this is approved, the advisory board would like to take this to Chapel Hill, Carrboro, Hillsborough and the small portion of Durham in Orange County.

Bob Marotto said the board has resisted the scope creep of creating new laws. He said there was one exception to this, where a recommendation was made for an amendment on animal recovery. This amendment requires a micro-chip fee for dogs and cats recovered for the first time; a refundable sterilization deposit for people whose pets have been impounded and recovered two times; and a differential recovery fee structure for the recovery of animals sterilized, versus those that are reproductive with higher rates for non-sterilized animals. He said this was done to address the pet overpopulation in the county and reduce reliance on euthanasia.

#### PUBLIC COMMENT:

Allan Green is an Orange County farmer. He addressed several handouts at the Commissioner's places and read from the following statement:

I want to thank the commissioners for this opportunity to speak. I am Allan Green, an Orange County farmer, and member of the Agriculture Preservation Board (APB), although I am not here tonight representing the Board.

I will be addressing two related issues described in the background material I provided to you. The first originated over 4 years ago, on March 3<sup>rd</sup> 2009 when an ice storm shorted out our electric fence. One of our small Dexter cows went through the fence, and was grazing outside my fences next to Orange Grove road on property I partially own. A helpful passer-by called Animal Control, and even though the cow was quickly confined, I was cited and subsequently fined because my cow as at-large, and by definition, a public nuisance. Because the animal represented no real nuisance or public danger, I appealed to both the manager and director of Animal Services; but they refused to void the citation, citing the language of our ordinance: an animal at-large is a public nuisance, period.

As a farmer, this narrow definition seemed inconsistent with my experience and common sense, and worth investigating. I began by researching similar provisions of the animal control ordinances of surrounding counties. Attachment 2 summarizes the results: including our 10 neighboring counties, only Orange County categorically defines at-large animals as a nuisance, at least in unincorporated jurisdictions. While ordinances vary, our neighboring counties reserve violations for actual nuisance behavior while an animal is at-large. I then brought the issue to the APB, and in March 2010, our chairperson met with the ASAB and requested a meeting to discuss our position.

Which brings me to my second issue. Attachment 1 is Director Marotto's response to that request. He describes the issue as a waste of staff resources and unnecessary because animal control officers have the discretion we are recommending. But, that is not what our ordinance says, and no discretion was exercised in my case in 2009. Keeping an ordinance on the books so that it can be selectively enforced is simply wrong.

I am therefore asking the Commissioners to direct Animal Services staff and the Animal Services Advisory Board to work cooperatively with the Agriculture Preservation Board to make our Animal Control Ordinance more consistent with the realities of rural life. Thank you.

Ed Johnson lives on 60 acres of land in the Orange Grove community. He said this proposed ordinance is not ready yet and needs more work. He said last year, two of his dogs were declared vicious animals, when an intruder came into his yard and one of his dogs bit the intruder during a confrontation.

The intruder ran away, and later, without revealing a past criminal record for trespassing, the intruder filed a complaint against Ed Johnson. He said that state law allows an animal to be declared dangerous and has a built in appeal process, while the county ordinance has a provision for vicious animals and has no appeal process. He said it is unclear to him how animal control can make the decision between calling an animal dangerous or vicious. He wrote to animal control pointing out that the county ordinance does not allow an animal to be declared vicious if a trespasser is declared dangerous and if the animal is acting as a watchdog. He said the latest version of the ordinance has no category for watchdog and the category of trespass now puts the burden on the land owner to prove the trespasser had criminal intent. He feels these changes are significant and require more public debate and input. He feels that most rural residents regard their dogs as watchdogs and this provision should be saved. He said the ordinance should allow for differences between town and country' and the question should be asked regarding why there are categories for both dangerous and vicious dogs.

Bonnie Hauser is speaking for Orange County Voice. She has dogs, and has come to know many of the people on the ASAB. She said her dealings with animal control have been positive and professional. She said she was very surprised and uncomfortable watching the county attorney lead a discussion of the new unified ordinance without any legal framing of the issues or their implications. She said the attorney did her job well but did not explain that her role is to represent the County's interests, and this may not be the same as the citizens' rights or interests. She said that the Animal Services Advisory Board is a group of committed and impassioned animal services professionals who need more than a one sided briefing on these issues. She said the workgroup had no citizen representation. She said that she met with a professor who specializes in animal control law at the UNC School of Government. The professor expressed concern with overlapping and contradictory language, lack of due process and missed opportunities to distinguish urban and rural issues. The professor offered to advise the ASAB, but this offer was rejected. She said the draft ordinance takes away important protections and property rights from citizens. She urged the Board not to endorse the ordinance, but to thank the ASAB and Annette Moore for their work, while acknowledging there is more input and more protection for citizens needed.

Ann Meade said she reviewed the ordinance. She said that it contains numerous internal inconsistencies; is poorly worded; has ambiguous statements and severe organizational problems. She gave several examples of this, including the use of the definitions of vicious animals and its placement in the ordinance. She also noted section 4, page 16 regarding dangerous animals and the appeal process that allows an animal to remain classed as vicious while no longer being classed as dangerous.

Bob Epting is an Orange County resident and has two dogs. He read from the following statement:

My name is Bob Epting, and I am an Orange County resident. I keep two wonderful Labrador retrievers as company. They are a very real part of my family. They protect me, my home, and my property from intruders. I am here to urge to you protect them, and the watchful animals of others in Orange County, from being arbitrarily designated as vicious animals.

When I am staying in town, I expect visitors to come and go across my front porch. The way my house is located along the street, with a sidewalk leading up to my front porch, invites guests, postmen, and neighbors, even unknown ghost and goblins at Halloween to visit. They may expect not to be bitten by my dogs. On the other hand, persons roaming around inside my fenced-in back yard, without invitation, especially at night, are trespassers and should expect to be chased, barked at, and even bitten if they do not flee.

When I am out in the country, I expect my dogs to know the boundaries of my 40 acres, and to bark to alert me of persons who come there unexpectedly. Here is nothing about that rural tract that invites any passerby to come onto my land, and they should do so at their own risk. My dogs know to protect me and my home in the country and are given free run of the farm to do so.

At either place, they are watchdogs and their attention, barking, and physical threats protect me, my family and friends, not to mention my property.

Trespassers who enter my property without civil intent should expect to be barked at, even bitten, to prevent harm to me or my property. And they should not be protected, as this draft ordinance would do, unless I am able to prove they were there to commit a specific crime.

I mention watchdogs and trespassers, because this draft ordinance turns these expectations on their head, and instead gives Animal Services officers the power to declare my dogs vicious animals if they bite a trespasser, even once, unless I can prove the intruder's intent was to commit a crime.

Understand, it is clear as a bell, that the existing ordinance recognizes that the Animal Services officers may not declare watchdogs that bite in protection of their property to be vicious dogs.

It is also clear in the existing ordinance that dogs who bite trespassers may not be declare vicious animals.

The "Unified Ordinance" does away with both of these provisions, though the narrative accompanying this agenda item fails to mention to you either of these very major changes.

He urged the County not to adopt this Ordinance tonight but to allow the opportunity for citizens to give public comment and suggestions for changes to make it better.

*Time expired. More written comments are included in the statement attached to this abstract item.*

Don O'Leary said he also lives in a rural area and he has a large black lab who is friendly, but a good watchdog. He said that if his dog were to bite someone, it would be in defense. He referenced a Dr. Albright, and the RFID chipping practice. He said this chip causes cancer and he would like the Board to do research on this issue before moving forward.

Susan Elmore, Chair of ASAB, said the board did meet on occasion and did review this potential ordinance very carefully before giving input. She said the board did consider inviting Professor Wall, but did not, because it did not seem necessary. She said the board does have an attorney who facilitated a discussion and review of the ordinance and the vicious dog issue among others. The board gave feedback to staff and unanimously approved the ordinance. She said the board did consider potential exemption for livestock that were loose, but the board felt that these animals are a potential human health hazard, especially near the road where there may be contact with a car. She said that the ASAB understood that if it is the case of an act of God, it would be up to the discretion of the Animal Control Officer whether to issue a citation.

Patrick Mulkay is a resident of Bingham Township. He referenced the definition of a trespasser and said that in the rural part of the county you can take lethal action against a trespasser if you are in fear of your life. He said that this is not so in the towns, where the trespasser has to be in your house. He wonders how this affects the lay enforcement community. He said he has two watchdogs that help protect his family. He said that he hears people talking about farm animals and he remembers helping his family gather cows when they escaped the fence. He said this is discussion of city folks making a determination of what farm animals are thinking. He feels the Board needs to put this ordinance off and seek more input in to this ordinance.

Michelle Walker is the vice chair of the ASAB. She said the board did hold a specific meeting that deals with vicious and dangerous dogs' and there was ample opportunity for public participation. She said that there was no clear definition or standard for what is a watchdog, and the proposed ordinance does maintain an exemption for sentry dogs that have been trained and registered with the county. She said that she is also a licensed attorney in North Carolina and she knows that the word trespass is fraught with legal issues. She said that there are concerns with the kind of civil litigation that the County could be involved in, and the new ordinance seeks to address that. She said that the designation between dangerous and vicious dogs is done to give the Animal Control more ability to impound certain animals in the county than the state allows.

Commissioner McKee said it was his understanding that it was a compilation of ordinances only and not an expansion, but he sees an expansion of the scope. He referenced the changes made, against the objections of many citizens, to county tethering laws in the past and asked if tethering still applies to Chapel Hill and Carrboro. He asked how a unified document could not be unified across the County.

Annette Moore said there are certain parts of the ordinance that could be controversial in certain jurisdictions, and thus those areas were exempted out of this process. She said the same is true of issues like chicken coops in Carrboro.

Bob Marotto said Chapel Hill and Carrboro both have a tethering ordinance that is more prohibitive than Orange County's ordinance. He said there are some significant gaps in the ordinance and these gaps can be filled in by Animal Control with consultation from the advisory board and colleagues. He said there are efforts being made to identify those gaps.

Commissioner McKee said that rather than fight a difficult fight on tethering again, it seems that this unified document has picked soft targets like the vicious dog issue. He said he has a real problem with making regulatory changes while creating a unified document. He said he is seeing many things that have been taken out and others that have been added in. He is concerned with the decision not to take advice

from the School of Government. He said that he realizes that the farm animals can be destructive, but they are not the only animals that can damage a car on the road.

Bob Marotto said that the farm animals issue was brought to the ASAB several years ago, and it was carefully studied. This was followed by the development of a set of recommendations for the Board of County Commissioners that preceded this one. He said he realizes that there are several large animals that can cause harm, but this issue involved litigation and assessment of a policy issue. He said this history is an important part of the process that needs to be recognized.

Annette Moore said that the board thought about not filling the gaps, such as the appeal process. However, it was felt that this was one of several glaring missing pieces. She said the same is true of the issue of trespass, and that is why these gaps were filled.

Commissioner McKee said he knows there will be gaps; however it should have been consolidated and then each individual gap addressed after the consolidation, not before. This would have made it clear to the public. He said the fact that this wasn't done makes it impossible for him to support this. This would mean supporting not just the consolidation document, but also new recommendations and regulations.

Commissioner Price referenced the section regarding penalties and spay/neutering for animals picked up by animal services. She said she understands the overpopulation issue, but she does not understand the correlation between an animal that strays and the practice of spaying/neutering without owner consent.

Bob Marotto said that the correlation is that reproduction can occur in the case of unattended animals. He said it is not a requirement of the proposal that the animal be spayed or neutered, but it is a requirement that the owner put down a deposit that is refundable if the procedure is done within a 60 day period. He said this also allows for education to the owner regarding the available services and the benefits.

Commissioner Rich asked about the criteria for classification of vicious and dangerous dogs.

Bob Marotto said the decision is made in accordance with the criteria set in law and the totality of the circumstances and facts of the case. He said there is a review conducted when a report is made and an investigation is done in accordance with a set of standards.

Commissioner Rich asked about the appeal process.

Bob Marotto said the NC General statute gives a general appeal to the owner of a dog declared "potentially dangerous", but there is no appeal for a dog declared "dangerous." He said that the proposal this evening is the first appeal process in an ordinance. This has been created in this ordinance out of concern for the necessity of due process and checks and balances.

Commissioner Pelissier said she appreciates the work that has been done. She said the point made about definitions being deleted is valid and definitions need to be made up front.

She said she does have a concern about the farm animals, as she does not want to send the wrong message to farmers in rural Orange County. She said that escaped cows are not an uncommon occurrence and this is not something farmers want. She is concerned and would like to see this issue reexamined.

**Chair Jacobs said he has decided to defer the closed session to the June 11<sup>th</sup> work session. He also deferred the Work Group and Charge for an Assessment of Jail Alternative Programs to the June 18<sup>th</sup> BOCC Meeting.**

Chair Jacobs suggested staff should highlight the gaps and to come back to the Board, addressing the points the public made and why the board agrees or disagrees with these points. He said there were valid arguments made, and he could not decide on a direction at this point. He said this should come back on the 18<sup>th</sup> and he said the official schedule will be decided at agenda review. He said that this will not get the go ahead until September.

Bob Marotto said the recommended amendment changes for animal recovery are part of the Animal Services recommended budget and he asked if these can be considered separately.

Frank Clifton said there is a proposal in the budget where Carrboro has asked the County to absorb its animal control operations. He said some of these changes may be a result of that and the town of Carrboro will have to be dealt with in this process.

Bob Marotto said that services can begin to be delivered in Carrboro on July 1 without the changes, but this will be done under 2 or 3 different ordinances until the single ordinance is established throughout the County.

Commissioner Rich expressed concern about the number of items being deferred until the 18<sup>th</sup>. She asked if the financial parts will be separated out or if it can be done as one item.

Frank Clifton said the financial aspects won't impact budget.

Commissioner Gordon suggested this be deferred until fall.

Chair Jacobs summarized the plan.

A motion was made by Commissioner Gordon, seconded by Commissioner McKee to defer consideration of this item until fall, when staff is asked to come back with a digested form highlighting changes to the ordinance, addressing points made by the public and why the work group agrees or disagrees with these points.

Commissioner Dorosin asked if this motion includes bringing back the recovery fees issue before the fall.

Commissioner Gordon clarified that she would prefer to bring it all back in the fall, since the June 18<sup>th</sup> meeting may be too full. She said she would defer the decision about the animal recovery issue/fees to the agenda review team.

VOTE: UNANIMOUS

**c. Refund Requests for Inaccurate Square Footage Calculation**

The Board was to consider five taxpayers' refund requests for the years 2008 through 2012.

A motion was made by Commissioner Dorosin, seconded by Commissioner Gordon to defer this item to the June 18<sup>th</sup> BOCC meeting.

VOTE: UNANIMOUS

**d. Work Group and Charge for an Assessment of Jail Alternative Programs**

The Board was to consider the creation of a Work Group and Charge for the Assessment of Jail Alternative Programs.

DEFERRED

**8. Reports NONE**

**9. County Manager's Report**

Chair Jacobs had asked Frank Clifton to reaffirm with towns on a solid waste inter-local agreement.

Frank Clifton said right now the towns are waiting for an analysis of their current services studies. He said that both are taking waste to a private transfer station in Durham County. He said the Town of Chapel Hill is still analyzing pursuit of its own transfer station and the possible inclusion of Carrboro in this. He said Hillsborough is still just as close to Durham. He said the towns are still interested in a construction and debris landfill, and there is continued discussion of Chapel Hill having its own recycling program. He said that all of this means there is no ongoing effort for a solid waste agreement until the towns have sorted through these considerations.

Commissioner Rich asked if this means the County is not considering an inter-local agreement.

Frank Clifton said there have been some preliminary staff discussions. He said the primary issue is what an agreement would entail and recycling is the main topic. He said much of this depends on what direction the County decides to take.

Commissioner Rich encouraged everyone to keep those conversations going and keep a positive tone to encourage a partnership.

Frank Clifton said one thing that has been discussed is the legal authority to operate within the Chapel Hill section of Durham County. He said this requires Chapel Hill to include a provision in its budget ordinance to allow the County to levy a fee and collect for the services within the town's authority. He

## Animal Control Ordinance

**DIVISION 1. - GENERALLY****Sec. 4-31. - Authority.**

This Ordinance is adopted pursuant to the power granted Orange County in N.C. Gen. Stat. §§ 153A-121, 153A-127, 153A-153 and 153A-442.

*(Ord. of 6-16-1987, § I, eff. 1-1-1988)*

**Sec. 4-32. - Applicability to animal shelter.**

Orange County shall operate and maintain a County Animal Shelter for the purpose of impounding or caring for animals held under the authority of state law, this Ordinance or any other county or municipal ordinance. Orange County may contract for the operation of the Animal Shelter as it deems appropriate.

*(Ord. of 6-16-1987, § XVIII, eff. 1-1-1988)*

**Sec. 4-33. - Animal control officers.**

- (a) Orange County may appoint one or more Animal Control Officers. Any County employee designated by the County Manager with the duties of an Animal Control Officer shall also be designated as Animal Cruelty Investigators. Only Orange County employees shall be designated as an Animal Cruelty Investigators.
- (b) Animal Control Officers shall have only the following powers and duties within Orange County and within any municipality therein that has given prior approval therefore:
  - (1) The responsibility for the enforcement of all state and local laws including ordinances, resolutions and proclamations pertaining to the ownership and control of dogs and other animals.
  - (2) To cooperate with the County Health Director and all law enforcement officers in the county and the towns therein and assist in the enforcement of the laws of the state with regard to animals, the vaccination of dogs and cats against rabies, the confinement and leashing of vicious animals, and any other state law applicable to animals or animal control.
  - (3) To investigate reported or observed animal cruelty or animal abuse and make written reports of such investigations and, when requested, provide such reports to animal , appropriate law enforcement officers or the District Attorney's office.
  - (4) To investigate reports of observed harassment or attacks by dogs or other animals against domesticated livestock and to assist in locating those persons owning or harboring the attacking animals.
  - (5) Animal Control Officers shall not have the power to arrest.

## Animal Control Ordinance

### Sec. 4-34. - Animal license privilege taxes.

The Owner of every dog or cat over four (4) months of age that is kept within the County shall annually pay to the County, through Orange County Animal Services, a tax on the privilege of keeping such animal within the County.

Orange County may set animal license privilege taxes as allowed by law and set the tax amounts annually as part of the Budget. In order to further the goals of controlling animal population, the taxes of unspayed or unneutered dogs and cats shall be higher than those of neutered animals. Within 30 days of acquisition of an animal for which a license is required, the owner or keeper shall purchase the appropriate county license.

*(Ord. of 3-15-88, § IV, eff. 3-15-88; Amend. of 12-2-96, eff. 1-1-97)*

### Sec. 4-35. - Licenses, permits, registrations, and fees required by this ordinance.

- (a) The following licenses, permits, and registrations are required by this Ordinance:
- (1) Licenses for dogs, cats, or other animals designated by either the Board of County Commissioners or other local government body, in their respective Budget Ordinance (see Section 4-34).
  - (2) Registration of patrol dogs or sentry dogs (see Section 4-42(d)).
  - (3) Rabies vaccination tags for dogs and cats (see Section 4-47).
  - (4) Permits for collecting of dogs and cats for sale (see Section 4-96).
  - (5) Permits for commercial (Class II) kennels, non-commercial (Class I) kennels and pet shops (see Sections 4-71 and 4-73).
- (b) The amount of license privilege tax shall be recommended by the Animal Services Director and approved by the Board of Commissioners, or other local government body, in their respective Budget Ordinance. The Animal Services Director may propose for approval by the Board of Commissioners or other local government body such policies or procedures as may be necessary or appropriate to allow for payment of privilege taxes over extended periods of time, at reduced rates, or a waiver of privilege taxes. Additionally, dog and cat owners or keepers who furnish to the Animal Services Director a statement from a licensed veterinarian that the animal, due to age, physical reasons, or chronic health problems cannot withstand spay/neuter surgery, shall be allowed to pay the license privilege taxes provided for spayed or neutered animals.
- (c) When an animal is impounded under this Ordinance there shall be paid, in accordance with Section 4-43, a redemption privilege tax.
- (1) The Redemption Privilege Tax shall be:

## Animal Control Ordinance

Number of Prior Incidents	Redemption or Impoundment Privilege Tax	Redemption or Impoundment Privilege Tax
	Sterilized Animal	Reproductive Animal
0	\$25.00	\$50.00
1	\$50.00	\$100.00
2	\$100.00	\$200.00
3 or more	\$200.00	\$400.00

(2) For reproductive animals with two or more prior incidents \$100 of the redemption privilege tax shall be a sterilization deposit, which may be refunded to the owner if they provide to Animal Services proof of sterilization in the form of a veterinarian record within 90 days of recover of the animal.

(d) In order to defray the costs of administering and enforcing ordinances adopted under this Chapter, and in order to account for the additional costs of locating, responding to and caring for unvaccinated and unlicensed animals found within the County, additional fees shall be assessed as follows if the Owner or Keeper of an animal fails to pay the following fees within the time specified in the Ordinance:

Failure to Vaccinate for Rabies (Section 4-46)	\$ 200.00
Failure to Wear Rabies Tag (Section 4-47)	\$ 50.00
Failure to License (Section 4-35)	\$ 200.00

(e) For any stray animal that has been impounded by Animal Services there shall be a microchip fee that shall be determined by the Board of County Commissioners in the Budget Ordinance.

(f) Inspection fees, as provided in this Chapter, shall be set by the Board of County Commissioners in the Budget Ordinance.

*(Ord. of 6-16-1987, § V, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Ord. of 12-3-2007, eff. 7-1-2008)*

**Sec. 4-36. - Ordinance.**

All other Orange County ordinances in conflict with this Ordinance are hereby repealed to the extent they conflict with this Ordinance. The Ordinance to Provide for Animal Control and Protection in Orange County, adopted May 15, 1979, as amended October 3, 1983, is hereby repealed.

## Animal Control Ordinance

*(Ord. of 6-16-1987, § VI, eff. 1-1-1988)*

### Sec. 4-37. - Definitions.

As used in this Chapter, the following terms mean:

*Adequate Food:* The provision at suitable intervals, not to exceed 24 hours, of a quantity of wholesome foodstuff suitable for the species and age, sufficient to maintain a reasonable level of nutrition in each animal. Such foodstuff shall be served in a receptacle, dish, or container that is physically clean and in which agents injurious to health have been removed or destroyed to a practical minimum.

*Adequate Shelter:* That shelter which will keep a nonaquatic animal dry, out of the direct path of winds and out of the direct sun, at a temperature level that is healthful for the animal. For dogs, cats and other small animals, the shelter shall be a windproof and moisture-proof structure of suitable size to accommodate the animal and allow retention of body heat. It shall include four walls, a roof and a solid floor raised up off of the ground, with an opening entrance large enough to allow access to the animal, but placed in such a way as to keep the animal out of the direct path of winds. Metal barrels do not provide adequate shelter for a dog, cat or other small animal and are prohibited for that purpose. The structure shall be provided with a sufficient quantity of suitable bedding material consisting of hay, straw, cedar shaving, or the equivalent. For all animals the containment area shall be free of accumulated waste and debris so that the animal shall be free to walk or lie down without coming in contact with any such waste or debris, and a suitable method of draining shall be provided to rapidly eliminate excess water or moisture. Aquatic or semi-aquatic animals shall have an adequate amount of clean water in which to move.

*Adequate Water:* A constant access to a supply of clean, fresh water provided in a sanitary manner. In near or below freezing temperatures the water must be changed frequently to prevent freezing, unless heated.

*Administrator:* The Animal Services Director, or their designee, as designated by the County Manager to perform the responsibilities assigned by this chapter to the Administrator.

*Animal:* Any live, vertebrate creature specifically including but not limited to dogs, cats, farm animals, birds, fish, livestock, and reptiles.

*Animal Services Director:* That person designated by the County Manager in Orange County, and where appropriate, his or her designee, charged with the responsibility and authority to implement and enforce the Animal Control program in Orange County.

*Animal Shelter:* A place provided and operated by Orange County directly or by contractual agreement, whether jointly with another governmental unit or independently, for the restraint, care, adoption, and disposition of animals.

*At Large:* Any animal shall be deemed to be at large when it is off the property of its owner or its keeper and not under the restraint of a competent person. For purposes of

## Animal Control Ordinance

this definition, the term "real property of its owner or keeper" shall include any property owned or occupied by the owner or keeper of such animal but shall not include any of the common areas (including without limitation, walks, drives, recreation and open space areas, etc.) within any subdivision or multifamily residential development.

*Competent Person:* A person of suitable age and discretion to keep an animal under sufficient restraint and control in order to prevent harm to the animal, to persons, to other animals, including but not limited to domesticated livestock, or to property.

*Cruel and Cruel Treatment:* Every act, omission, or neglect whereby unjustifiable physical pain, suffering, or death is caused or permitted. Such acts or omissions shall include, but not be limited to: beating, kicking, hanging, submerging under water, suffocating, poisoning, setting on fire, confining in a closed vehicle without functioning air conditioning or ventilation whenever the ambient temperature exceeds seventy (70) degrees Fahrenheit, confining in the closed trunk of a vehicle and depriving of food, water, and medical treatment, or otherwise subjecting the animal to conditions detrimental to its health or general welfare. Such terms, however, shall not be construed to include lawful taking of animals under the jurisdiction and regulation of the Wildlife Resources Commission, lawful activities sponsored by agencies conducting biomedical research or training, lawful activities for sport.

*Display:* Display shall mean any exhibition, act, circus, public show, trade show, photographic opportunity, carnival ride, parade, race, performance, or similar undertaking in which animals are required to perform tricks, fights, wrestle or participate in performances for the amusement or entertainment of an audience, whether or not a fee is charged. "Display" shall not include the use or exhibition of animals for animal-related educational purposes by non-profit groups or institutions or individuals. "Displayed" means to be the subject thereof.

*Domestic Animal:* A domesticated or tame animal that is kept principally as a pet, except that livestock (other than rabbits kept as pets and not for productive purposes) and wild animals shall not be regarded as domestic animals.

*Domesticated Livestock:* Livestock raised for the production of meat, milk, eggs, fiber, or used for draft or equestrian purposes, including but not limited to cattle, sheep, goats, swine, horses, mules, rabbits, and poultry.

*Educational Purposes:* Teaching and instructing with the intent and effect of imparting knowledge to others.

*Exotic animals:* Exotic animals are animals other than domestic animals, farm animals, and wild animals which are not native to North Carolina, or are native to North Carolina but have been captive-bred.

*Exposed to Rabies:* An animal has been exposed to rabies within the meaning of this Ordinance if it has been bitten by, or otherwise come into contact with the saliva or

## Animal Control Ordinance

nervous tissue of a proven rabid animal or animal reasonably suspected of having rabies that is not available for laboratory diagnosis.

*Harbor:* An animal shall be deemed to be harbored if it is fed or sheltered by the same person or household for 72 consecutive hours or more.

*Health Department:* Orange County Health Department.

*Health Director:* Director of the Orange County Health Department.

*Injury:* Any injury which is serious enough to require immediate medical attention to preserve the life of the injured person.

*Keeper:* A person having custody of an animal or who keeps or harbors an animal or who knowingly permits an animal to remain on or about any premises occupied or controlled by such person, whether or not that person literally "owns" the animal. Every person 18 years or older residing in the dwelling unit where a pet is harbored and/or kept shall be deemed a keeper for purposes of this Ordinance.

*Leash-free Area:* An area in a Town or County designated by the governing body of said Town or County which permits an animal to go free from physical restraint. Does not apply to animals deemed vicious, potentially dangerous or dangerous.

*Other Local Government Body:* Other local government authority shall include the Towns of Carrboro, Chapel Hill and Hillsborough and those parts of the City of Durham located in Orange County.

*Owner:* Any person who owns any animal and is responsible for its care, actions, and behavior.

*Owner or Keeper's Premises:* Any real, owned or leased, property of the owner of an animal; excluding any public right-of-way, or common area of a condominium, apartment complex or townhouse development.

*Person:* Any individual, family, group of individuals, corporation, partnership, organization, or institution recognized by law as a person.

*Provocation:* Any act that would reasonably be expected to cause an animal to defend itself, its young, its owner or keeper or the property of said owner or keeper.

*Restraint:* An animal is under restraint if it is under sufficient physical restraint such as a leash, cage, bridle, or similar effective and humane device which restrains and controls the animal, or within a vehicle, or adequately contained by a fence on the premises or other secure enclosure as permitted in this Ordinance. If a competent adult is physically outside on the land with the animal, on land where the owner or keeper of the animal resides, then the animal shall be deemed to be under restraint during the time the animal is in the company of and under the control of that competent person and the animal is on the premises. If any unattended animal is restrained by a chain, leash or

## Animal Control Ordinance

similar restraint, it shall be designated and placed to prevent choking or strangulation. Such chain or restraint shall not be less than ten feet in length and shall be on a swivel designed to prevent the animal from choking or strangling itself. The restraint of unattended dogs by a fence, kennel, outdoor enclosure, chain, leash or similar restraint is further regulated under this Ordinance.

*Security Dog:* Any dog used, kept or maintained on the premises of its owner or keeper for the purpose of protecting any person or property. Any such dog shall be further classified as a patrol dog or sentry dog.

(a) *Patrol dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively, but only upon command from a handler either off or on lead.

(b) *Sentry dog:* A dog that is trained or conditioned to attack or otherwise respond aggressively without command.

*Secure Enclosure:* An enclosure from which an animal cannot escape by means of digging under or jumping over the enclosure, or otherwise becoming free unless freed by the owner or keeper. A motor vehicle shall not constitute a secure enclosure. Minimum space and height requirements and other specifications for secure enclosures shall be obtained from the Animal Services Director based on breed, age, height, weight, temperament, and history of the animal.

*Severe injury:* Any physical injury that results in broken bones, or disfiguring lacerations or requires cosmetic surgery or hospitalization.

*Steel Jaw Trap:* Spring-powered devices or traps which capture or hold an animal by exerting a lateral force with fix mounted jaws on the leg, toe, paw, or any other part of the animal's body.

*Stray:* Any domestic animal that is not under restraint or is not on the property of its owner and is wandering at large, or is lost, or does not have an owner, or does not bear evidence of the identification of any owner.

*Suspected of Having Rabies:* An animal which has bitten a person or another animal.

*Tethering:* To restrain a dog outdoors by means of a rope, chain, wire or other type of line for holding a dog one end of which is fastened to the dog and the opposite end of which is connected to a stationary object or to a cable or trolley system. This does not include walking a dog with a handheld leash.

*Veterinary Hospital:* Any place or establishment which is maintained and operated under the supervision of a licensed veterinarian as a hospital where animals are harbored, boarded and cared for incidental to the treatment, prevention or alleviation of disease processes during the routine practice of the profession of veterinary medicine for surgery, diagnosis and treatment of diseases and injuries of animals.

## Animal Control Ordinance

*Wild Animals:* An animal (other than livestock) that typically is found in a non-domesticated state and that, because of its size or vicious propensity or because it is poisonous, venomous or for any other substantial reason, poses a potential danger to persons, other animals or property, whether bred in the wild or in captivity and includes any or all hybrids bred with these animals and domestic species.

*(Ord. of 6-16-1987, § VII, eff. 1-1-1988; Amend. of 12-2-1996, eff. 1-1-1997; Amend. of 11-18-08, eff. 11-19-08)*

### **Sec. 4-38. - Animal control program.**

The Orange County Animal Control Program, as herein described and as otherwise described in other County ordinances related to animals and as otherwise described in the laws of North Carolina, shall be administered by the Animal Services Director. Specifically:

- (a) The Animal Services Director shall have the duties of Animal Control Officer and direct the duties of designated County employees or agents in carrying the enforcement of this Ordinance as Animal Control Officers including the duties of a Rabies Control Officers and Animal Cruelty Investigator.
- (b) Except as may be otherwise provided by law, no officer, agent, or employee of the County charged with the duty of enforcing the provisions of this Ordinance or other applicable laws, shall be personally liable for any damage that may accrue to persons or property as a result of any act required or permitted in the discharge of such duty unless he or she acts with actual malice.
- (c) It shall be unlawful for any person to interfere with, hinder, or molest any Animal Control or police officer while in the performance of any duty authorized by this Ordinance or to seek to release any animal in the custody of said agents, except in the manner as herein provided.
- (d) Animal Control Officers are not authorized to carry on their person firearms of any kind except as provided herein. The Orange County Animal Control Program may store firearms at the Animal Services Department and use those firearms when necessary to enforce sections of this Chapter or under applicable law for the control of wild, vicious, or diseased animals.
  - (1) Any Animal Control Officer or law enforcement officer, in carrying out their duties under this Chapter, shall make every effort to deal humanely with all animals.
  - (2) An Animal Control Officer or law enforcement officer may inject an animal with a chemical tranquilizer which will result in limiting the activity of an animal, when in the officer's judgment any attempt to seize the animal would be dangerous to the person attempting the seizure, the animal, or the public at large.

## Animal Control Ordinance

- (3) An Animal Control Officer or law enforcement officer may humanely put an animal to death, if in the judgment of the officer an attempt to otherwise seize or impound the animal would be dangerous to the officer or others. It is the intent of this subsection that the killing of an animal would be done only after, within the sole discretion of the officer, other reasonable procedures are judged impossible.
- (e) The Animal Control Program shall:
- (1) Have the responsibility along with law enforcement agencies and where applicable with animal control officers to enforce all laws of North Carolina and all ordinances of Orange County pertaining to animals and shall cooperate with all law enforcement officers within Orange County in fulfilling this duty. Animal Control Officers in the performance of their duties, shall have all the power, authority, and immunity granted under this Ordinance and by the general laws of this State to enforce the provisions of this Ordinance, and the laws of North Carolina as they relate to the care, treatment, control or impounding of animals. All investigations of reported or observed animal cruelty or animal abuse shall be the responsibility of and shall be carried out by the Animal Control Officers.
  - (2) Enforce and carry out all laws of North Carolina and all ordinances of Orange County pertaining to rabies control.
  - (3) Be responsible for the investigation of all reported animal bites, for the quarantine of any dog or cat exposed to or suspected of having rabies, for a period of not less than ten days, and for reporting to the Health Director as soon as practicable the occurrence of any such animal bite and the condition of any quarantined animal.
  - (4) Be responsible for the investigation of reports or observations of incidents of harassment of or injuries to domesticated livestock caused by animals.
  - (5) Be responsible for the seizure and arranging for the impoundment, where deemed necessary, of any dog or other animal in Orange County involved in a violation of this or any other County ordinance or state law.
  - (6) Investigate cruelty or abuse with regard to animals.
  - (7) Make such investigations or inquiries as necessary for the purpose of ascertaining compliance with this Ordinance or applicable state statute.

## Animal Control Ordinance

- (8) Keep, or cause to be kept, accurate and detailed records of:
- i. Seizure, impoundment, and disposition of all animals coming into the custody of the animal control program.
  - ii. Bite cases, violations and complaints, and investigation of same, including names and addresses of persons bitten, date, circumstances, and breed.
  - iii. Any other matters deemed necessary by the Animal Services Director.
- (9) Be empowered to issue citations or notices of violation of this Ordinance in such form as the Animal Services Director may prescribe.
- (10) Have employees who are trained to standards to be established by the Animal Services Director, which training shall include, but not be limited to, training in animal first aid taught by a licensed veterinarian.
- (11) The premises for all Animal Shelters operated by or for the County shall meet the standards prescribed for commercial (Class II) kennels set out in **Section 4-72** of this Ordinance.
- (12) The standards applicable to vehicles and care in transportation set out in **Section 4-98** apply to Animal Control Officers collecting, transporting, or holding animals in this County.

*(Ord. of 6-16-1987, § VIII, eff. 1-1-88)*

### **Sec. 4-39. - Relation to hunting laws.**

Nothing in this Ordinance is intended to be in conflict with the laws of the State of North Carolina regulating, restricting, authorizing or otherwise affecting dogs while used in hunting, but this exception applies only while the dogs are under the control of the owner, keeper, or competent person, and are actually lawfully being used for hunting or training for hunting in compliance with applicable statutes, regulations, or ordinances. This Ordinance should be read and enforced consistent with any such law.

*(Ord. of 6-16-1987, § IX, eff. 1-1-88)*

### **Sec. 4-40. - Notice in case of injury.**

It shall be unlawful for any person who causes injury to an animal, including but not limited to, running over or hitting the animal with any vehicle, to fail to notify immediately at least one of the following:

- (1) The owner(s) or keeper(s) of the animal (if known or ascertainable with reasonable efforts made to locate the owner or keeper),

## Animal Control Ordinance

- (2) An Animal Control Officer,
- (3) Local law enforcement agency, or
- (4) Orange County Animal Services.  
(*Ord. of 6-16-1987, § X, eff. 1-1-88*)

### **Sec. 4-41. - Mistreatment of animals unlawful.**

The following acts or failure to act relating to the mistreatment of animals are unlawful and violations of this Ordinance:

- a. It shall be unlawful for any person to subject or cause to be subjected any animal to cruel treatment or to deprive or cause to be deprived any animal of adequate food and water, with respect to domesticated animals or wild animals in captivity or under restraint, it shall additionally be unlawful to deprive or cause to be deprived any such animal of adequate shelter or veterinary care.
- b. It shall be unlawful for any person to sell or offer for sale, barter or give away within the County baby chickens, baby ducklings or other fowl under six weeks of age or rabbits under eight weeks of age as pets, toys, premiums or novelties; provided, however, that this section shall not be construed to prohibit the sale or display of such baby chickens, ducklings or other fowl or such rabbits in proper facilities with adequate food, water, and shelter, by breeders or stores engaged in the business of selling the animals for purposes other than as pets or novelties.
- c. It shall be unlawful to color, dye, stain or otherwise change the natural color of baby chickens or other fowl or rabbits.
- d. It shall be unlawful for any person to tether any fowl.
- e. It shall be unlawful to restrain any animal except in a humane fashion as set forth in **Section 4-37** above and **Section 4-41** below. (Does not apply to Chapel Hill and Carrboro) (See also Carrboro Code of Ordinances § \_\_\_\_\_ and Chapel Hill Code of Ordinances § \_\_\_\_\_)
- f. It shall be unlawful for any person to entice or lure any animal out of an enclosure or off the property of its owner or keeper, or to seize, molest or tease any animal while the animal is held or controlled by its owner or keeper or while the animal is on or off the property of its owner or keeper, except a stray animal may be seized when trying to capture it.
- g. It shall be unlawful to possess any paraphernalia related to dog, cock or other animal fighting with the intent that the paraphernalia be used to train or feature in

## Animal Control Ordinance

an exhibition the baiting of dog, cock or other animal or the fighting of a dog, cock or other animal with another dog, cock or other animal.

- h. It shall be unlawful for any person to transport an animal in the closed trunk of a vehicle, or closed compartment on a vehicle or trailer when the ambient temperature in the vicinity of the vehicle or trailer is greater than or equal to 70 degrees F.
- i. It shall be unlawful for any person to commit any of the acts made unlawful under the provisions of North Carolina General Statutes §§ 14-360 and 14-362, as the same relate to a dog or dogs, or to commit any other act made unlawful by any other law of the State of North Carolina relating to animal fighting or animal baiting. The repeal of such law or laws of the State of North Carolina shall have no effect upon this Section, and the acts herein made unlawful shall, in the event of such repeal, be those referred to in said law or laws immediately prior to such repeal.
- j. It shall be unlawful for any person to abandon or forsake any animal within the County.
- k. It shall be unlawful for any person to restrain a dog using a chain, wire or other type of tethering device in a manner prohibited by this subsection. (Does not apply in Chapel Hill or Carrboro)
  - (1) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a tree, fence, post, dog house, or other stationary object for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, any tethering device used shall be at least ten feet in length and attached in such manner as to prevent strangulation or other injury to the dog and entanglement with objects. In no event shall the time limitations established by this subsection 4-41(k)(1) & (2) below be added together to allow for tethering, fastening, chaining, tying, or restraining to either a stationary object or to a cable trolley system for more than a total of three hours in a 24-hour period.
  - (2) No person shall tether, fasten, chain, tie, or restrain a dog, or cause such restraining of a dog, to a cable trolley system, that allows movement of the restraining device, for more than a total of three hours in a 24-hour period. During periods of tethering that are not unlawful under this subsection, the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly and attached in such a manner as to prevent strangulation or other injury to the dog and entanglement with objects.

## Animal Control Ordinance

- (3) No person shall tether a dog with a chain or wire or other device to, or cause such attachment to, any collar other than a buckle type collar or body harness.
- (4) No person shall tether with a chain or wire or other device to, or cause such attachment to, a head harness, choke-type collar or pronged collar to a dog.
- (5) No person shall tether with a chain, wire or other device to a dog where the weight of the tethering device and the collar combined exceeds ten percent of the dog's body weight.
- (6) No person shall tether with a chain or wire or other device a dog in such manner that does not allow the dog access to adequate food, water, and shelter.
- (7) Notwithstanding the provisions of subsections 4-41(k)(1) & (2) of this subsection, a person may, subject to the provisions of subsections 4-41(k)(3—(6), and subject to the requirement that any stationary tethering device used shall be at least ten feet in length, and subject to the requirement that for any cable trolley system used the length of the cable along which the tethering device can move must be at least ten feet, and the tethering device must be of such length that the dog is able to move ten feet away from the cable perpendicularly:
  - a. Tether and restrain a dog while actively engaged in:
    - i. Use of the dog in shepherding or herding livestock, or
    - ii. Use of the dog in the business of cultivating agricultural products, if the restraining is reasonably necessary for the safety of the dog, or
    - iii. Use of the dog in lawful hunting activities if the restraint is reasonably necessary for the safety of the dog, or
    - iv. Use of the dog at dog training or performance events, including but not limited to field trials and obedience trials where tethering does not occur for a period exceeding seven consecutive days, or
    - v. Camping or other recreation where tethering is required by the camping or recreational area where the dog is located, or
    - vi. Any activity where a tethered dog is in visual range of its Owner or Keeper, and the Owner or Keeper is located outside with the dog.
  - b. After taking possession of a dog that appears to be a stray dog and after having advised animal control authorities of the capture of the

## Animal Control Ordinance

dog, tether and restrain the dog in accordance with the provisions of **Section 4-41** for a period not to exceed seven days as the person having taken possession of the dog is seeking the identity of the owner of the dog.

- c. Walk a dog with a handheld leash.
  
- d. Any dog that is kept in violation of **Section 4-41** of this Ordinance may be seized and subsequently impounded in accordance with **Section 4-43** of this Ordinance until such a time as the Animal Services Director is reasonably assured that the dog will not be subject to restraint in violation of this Ordinance. The Animal Services Director shall post a notice at the place of the illegal restraint, or at such other location, that is designed to reasonably apprise the Owner or Keeper of the dog, the place, date and time the dog was seized along with the location where the dog was taken. Such notice shall clearly state that the dog may be returned to the Owner or Keeper upon providing reasonable assurances to the Animal Services Director that the dog will not be subject to restraint in violation of this Ordinance.

*(Ord. of 6-16-1987, § XI, eff. 1-1-88; Amend. of 11-18-2008, eff. 11-19-09)*

### **Sec. 4-42. - Control of vicious animals; security dogs.**

- (a) In General. It shall be unlawful for any person to keep any vicious animal within the County, unless under restraint and on the premises of the owner or keeper.
  
- (b) Vicious Animal. Any animal, on or off the premises of its owner or keeper, which is three (3) months of age or older and who:
  - (1) Without provocation has bitten, killed or caused physical harm through bite(s) to a person; or
  - (2) Without provocation has attempted to bite a person or cause physical harm through bite(s) to a person; or
  - (3) Without provocation has injured, maimed or killed a pet or domestic livestock, except where such animal has bitten or killed a pet or domestic livestock that is on the land of another without permission or is defending a person; or
  - (4) Has been deemed potentially dangerous or dangerous in accordance with N.C. Gen. Stat. Chapter 67, Article 1A. Dangerous Dog.
  
- (c) Declaration of Vicious Animal.
  - (1) Upon observation by an Animal Control or law enforcement officer or receipt of a written complaint that an animal is behaving or has behaved viciously and is at

## Animal Control Ordinance

large or is off the premises of its owner or keeper and is not restrained by a competent person, an Animal Control Officer may impound the animal and investigate the complaint and, upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, shall take any action allowed by this Ordinance or State law as the circumstances may require.

- (2) Any animal who, after investigation by an Animal Control officer, is found by the Animal Services Director to have committed any act described in (b) above may, in the Animal Services Director's sole discretion, be declared vicious and is subject to this Section of the Ordinance.

(d) Effect of Declaration.

- (1) Permitted Locations. A vicious animal shall be permitted at the following locations only:

- (a) On the premises of the owner or keeper either confined indoors or in a secure enclosure when outdoors:

- i. Secure Enclosure. The owner or keeper of a declared vicious animal is required to keep the animal securely confined indoors or in a securely enclosed and locked pen or structure. The pen or structure must be suitable to prevent the entry of young children and designed to prevent the animal from escaping; it must provide the animal with protection from the elements; and must be inspected by an animal control officer and approved by the Animal Services Director prior to use by the animal declared vicious.
- ii. Annual Inspection. An Animal Control Officer shall inspect the secured enclosure of all animals deemed vicious at least once a year to assure that the standards are maintained. There will be an inspection fee as provided by the Orange County Board of Commissioners.

- (b) On private property, with the authorization of the owner of the property;

- (c) At a licensed veterinarian for treatment;

- (d) In a motor vehicle while being transported;

- (e) Off the owner's or keeper's property provided it is muzzled and controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.

- (2) When going to and from a Permitted Location or a Secured Enclosure an animal declared vicious off the owner's or keeper's property must be muzzled and

## Animal Control Ordinance

controlled by means of a chain, leash or other like device by a competent adult able to restrain the animal.

- (3) There must be posted on the premises of the owner or keeper placards or signs noting “Beware of Dog” or other information noting the presence of a vicious animal placed in a manner reasonable likely to come to the attention of an intruder,
  - (4) Any animal declared vicious must receive a microchip prior to the animal being reclaimed if impounded. If the animal was not impounded and it is declared vicious the owner must provide proof to animal services that the animal has received a microchip within 30 days of having received notice that the dog has been declared vicious.
- (e) Exceptions. The provisions of this Section do not apply to:
- (1) A dog being used by a law enforcement officer to carry out the law enforcement officer’s official duties;
  - (2) A dog being used in a lawful hunt;
  - (3) A dog where the injury or damage inflicted by the dog was sustained by a domestic animal while the dog was working as a hunting, herding or predator control dog on the property of, or under the control of, its owner or keeper, and the damage or injury was to a species or type of domestic animal appropriate to the work of the dog; or
  - (4) A dog where the injury inflicted by the dog was sustained by a person who, at the time of the injury was:
    - a. On the owner or keeper property that has been posted with placards or signs noting the presence of such animal or “No Trespassing” in a manner reasonably likely to come to the attention of an intruder’
    - b. Committing a willful trespass or other;
    - c. Tormenting, abusing, or assaulting the dog or ~~has~~ attempting to torment, abuse, or assault the dog; or
    - d. Committing or attempting to commit a crime.
  - (5) Security dogs are subject to all other provisions of this Ordinance while off the premises of their owner or keeper.
- (f) An animal which has been declared vicious may be impounded by the Animal Control Officer, either upon direct observation of the Animal Control Officer or law

## Animal Control Ordinance

enforcement officer or receipt of written complaint that the animal is at large, or off the premises of its owner or keeper and not restrained by a competent person, or not confined in a manner permitted in subsection (d) above.

- (1) Written Complaint. Upon receipt of a written complaint that an animal previously declared vicious was off the owner or keeper property while not properly restrained and there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, an Animal Control Officer may impound the animal and investigate the complaint.
  - (2) If an animal is impounded as vicious, authorization for reclamation after any required holding period shall be granted when in the Animal Services Director, or their designee's sole discretion, is reasonably assured that either the animal is not vicious or the vicious animal will be properly restrained on the premises of its owner or keeper.
  - (3) Upon a finding that there is probable cause to believe a violation of this Ordinance or other applicable law or regulation has occurred, the Officer may seize the animal and take any action allowed by this Ordinance or State law as the circumstances may require.
- (g) Citation. The Animal Control Officer shall issue a citation to the owner or keeper for actions described in section b. 1 - 4. Citations may be delivered in person or by registered mail if the owner or keeper is not readily found. The citation issued shall impose upon the owner or keeper a civil penalty of one hundred dollars (\$100.00), or any other amount prescribed by the Orange County Board of Commissioners.
- (1) The violator must pay the citation to the Orange County Animal Services within fourteen (14) days of receipt in full satisfaction of the assessed civil penalty. This penalty is in addition to any other fees or remedies authorized under this Chapter.
  - (2) In the event that the owner or keeper of the animal does not appear in response to the described citation, the civil penalty is not paid within the time period prescribed, or if the animal previously has been declared vicious upon payment of a citation or the conviction of the owner or keeper a criminal summons may be issued against the owner or keeper for violation of this chapter and upon conviction, the owner or keeper shall be punished as provided by this Ordinance.
  - (3) Upon the issuance of a citation for an animal which has committed any of the acts described in this Section, the animal must be confined either in the home of the owner or keeper, at an animal shelter, a kennel as provided in Sections 4-71 and 4-72 below or a veterinarian's office until such time that the required pen is constructed, the animal is destroyed, or a judge finds that the animal is not a vicious animal.

## Animal Control Ordinance

(4) The Animal Services Director has the authority at any time to require that a vicious animal not be kept in the owner or keeper's home. The animal must stay confined through any legal appeals. The owner or keeper shall be responsible for the costs incurred in the animal's confinement. If the animal is found not to be a vicious animal, the County shall be responsible for the cost of animals kept at the Animal Services facility for that purpose.

(h) Effect of Citation.

- (1) Upon payment of a citation or the conviction of the owner or keeper for having an animal which without provocation has committed any of the acts described in subsection (b) above, said animal is declared a vicious animal.
- (2) Upon the payment of a citation or the conviction of the owner or keeper for having an animal which on or off the property of the owner or keeper and without provocation has killed or caused life threatening injuries through bite(s) to a person, the animal will be seized by the animal control officer and destroyed in a humane manner.
- (3) Any animal previously declared vicious upon the payment of a citation or by conviction of the owner or keeper for a violation of this subsection, that commits a subsequent violation of the subsection, will cause the owner or keeper to be charged with that violation. Upon the owner or keeper's conviction of that violation, the animal will be destroyed in a humane manner.
- (4) Any violation of this section may be a misdemeanor and subject to a fine of five hundred dollars (\$500.00) or imprisonment of not more than thirty (30) days.
- (5) All persons owning security dogs as defined by this Ordinance shall register such animals with the Animal Services Director; the owner or keeper of any such dog shall place signs or placards on his premises noting "Beware of Dog" or other information noting the presence of security dog(s).

(j) Appeal. Any declaration that an animal is "vicious" may be appealed to the Orange County Animal Services Advisory Board as provided in this Chapter.

**Sec. 4-43. - Impoundment of animals.**

Any animal either found at large, found not to be wearing a currently valid rabies tag, is public nuisance, has been declared vicious and is out-of-doors, not in a secure pen or on a restraint, is a danger to the public or for any other reason designated in this Chapter may be impounded and confined in the Animal Shelter in a humane manner for a period hereinafter prescribed:

- (a) Owner notification. Immediately upon impounding any animal, the Animal Services Director or designee shall attempt to notify the owner or keeper by either telephone or in person to inform that person of such impoundment, and the conditions whereby the animal may be redeemed. If unable to give notice by telephone, an official, dated,

## Animal Control Ordinance

written notice shall be mailed to the registered owner by certified mail, return receipt requested, giving notice of the impoundment and the conditions whereby the animal may be redeemed.

- (b) **Reclamation.** A domesticated animal impounded under this Chapter may be reclaimed by its owner or keeper according to procedures of Animal Services. The owner or keeper of an impounded domesticated animal shall be responsible for and shall pay all expenses, boarding costs, redemption privilege taxes and costs associated with such impoundment prior to reclaiming the animal. Unless reclaimed, the impounded domesticated animal may be allowed to be adopted or humanely euthanized according to Animal Service procedures after five days of impoundment. Feral dogs and cats may be held for 72 hours and then euthanized pursuant to Animal Services procedures for humane euthanasia. The owner or keeper of an impounded domesticated animal shall also comply with any vaccination and licensing directives and be responsible for the payment to Orange County of all civil penalties and license privilege taxes imposed or associated with the animal's impoundment as prescribed in any citation or notice issued by the Animal Services Director. Animals who have impounded in accordance with N.C. Gen. Stat. 130A-196, after having bitten a person not reclaimed within 72 hours after the end of the quarantine period will be considered abandoned and will become the property of the Orange County and disposed of according to standard Animal Services procedures.
- (c) **Release to Owner.** An owner or an impounded animal may reclaim the animal after it has been impounded, upon compliance with this Section and in accordance with requirements set forth by the Animal Services Director. Nothing in this Chapter shall require the Animal Services Director to release an animal that has been impounded who is need of protection because of cruel treatment.
- (d) **Diseased or injured animals.** Severely diseased or badly injured animals may be euthanized in a humane manner, if authorized by a licensed veterinarian, without waiting the required redemption or adoption period.
- (e) **Confinement Order.** In lieu of impoundment, the Animal ~~Control~~ Services Director is authorized to issue a Confinement Order to the animal owner or keeper that would require the owner or keeper to confine a vicious animal or an animal otherwise violating provisions of the Ordinance. Failure to thus confine the animal would constitute a further violation of the Ordinance, subjecting the owner to appropriate criminal or civil penalties.

*(Ord. of 6-16-1987, § XIII, eff. 1-1-88; Amend. of 12-2-96, eff. 1-1-97)*

### **Sec. 4-44. - Handling of stray animals.**

It shall be unlawful for any person, without the consent of the Owner or Keeper, knowingly and intentionally to harbor, feed, keep in possession by confinement or otherwise any animal that does not belong to him, unless he has, within 72 hours from the time such animal came into his possession, notified Animal Services.

## Animal Control Ordinance

- (a) Any animal at large may in a humane manner be seized, impounded, and confined in the Animal Shelter and thereafter adopted out or disposed of pursuant to procedures of the Animal Services and applicable State law.
- (b) Impoundment of such an animal shall not relieve the owner or keeper thereof from any penalty which may be imposed for violation of this Chapter.
- (c) Any animal seized and impounded that is badly wounded or diseased and has no identification, may be euthanized pursuant to procedures of Animal Services. If the animal has rabies or is suspected of having rabies, the body shall be disposed of in accordance with applicable state regulations. If the animal has identification, Animal Services shall attempt to notify the owner or keeper before euthanizing such animal; in any event, and except as may be otherwise provided by law, Animal Services shall have no liability for euthanizing wounded or diseased animals when such action is taken upon the advice or recommendation of a veterinarian who has been advised of the animal's condition.
- (d) Any cat or dog impounded must receive a microchip, at the expense of its owner, prior to recovery by its owner.  
*(Ord. of 6-16-1987, § XIV, eff. 1-1-88)*

### **Sec. 4-45. - Public nuisance.**

- (a) In General. It shall be unlawful for an owner or keeper to permit an animal or animals to create a public nuisance, or to maintain a public nuisance created by an animal or animals.
- (b) Prima Facie Evidence. Actions deemed prima facie evidence of a public nuisance include the following activities of any animal, or conditions maintained or permitted by the animal's owner or keeper:
  - (1) Habitually or repeatedly, without provocation, chasing, snapping at or attacking pedestrians, bicycles, persons lawfully entering the property to provide a service, other animals being walked on a leash, or vehicles even if the animal never leaves the owner's property, except that this provision shall not apply if such animal is restrained by a pen, fence, or other secure enclosure. For purposes of this section, an "underground fence" shall only be considered secure if it in fact contains the animal and a small sign or other notification is present to alert others that the animal is restrained.
  - (2) Interfering with the reasonable use and enjoyment by neighboring residents of their property because of its odor or excessive noise making. For purposes of this subsection, excessive noise making shall include repeated episodes of barking, howling, whining, crying, and crowing only if the rooster is within the town limits or Carrboro, Chapel Hill, or Hillsborough.

## Animal Control Ordinance

- (3) A female dog that is not confined while in heat in a building or secure enclosure in such a manner that she will not be in contact with another animal, provided that this section shall not be construed to prohibit the intentional breeding of animals within an enclosed area on the premises of the owner or keeper of an animal involved in the breeding process.
- (4) Damages the property of anyone other than its owner or keeper, including but not limited to, turning over garbage containers or damaging gardens, flowers, shrubbery, vegetables or trees, fences or gates, or causing injury to domesticated livestock or pets.
- (5) Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
- (6) At large off the premises of the owner or keeper; except in the case of domestic livestock the Animal Services Director, or designee, shall have the discretion to determine a violation.
- (7) The provisions of subsections (1) through (5) above of this section shall not apply to cats. However, cats may be deemed a public nuisance when off the premises of its owner or keeper when they:
  - i. Habitually or repeatedly defecates or urinates in children's sandboxes, gardens, flower beds or other private property without the permission of the property owner;
  - ii. Habitually or repeatedly injures or kills animals or birds, whether domesticated or not;
  - iii. Is a female in heat not confined in a building or secure enclosure in such a manner as to prevent contact with another cat;
  - iv. Habitually or repeatedly, without provocation, chases or attacks pedestrians, bicyclists or other animals being walked on a leash;
  - v. Seriously interferes with the reasonable use and enjoyment by neighboring residents of their property because of its howling, whining, crying, or other noise making;
  - vi. Without provocation, inflicts on any person a serious injury requiring treatment by a physician, including but not limited to a bite or scratch that breaks the skin.
  - vii. Habitually or repeatedly walks or sleeps on or damages vehicles owned by another.

## Animal Control Ordinance

viii. Is off the owner's or keeper's property except when the cat can be identified through a currently registered microchip.

(8) Subsection (7)(viii) applies also to ferrets.

(c) Violation.

(1) Determining Violations.

i. **Animal Control or Law Enforcement Officer.** An Animal Control Officer or law enforcement officer who observes a violation, of this section, shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent their reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.

ii. **Written Complaint.**

1. Upon receipt of a written detailed and signed complaint alleging that any person is maintaining a public nuisance as defined in this Ordinance, the Animal Services Director shall cause the owner or keeper of the animal or animals in question to be notified that a complaint has been received, and shall cause the situation complained upon to be investigated and a written report thereon to be prepared.

2. If the written findings indicate that the complaint is justified, the Animal Services Director shall provide the owner or keeper of the animal written notification of the nature of the violation(s) in the form of an Abatement Order that shall indicate that unless these violations are abated and measures are taken to prevent there reoccurrence within twenty-four (24) hours or such lesser time as the designated in the notice, the owner shall be required to remove the animal from the County.

(2) **Failure to Abate a Violation.** If the public nuisance has not been abated after the time indicated in the Abatement Order, then the Animal Service Director shall, notify the owner or keeper in writing that the animal may be impounded or a civil penalty may be issued and/or a criminal summons may be issued.

(3) **Animals Removed from County.** The Owner or Keeper of any animal who has been required to remove the animal pursuant to this Section shall, within five (5) days after removal, inform the Administrator or designee in writing of the animal's present location, including the name, address and telephone number of

## Animal Control Ordinance

the animal's owner or keeper. If the animal has been destroyed, the Administrator shall be informed of the name, address, and telephone number of the person who destroyed such animal.

- (4) **Subsequent Violations.** The Animal Services Director or designee may impound an animal if a third verified violation occurs within one year of any other previous violations of this Section.
- (5) **Right of Appeal.** An Owner or Keeper shall have a right to appeal a citation or removal of an animal under this Section in accordance with Section 4-54 of this Chapter.

### **Sec. 4-46. - Rabies control.**

It shall be unlawful and a violation of this Ordinance for any animal owner, keeper or other person to fail to comply with the laws of North Carolina relating to the control of rabies.

*(Ord. of 6-16-1987, § XVI, eff. 1-1-88)*

### **Sec. 4-47. - Rabies vaccination tag.**

All dogs shall wear a valid rabies vaccination tag. Cats and ferrets are not required to wear tags but the owner or custodian of such animal shall provide proof that the cat or ferret has been vaccinated against rabies. The owner or custodian of all animals required to be vaccinated against rabies shall provide proof of vaccination upon demand of a law enforcement or animal control officer if an animal required to be vaccinated is not wearing a rabies vaccination tag. Failure to produce proof of vaccination may result in such animal being impounded subject to redemption in the manner provided in this Chapter. Such proof being the certificate of vaccination from a licensed veterinarian or a certified rabies vaccinator.

*(Ord. of 6-16-1987, § XVII, eff. 1-1-88; Amend. of 12-2-1996, eff. 1-1-97)*

### **Sec. 4-48. - Applicability to veterinarians.**

Hospitals, clinics and other premises operated by licensed veterinarians for the care and treatment of animals are exempt from the provisions of this Ordinance except for the provisions relating to cruelty to animals and rabies control.

*(Ord. of 6-16-1987, § XVIII, eff. 1-1-88)*

### **Sec. 4-49. - Reserved.**

*Editor's note—*

**Section 4-49** entitled kennel standards replaced by Sections **4-71** and **4-72** and derived from Ord. of 6-16-1987, § VIII, eff. 1-1-88; Amend. of 12-3-2007, eff. 7-1-08.

### **Sec. 4-50. - Reserved.**

*Editor's note—*

Animal Control Ordinance

Section 4-50 entitled permits and standards for animal collection replaced by Sections 4-96 through 4-99 and derived from Ord. of 6-16-1987, § XX, eff. 1-1-88; Amend. of 12-3-07, eff. 7-1-08.

**Sec. 4-51. - Penalties.**

The following penalties shall pertain to violations of this Ordinance.

- (a) The violation of any provision of this Ordinance shall be a misdemeanor and any person convicted of such violation shall be punishable as provided in North Carolina General Statutes § 14-4, or other applicable law. Each day's violation of this Ordinance is a separate offense. Payment of a fine imposed in criminal proceedings pursuant to this subsection does not relieve a person of his liability for taxes, fees or civil penalties imposed under this Ordinance.
- (b) Enforcement of this Ordinance may include any appropriate equitable remedy, injunction or order of abatement issuing from a court of competent jurisdiction pursuant to North Carolina General Statutes § 153A-123 (d) and (e).
- (c) In addition to and independent of any criminal penalties and other sanctions provided in this Ordinance, a violation of this Ordinance may also subject the offender to the civil penalties hereinafter set forth.
  - (1) The Animal Services Director (or designee) may issue to the known owner or keeper of any animal, or to any other violator of the provisions of this Ordinance, a ticket or citation giving notice of the alleged violation(s) and of the civil penalty imposed. Tickets or citations so issued may be delivered in person or mailed by first class mail to the person charged if that person cannot readily be found. The following civil penalties shall be assessed for each violation of this Ordinance.

- (i) Mistreatment of Animals (Section 4-41) \$200.00
- (ii) The civil penalty for a nuisance violation (Section 4-45) shall be as follows:

Number of Prior Nuisance Violations	Amount
1	\$100.00
2	\$200.00
3 or more	\$400.00

## Animal Control Ordinance

- (2) This civil penalty shall be paid to the Animal Services Director or his or her designee within 14 days of receipt. This civil penalty is in addition to any other fees, taxes, costs or fines imposed that are authorized by this Ordinance.
- (3) In the event that the applicable civil penalty is not paid within the time period prescribed, a civil action may be commenced to recover the penalty and costs associated with collection of the penalty, and/or a criminal summons may be issued against the owner or keeper or other alleged violator of this Ordinance, and upon conviction, the owner shall be punished as provided by State law. Failure on the part of the owner or keeper of an animal or other alleged violator to pay the applicable civil penalty within the time period prescribed is unlawful and a violation of the Ordinance. Unless otherwise provided the civil penalty for violation of this subsection is \$25.00, except where the original violation was for Failure to Vaccinate for Rabies in which case the civil Penalty for violation of this subsection is \$100.00.

*(Ord. of 6-16-87, § XXI, eff. 3-15-88; Amend. of 12-3-07, eff. 7-1-08)*

### **Sec. 4-52. - Severability.**

If any part of this Ordinance shall be held invalid, such part shall be deemed severable and the invalidity thereof shall not affect the remaining parts.

*(Ord. of 6-16-1987, § XXII, eff. 1-1-88)*

### **Sec. 4-53. - Effective date.**

This Ordinance shall be effective January 1, 1988. Adopted this the 16th day of June, 1987. Upon motion of Commissioner Carey, seconded by Commissioner Hartwell, the foregoing Animal Control Ordinance was adopted this the 16th day of June, 1987. This Ordinance was amended effective \_\_\_\_\_

*(Ord. of 6-16-1987, § XXIII, eff. 1-1-88)*

### **Sec. 4-54. - Appeals.**

Any appeals of the Chapter shall be to the Orange County Animal Services Advisory Board within 5 days of the final decision of the action. The Animal Services Advisory Board shall adopt rules regarding the appeals of violations of the Chapter.

### **Secs. 4-53—4-70. - Reserved.**

## Animal Control Ordinance

### DIVISION 2. - KENNEL AND PET SHOP STANDARDS

#### Sec. 4-71. – Class I kennels.

- (a) In General. A noncommercial or not for profit establishment maintained by any person where animals of any species, excluding domesticated livestock, are kept for the purpose of showing, competition, hunting or sport, and which establishment is so constructed that the animals cannot stray therefrom, and which maintains more than six but less than 19 animals.
- (b) Standards for Class I Kennels. All noncommercial kennels shall, in addition to other requirements of this article, comply with the minimum standards of this section. The premises at noncommercial kennels shall meet the following standards:
  - (1) All enclosures housing animals must provide adequate shelter.
  - (2) The food shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal.
  - (3) All animals shall have fresh potable water available at all times.
  - (4) All areas housing animals shall be free of accumulated waste and debris and shall be maintained regularly so as to promote proper health.
  - (5) All areas housing animals shall be free of accumulated or standing water.
  - (6) All animals housed shall be provided with proper veterinary care to promote good health.
- (c) Owners or operators of class I kennels must apply to the Animal Services Director for a Class 1 Kennel Permit and pay any designated privilege tax to receive a permit to own or operate a noncommercial kennel in the county.
- (d) Kennel facilities shall be subject to inspection during reasonable hours by the animal control officer upon his request.
- (e) Failure to meet the standards set out in this section shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.
- (f) Revocation. A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for violation of another section of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

## Animal Control Ordinance

*(Ord. of 6-16-1987, § XIX(B), eff. 1-1-1988)*

### **Sec. 4-72. - Class II kennels.**

- (a) **In General.** Any person maintaining any commercial establishment where animals of any species excluding domesticated livestock, kept for the purpose of breeding, buying, selling, grooming or boarding such animals or engaged in the training of dogs for guard or sentry purposes, and which establishment is so constructed that the animals cannot stray therefrom; or any person owning or keeping 20 or more animals, excluding domesticated livestock, each of which is four months of age or older.
- (b) **Standards for a Class II Kennel.** All commercial kennels shall, in addition to the other requirements of this article including those for a 4-71 above, comply with the minimum standards of this subsection. The premises of commercial kennels shall meet the following standards:
- (1) Buildings or enclosures must be provided, which shall allow adequate protection against extreme weather conditions. Floors of buildings and runs, and walls shall be of a nonporous material or otherwise constructed as to permit proper cleaning and disinfecting. Temperatures in animal containments shall be maintained at a level that is healthful for every species of animal in the containment.
  - (2) Cages, kennels or runs shall have sufficient space for each animal to sit, stand up, lie down, turn around and stretch out to its full length without touching the sides or tops of the cage, kennel or run. Cages, kennels and runs are to be of a material and construction that permits cleaning and disinfecting, and shall have an impervious surface. Cage, kennel and run floors of concrete shall have a resting board or some type of bedding. Cages, kennels and runs shall provide protection from the weather. All animal quarters are to be kept clean, dry and in a sanitary condition. Cages, kennels and runs shall be structurally sound and maintained in good repair to protect animals from potential injury, contain the animals, and restrict the entrance of other animals and people.
  - (3) Animals shall not be placed in cages, kennels or runs less such cages, kennels or runs are so constructed to prevent animal excreta from entering other cages, kennels or runs.
  - (4) Sufficient shade shall be provided to allow all animals kept outdoors to protect themselves from the direct rays of the sun.
  - (5) Each animal shall be given the opportunity for vigorous daily exercise as appropriate.
  - (6) Litter boxes shall be provided for cats and kittens.

## Animal Control Ordinance

- (7) Food shall not be contaminated and shall be wholesome, palatable, and of sufficient quantity and nutritive value and offered at appropriate intervals to meet the normal daily requirements for the condition, size and age of the animal. Food for all animals shall be served in a clean container so mounted that the animals cannot readily tip it over or defecate or urinate in it.
- (8) Supplies of food and bedding shall be stored in facilities that adequately protect such supplies against infestation or contamination by vermin. Refrigeration shall be provided for supplies of perishable food.
- (9) All animals shall have fresh, potable water available at all times. Water containers shall be of a removable type and be mounted or secured so that the animals cannot readily tip them over or defecate or urinate in them.
- (10) All food and water containers shall be cleaned and disinfected daily.
- (11) All animals must be fed and watered, and all cages and kennels cleaned each day, including Sundays and holidays.
- (12) Adequate veterinary care shall be provided as needed for each animal.
- (13) Provisions shall be made for the removal and disposal of animal and food waste, bedding and debris.
- (14) Facilities such as a washroom, sink or basin shall be provided to maintain cleanliness among animal caretakers and animal food and water containers.
- (15) Facilities for animals shall be adequately ventilated to provide for the health and comfort of the animals at all times. Such facilities shall be provided with fresh air, either by means of windows, doors, vents or air conditioning, and shall be ventilated so as to minimize drafts, odors and moisture condensation.
- (16) Facilities for animals shall have ample light by natural or artificial means or both, of good quality and well distributed and as appropriate for each animal's health and well-being. Such lighting shall provide uniformly distributed illumination of sufficient light intensity to permit routine inspection and cleaning during the entire working period. Enclosures shall be so placed as to protect the animals from excessive illumination.
- (17) Every person maintaining such a facility shall post a notice clearly visible from the ground level at the main entrance to the facility containing the names, addresses and telephone numbers of persons responsible for the facility where they may be contacted during any hour of the day or night.

## Animal Control Ordinance

- (c) Owners or operators of Class II kennels must apply to the Animal Services Director for a Class II Kennel Permit, pay any designated fee, to receive a permit to own or operate a Class II Kennel in Orange County.
- (d) Kennel Facilities shall be subject to inspection during reasonable hours by an animal control officer upon his or her request. A fee in the amount of \$25.00 shall be assessed against the owners or operators of a facility for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel to the facility.
- (e) Failure to meet the standards set out herein shall be grounds for the issuance of a citation subjecting the owner to the penalties described herein, and/or the issuance of an abatement order to comply with the provisions of this article.
- (f) No person may own or operate a Class II Kennel within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of this Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

*(Ord. of 6-16-1987, § XIX(A), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-2008)*

### **Sec. 4-73. - Pet shops.**

- (a) In general. A person that acquires for the purposes of resale animals, excluding domesticated livestock, bred by others whether as owner, agent, or on consignment, and that sells, trades or offers to sell or trade such animals at retail or wholesale, or a person that holds or keeps animals, excluding domesticated livestock, for the purpose of cleaning or grooming.
- (b) Standards for Pet Shops. All pet shops, including pet shops run in conjunction with another animal facility, shall, in addition to the other requirements of this article, comply with the minimum standards of this section. The premises for pet shops shall meet the following standards:
  - (1) There shall be available hot water at a minimum temperature of 140 degrees Fahrenheit for washing cages and disinfecting, and cold water easily accessible to all parts of the shop.
  - (2) Fresh water shall be available to all species at all times. Containers are to be cleaned and disinfected each day. All water containers shall be removable for cleaning and be mounted so the animal cannot turn them over or defecate in them.

## Animal Control Ordinance

- (3) The temperature of the area around the animal enclosures in the shop shall be maintained at a level that is healthful for every species of animals kept in the shop.
  - (4) All cages and enclosures are to be of a nonporous material for easy cleaning and disinfecting. Each cage must be of sufficient size that the animal will have room to stand, turn, lie down and stretch out to its full length without touching the sides or tops of the enclosure, and floors of sufficient strength and design to ensure the animal's limbs or paws cannot pass through the floor material.
  - (5) All animals under three months of age are to be fed at least two times per 24 hours. Food for all animals shall be free from contamination, wholesome, palatable and of sufficient quantity and nutritive value to meet the normal daily requirements for the condition and size of the animal. Food for all animals shall be served in a clean dish so mounted that the animal cannot readily tip it over, and shall be of the removal type.
  - (6) Each bird must have a perch and sufficient room to sit on a perch. Perches shall be placed horizontal to each other in the same cage. Cages and perches must be cleaned every day, and cages must be disinfected when birds are sold or as otherwise transferred. Parrots and other large birds shall have separate cages from smaller birds.
  - (7) There shall be sufficient clean, dry bedding to meet the needs of each individual animal. Provision shall be made for the removal and disposal of animal and food waste, bedding and debris, to ensure the enclosure is maintained in a clean and sanitary manner.
  - (8) All animals must be fed and watered and all cages cleaned every day, including Sundays and holidays.
- (c) Failure to meet these standards shall be grounds for the issuance of a citation subjecting the owner to the penalties described in this article, and/or the issuance of an abatement order to comply with the provisions of this article.
  - (d) Owners or operators of pet shops must apply to the Animal Services Director for a Pet Shop Permit, pay any designated privilege tax and receive a permit to own or operate a pet shop in the county.
  - (e) Facilities shall be subject to inspection during reasonable hours by the animal control officer or other appropriate representative of the animal control officer or other appropriate representative of the animal protection program upon his request.

## Animal Control Ordinance

- (f) No person may own or operate a Pet Shop within the County unless and until such person satisfies the requirements of this section and has been issued any privilege license if required.
- (g) A permit issued in accordance with this section may be revoked by the Administrator after notice and hearing, for any reason that would have justified denial of the permit in the first instance or for other violations of the Chapter. If the Administrator denies or revokes a permit in accordance with this section, the owner or operator shall be notified of their right to appeal such decision in accordance with Section 4-54.

*(Ord. of 6-16-1987, § XIX(C), eff. 1-1-1988)*

### **Sec. 4-74 - Permit procedures.**

The Animal Services Director shall establish procedures to govern the permitting process.

**Secs. 4-74—4-95. - Reserved.**

## Animal Control Ordinance

### DIVISION 3. - ANIMAL COLLECTION

---

#### **Sec. 4-96. - Permit required.**

A permit for the collecting of dogs and cats for sale shall be required before any individual may engage in any action in the county in furtherance of any action involving or relating to the collection or procurement of dogs and cats for sale or disposal. A permit allowing such actions will be issued only upon payment of a privilege tax set by the board of commissioners and demonstration by the applicant that the requirements of this division shall be met.

*(Ord. of 6-16-1987, § XX(A)(Preamble), eff. 1-1-1988)*

#### **Sec. 4-97. - Permit application.**

- (a) An application for a collection permit shall be made by each individual involved in the collecting of dogs and/or cats in the county for the purpose of sale or other disposal. Any such application for the purpose mentioned in this section shall have to be made to the Animal Services Director on a form prescribed by the Animal Services Director.
- (b) An investigation may then be conducted by the Animal Services Director which may include inspection of the premises where the animals are to be kept and any vehicles in which animals are to be transported. A fee in the amount of \$25.00 shall be assessed against an applicant or permit holder for failing to permit an inspection pursuant to this subsection in order to defray the costs of repeat travel.
- (c) Upon the determination by the Animal Services Director or person duly authorized by the Animal Services Director that the requirements of this section have been met and are capable of continuing to be met during the duration of the permit, a permit for no more than one year shall be issued, upon payment of applicable privilege taxes, to the individual applicant only for the specific individual applicant, premises and vehicles listed on the application.
- (d) Application for a permit renewal is the responsibility of the permit holder and shall be made no later than 30 days prior to the expiration of the current permit. Failure to reapply prior to the 30-day limit may result in a civil penalty.
- (e) No individual shall be issued a collection permit unless:
  - (1) The individual is properly licensed by the U.S. Department of Agriculture and/or the state department of agriculture, and such license is unsuspended and unrevoked.
  - (2) The individual complies with this article and all other applicable laws and regulations.

## Animal Control Ordinance

- (3) All requirements of this section have been met.
- (4) The following information shall be provided on or with the application for a collection permit:
  - i. The name, address and telephone number of the applicant.
  - ii. U.S. Department of Agriculture and/or state department of agriculture license number under which the applicant operates.
  - iii. A basic description of the applicant's background, including but not limited to all licenses he may have had for handling or keeping of animals, and all arrests or convictions involving any matter or law in any way pertaining to animals.
  - iv. A complete description, including vehicle identification number and vehicle license number of each vehicle that will be used to collect and/or transport animals.
  - v. The address and location where the animals will be kept or maintained for the five days after collection.

*(Ord. of 6-16-1987, § XX(A)(1), eff. 1-1-1988; Amend. of 12-3-2007, eff. 7-1-08)*

### **Sec. 4-98. - Permit requirements.**

No permit shall be issued or remain valid unless the Animal Services Director or person duly authorized by the Animal Services Director is satisfied that both the vehicles in which the animals will be collected and transported and/or the premises where the animals will be housed meet the following requirements:

- (1) *Premises.* All premises shall meet the same standards as set for class II commercial kennels in [section 4-72](#).
- (2) *Vehicles.*
  - a. Vehicles used to transport animals must be mechanically sound and equipped to provide fresh air to all animals without harmful drafts.
  - b. The sections of the vehicles where the animals are placed are to be constructed and maintained so that engine exhaust fumes cannot get to the animals.
  - c. The sections of the vehicles where the animals are to be kept should be cleaned and disinfected after each use and as needed.
- (3) *Enclosures in or on vehicles.*
  - a. Enclosures, including compartments, cages, cartons or crates, used to transport animals are to be well constructed, well ventilated, and designed in such a way to protect the health and ensure the safety of the animals.
  - b. These enclosures must be constructed or placed on the vehicles so that:
    1. Every animal in the vehicle has sufficient fresh air for normal breathing.
    2. The openings of these enclosures are easily accessible for emergency removals at all times.

## Animal Control Ordinance

3. The animals are adequately protected from the elements, including heat and cold.
4. The animals are adequately protected from one another.
- c. Only animals of the same species shall be transported in the same enclosure. Puppies and kittens under six months of age shall not be transported in the same enclosure with adult animals, other than their mother.
- d. Each enclosure used to transport animals shall be large enough for each animal to stand erect, sit, turn about freely and lie down in a normal position.
- e. Animals shall not be placed in enclosures over other animals while being transported unless each enclosure is so constructed to prevent animal excreta from entering the other enclosures.
- f. All enclosures used to transport animals shall be disinfected after each use and as needed.

### (4) *Care in transit.*

- a. The attendant or driver shall be responsible for inspecting the animals frequently enough to ensure the health and comfort of the animals and to determine if emergency care is needed and to obtain emergency care if needed.
- b. If any animal is in a vehicle for more than three hours, it shall be provided fresh, drinkable water, and food as appropriate.
- c. Each animal in transit shall have a tag affixed to its collar of a type approved by the U.S. Department of Agriculture.

*(Ord. of 6-16-1987, § XX(A)(2), eff. 1-1-1988)*

### **Sec. 4-99. - Records.**

- (a) Every person who sells, gives, exchanges or otherwise delivers any animal to a collector must receive from the collector a written receipt, a copy of which is to be kept by the collector, signed by both the owner or keeper and the collector, stating the following:
  - (1) The number of animals received by the collector.
  - (2) The sex, breed and a general description of each animal received and the U.S. Department of Agriculture number assigned to each animal.

## Animal Control Ordinance

- (3) The name, address and telephone number of the location to which the animal will be taken for the following five days.
- (4) The name, address and telephone number of the collector.
- (5) The name, address and telephone number of the person surrendering the animal.
- (b) A written report containing the information in subsection (a) of this section shall be delivered by the person collecting the animals to Animal Services within 24 hours of the surrender of the animal.
- (c) A record shall be kept of the disposition of every animal collected.
- (d) Every collector shall maintain a copy of all receipts and disposition records for one year.

*(Ord. of 6-16-1987, § XX(A)(3), eff. 1-1-1988)*

### **Sec. 4-100. - Quality assurance program.**

A quality assurance program to ensure adherence to this division shall be carried out within the animal control division.

*(Ord. of 6-16-1987, § XX(B), eff. 1-1-1988)*

### **Sec. 4-101. - Application and enforcement of division.**

The Animal Services Director shall be responsible for the full and proper application of this division. Questions concerning the applicability or interpretation of this division shall be the responsibility of the Animal Services Director.

*(Ord. of 6-16-1987, § XX(C), eff. 1-1-1988)*

### **Secs. 4-102—4-130. - Reserved.**

## Animal Control Ordinance

### DIVISION 1. - DISPLAY OF WILD AND EXOTIC ANIMALS

#### **Sec. 4-131. - Repealed**

*(Ord. of 8-14-2001(1), § 1, eff. 8-14-01)*

#### **Sec. 4-132. - Display of wild or exotic animals prohibited.**

It shall be unlawful for any person to display or sponsor a display of wild or exotic animals on any public or private property within Orange County.

*(Ord. of 8-14-2001(1), § 2, eff. 8-14-01)*

#### **Sec. 4-133. - Enforcement.**

Any person displaying or sponsoring a display of a wild or exotic animal at the date that this Ordinance is adopted to prohibit such display shall comply with the Ordinance's prohibition on the display of wild or exotic animals within 30 days of the effective date of this Ordinance. No wild or exotic animals may be displayed that are not permitted by the United States Department of Agriculture nor shall any exotic or wild animal that has been designated a rabies vector species in North Carolina be displayed, except when approved by the Animal Services Director they may be displayed in a manner so as to not come into contact with the public.

*(a) Investigations.* The Orange County Animal Service Department shall investigate any complaints, reports or information that wild or exotic animals are being displayed or will be displayed in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (1) If the Orange County Animal Services Department determines that wild or exotic animals are being displayed in Orange County in violation of this Chapter, the investigating officer(s) shall issue a written warning to the person displaying the wild or exotic animal(s). The written notice shall be delivered, via hand delivery to a responsible person or via posting at the site of the display.
- (2) The person against whom the warning is issued shall desist all activities in violation of this Ordinance as of the business day the written notice is given.

*(b) Penalties.*

- (1) Criminal Offenses - A violation of any provision of this Section constitutes a Class 3 Misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.
- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$250 per animal for each day of the violation. No penalty shall be assessed until the person alleged to be in

## Animal Control Ordinance

violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty.

### (3) Injunctive Relief.

- a. Whenever the Orange County Animal Services Department or the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Section, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation of threatened violation.
- b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

*(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)*

### **Sec. 4-134. - Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

*(Ord. of 8-14-2001(1), § 3, eff. 8-14-01)*

### **Secs. 4-135—4-180. - Reserved.**

## Animal Control Ordinance

### DIVISION 2. - KEEPING OF WILD ANIMALS DANGEROUS TO PERSONS AND PROPERTY <sup>[4]</sup>

---

#### Sec. 4-181. - Definitions.

As used hereinafter, the following term shall mean:

*Wild Animals Dangerous to Persons and Property, hereinafter referred to as "Wild and Dangerous Animals":* The term applies to the following animals: all felines (other than the domestic house cat), nonhuman primates, bears, wolves, coyotes, reptiles (poisonous, crushing and giant), and any crossbreed of such animals which have similar characteristics of the animals specified herein. In order to properly administer the provisions of this Ordinance, the Board may add to or remove from the classification of wild animal any bird, mammal, reptile, aquatic and amphibious forms, or other members of the animal kingdom. Additions to or deletions from the animals regulated herein may be made only if the Board determines, after receiving evidence, that such animals because of habit, mode of life or natural instinct are either capable or incapable of being domesticated, requires the exercise of art, force or skill to keep them safely in subjection, and would or would not create a reasonable likelihood of hazard to the public.

*(Ord. of 8-14-2001(2), § 1, eff. 8-14-01)*

#### Sec. 4-182. - Keeping of wild and dangerous animals prohibited.

No person, firm or corporation shall keep, shelter, feed, harbor, or take care of any wild and dangerous animal within Orange County.

*(Ord. of 8-14-2001(2), § 2, eff. 8-14-01)*

#### Sec. 4-183. - Exemptions.

The provisions of this Ordinance shall not apply to the keeping of wild and dangerous animals as follows, provided, such keeping is in all respects in compliance with applicable federal and state rules and regulations:

- (a) Animals used for teaching and/or research purposes at The University of North Carolina at Chapel Hill.
- (b) Wildlife rehabilitators licensed by the state or the federal government to provide such services.

*(Ord. of 8-14-2001(2), § 3, eff. 8-14-01)*

#### Sec. 4-184. - Enforcement.

- (a) *Investigations.* The Orange County Animal Services Department or the North Carolina Wildlife Resources Commission shall investigate any complaints that a wild animal is possessed or harbored in Orange County in violation of this Ordinance to determine whether or not a violation has occurred.

- (b) *Penalties.*

- (1) **Criminal Offenses** - A violation of any provision of this Section constitutes a misdemeanor and shall be punishable as provided in North Carolina General Statutes § 14-4. Each day's continuing violation shall constitute a separate offense.

## Animal Control Ordinance

- (2) Civil penalty - A person who violates any of the provisions of this Section shall be subject to a civil penalty of \$50.00 per animal. No penalty shall be assessed until the person alleged to be in violation has been notified of the existence and nature of the violation by letter. Each day of a continuing violation shall constitute a separate violation. The Administrator shall make or cause to be made a written demand for payment to be served upon the person in violation, which shall set forth in detail a description of the violation for which the penalty has been imposed. If payment is not received or equitable settlement reached within 14 days after demand for payment is made, the matter may be referred to the County Attorney for institution of a civil action in the name of the County of Orange in the appropriate division of the general court of justice for recovery of the penalty. Any sums recovered shall be used to carry out the purposes and requirements of this Ordinance.
- (3) Injunctive relief.
- a. Whenever the Orange County Animal Services Department and the North Carolina Wildlife Resources Commission has cause to believe that any person is violating or threatening to violate this Section, the agency shall report the violation or threatened violation to the Administrator. The Administrator may, either before or after the institution of any other action or proceeding authorized by this Ordinance, institute a civil action in the name of the County of Orange for injunctive relief to restrain the violation or threatened violation.
  - b. Upon determination by a court that an alleged violation is occurring or is threatened, it shall enter such orders or judgments as are necessary to abate the violation or to prevent the threatened violation. The institution of any action for injunctive relief under this section shall not relieve any civil or criminal penalty prescribed for violations of this Section.

*(Ord. of 8-14-2001(2), § 4, eff. 8-14-01)*

### **Sec. 4-185. - Severability.**

If any provision of this Ordinance or the application thereof to any person or circumstance is declared to be invalid, such invalidity shall not affect other provisions or applications of the Ordinance which can be given effect without the invalid provision or application, and to this end the provisions of the Ordinance are declared to be severable.

*(Ord. of 8-14-2001(2), § 5, eff. 8-14-01)*

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** April 8, 2014

**Action Agenda  
Item No. 3**

**SUBJECT:** Energy and Environmental Updates – CFE Renewable Energy Work Group;  
Environmental Responsibility; State of the Environment 2014

---

**DEPARTMENT:** Asset Management Services  
(AMS); Environment,  
Agriculture, Parks and  
Recreation (DEAPR)

**PUBLIC HEARING: (Y/N)**

No
----

**ATTACHMENTS:**

- A) August 8, 2012 NC WARN Letter
- B) August 30, 2012 BOCC Chair Letter to NC WARN
- C) January 22, 2013 CFE Memo to BOCC - Proposal for a Renewable Energy and Efficiency Work Group Convened by the CFE
- D) Work Session PowerPoint Presentation Slides  
<http://orangecountync.gov/AssetMgmt/index.asp>
- E) Memo and Background - State of Environment 2014

**INFORMATION CONTACT:**

Dave Stancil, DEAPR, 245-2510  
Rich Shaw, DEAPR, 245-2510  
Jeff Thompson, AMS, 245-2658  
Wayne Fenton, AMS, 245-2628  
Blair Pollock, Solid Waste

**PURPOSE:** To receive information on three related environmental and energy topics – the Commission for the Environment’s proposal for a Renewable Energy Committee (RENEW) to explore renewable energy and sustainable development opportunities; the annual Environmental Responsibility in County Government report (including the Energy Scorecard); and the upcoming State of the Environment 2014 Report and Environmental Summit.

**BACKGROUND:**

**1. Commission for Environment Proposed Renewable Energy Work Group:** In August 2012 the BOCC received a letter from NC WARN recommending Orange County form an Alternative Energy Task Force “to encourage the county to incorporate local sustainable energy production and energy efficient strategies.” The BOCC referred this request to the Commission for the Environment (CFE) to consider the issues and report back to the BOCC.

The CFE discussed potential approaches for incorporating alternative energy and efficiency into the County’s future planning, and developed a proposal for BOCC consideration. The proposal was handed out at a January 29, 2013 BOCC work session, but there was no time during that

meeting for response and discussion. In recent months Board members asked to revisit this topic at an upcoming work session.

The CFE proposal (Attachment C) recommends a standing work group to gather information on energy efficiency and renewable energy, and consider how local initiatives could be supported and implemented. The proposed *Renewable Energy and Efficiency Work Group* would bring together public and private stakeholders to develop draft policies and initiatives that promote energy efficiency and renewable energy.

**2. Environmental Responsibility in County Government / Energy Scorecard:** On June 7, 2011, the Energy Conservation Team within Asset Management Services (“AMS”) presented a comprehensive report on the County’s historical use of energy, water and fuel as well as a work plan for ongoing conservation and efficiency. Staff presented a set of goals in these areas relative to a fiscal year 2010 baseline, and committed to annual updates on the County’s performance relative to these goals. The 2011 report and presentation represented a subset of the larger body of “Environmental Responsibility in County Government” Goals adopted by the Board in December 2005.

On October 16, 2012, AMS staff collaborated with Department of Environment, Agriculture, Parks and Recreation (“DEAPR”) and the Orange County Solid Waste Management Department to broaden the performance report against the established “Environmental Responsibility in County Government” goals in the annual report of fiscal year 2012 data.

The attached presentation (Attachment D weblink - <http://orangecountync.gov/AssetMgmt/index.asp>) provides the latest updates on these performance goals, which includes data for fiscal year 2013, as well as current year initiatives and proposed initiatives for fiscal year 2014-15. This collaboration will grow in future performance reports to include other departments that are involved.

### **3. State of the Environment 2014 / Environmental Summit**

Beginning in the year 2000, the CFE has periodically prepared a “State of the Environment” report to provide a snapshot of a set of measurable environmental indicators on progress toward or away from environmental goals. Subsequent reports were issued in 2002, 2004 and 2009. By 2004, it had become apparent that a two-year reporting window was too frequent to reasonably measure change, and five years was created as the new timeframe.

Over the past several months, DEAPR staff and a UNC graduate student have worked to compile the data needed to create the report. The report uses a set of 22 measurable indicators of the current status of air quality, water quality and other environmental conditions within Orange County. These indicators may reveal trends to alert readers to potential impacts on human and environmental health, and suggest areas for more research and monitoring is needed. The 2014 report includes new surface water indicators, energy conservation measures undertaken by the County, emerging issue sections (including “fracking”) and other information.

The 2014 State of the Environment report is being finalized and will be presented, as in years past, at an “Environmental Summit.” This year’s summit is planned for May 31 at Maple View Agricultural Environmental Center. Dr. Norman Christenson of Duke University will be the keynote speaker, along with other panelists.

Excerpts from the draft report are provided as attachment herein, and staff will speak to some of the emerging issues and findings as a “preview” to the final report.

**FINANCIAL IMPACT:** There is no financial impact associated with receiving the information in these updates and reports. Future actions to address these topics may have financial impacts, and these would be assessed as action strategies are considered.

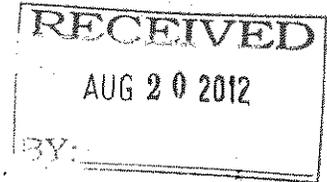
**RECOMMENDATIONS:** The Manager recommends that the Board receive these reports and updates, and provide feedback to the Commission for the Environment and staff for consideration.



PO Box 61051  
Durham, NC 27715-1051  
Phone: (919) 416-5077  
Fax: (919) 286-3985  
ncwarn@ncwarn.org  
www.ncwarn.org

August 8, 2012

Orange County Board of Commissioners  
Government Services Center  
200 South Cameron Street  
Hillsborough, NC 27278



Dear Commissioners,

As suggested by Orange County resident Mark Marcoplos, we support creation of an Alternative Energy Task Force to encourage the county to incorporate local sustainable energy production and energy efficiency strategies.

NC WARN is a non-profit organization located in Durham working for climate protection through clean and efficient energy alternatives. We have a broad membership base in Orange County and also have staff committed to grassroots organizing in the community.

With rooftop solar hot water and electricity installations on the rise, Orange County has shown great growth and potential to be a leader in clean energy for surrounding counties in North Carolina. We believe that this potential can be realized if elected officials like you are pro-active about moving forward with clean energy alternatives on a local scale.

Forming an Alternative Energy Task Force will help to determine the best path toward incorporating solar energy and efficiency into Orange County's plans for the future – a path that will boost local economy, create jobs and increase energy resilience for years to come. NC WARN appreciates the Commission's consideration of this recommendation.

Sincerely,

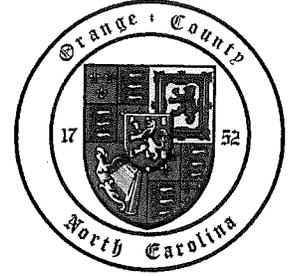
A handwritten signature in cursive script that reads "Jim Warren".

Jim Warren  
Executive Director, NC WARN

## Attachment B

BERNADETTE PELISSIER, CHAIR  
 PAM HEMMINGER, VICE CHAIR  
 VALERIE P. FOUSHEE  
 ALICE M. GORDON  
 BARRY JACOBS  
 EARL MCKEE  
 STEVE YUHASZ

ORANGE COUNTY BOARD OF COMMISSIONERS  
 POST OFFICE BOX 8181  
 200 SOUTH CAMERON STREET  
 HILLSBOROUGH, NORTH CAROLINA 27278



August 30, 2012

Jim Warren  
 Executive Director, NC WARN  
 P.O. Box 61051  
 Durham, N.C. 27715

Dear Mr. Warren:

On behalf of the Board of County Commissioners, I want to thank you for your letter of August 8, 2012 in reference to asking for support for the creation of an Alternative Energy Task Force.

Your request was reviewed by the Orange County Board of Commissioners' Chair/Vice Chair/Manager and it was decided to refer your request to our Commission for the Environment advisory board to work through these energy alternative issues.

We do appreciate your proactive approach for climate protection through clean and efficient energy sources.

Sincerely,

Bernadette Pelissier, Chair  
 Board of County Commissioners

cc: Board of County Commissioners  
 Frank Clifton, County Manager  
 ✓ Dave Stancil, DEAPR Director

[www.co.orange.nc.us](http://www.co.orange.nc.us)

Protecting and preserving – People, Resources, Quality of Life  
 Orange County, North Carolina – You Count!  
 (919) 245-2130 • FAX (919) 644-0246

**ORANGE COUNTY  
COMMISSION FOR THE ENVIRONMENT**

**MEMORANDUM**

To: Board of County Commissioners

From: David Neal, Chair, Orange County Commission for the Environment

Date: January 22, 2013

Re: Proposal for a Renewable Energy and Efficiency Work Group Convened by the CFE

---

Goal #1 of the 2030 Orange County Comprehensive Plan, Natural and Cultural Resources Element: *Energy conservation, sustainable use of non-polluting renewable energy resources, efficient use of non-renewable energy resources, and clean air* (Page 6-9).

The BOCC requested that the Orange County Commission for the Environment (CFE) propose a response to the August 8, 2012 letter from Jim Warren of NC WARN. The CFE recommends convening a standing work group that would support energy efficiency, renewable energy, and related sustainable development strategies in Orange County. This Renewable Energy and Efficiency Work Group (RENEW Group) would be charged with bringing public and private stakeholders together to develop policies and initiatives that promote sustainable economic development, energy efficiency, and renewable energy in Orange County. The CFE would, in turn, bring vetted proposals from the RENEW Group to the BOCC for consideration.

As it presently operates, the CFE has an Air and Energy Committee. The present committee would act as a host and liaison with the CFE for the work group and would convene meetings, workshops, and other activities of the RENEW Group. The work group would consist of CFE members, representatives of municipal and county planning boards and staff, municipal and county sustainability staff or committee members, and any BOCC who might wish to participate. The RENEW Group would host individual public workshops and forums with emphasis on specific topics such as:

- Reducing energy use in existing buildings and new construction
- Maximizing the production and use of renewable and clean energy
- Reducing carbon emissions in transportation
- Promoting strategies for offsetting carbon emissions
- Eliminating or altering existing policies or code provisions that hinder any of the above at the county level

Reducing our collective carbon emissions should be a high priority for Orange County. Global climate change is accelerating at a rate exceeding scientific projections, exacerbating drought, storms, and flooding with devastating effects. Climate scientists agree that society must make dramatic changes in the way we source and use energy in the next several years. The consequences of inaction threaten to be drastic.

The RENEW Group would provide an opportunity for Orange County to promote forward-thinking local policies with the cooperation of local government representatives, private businesses, and environmental groups. With collaboration and input from a variety of experts, municipal and county staff, elected officials, and other stakeholders, we can find creative ways to lower our carbon footprint while also giving a boost to our local economy. By coming together at a central point to share information and coordinating action, we can avoid the pitfalls of working in isolation. Finally, the RENEW Group would enhance information sharing and communication with the deployment of an Orange County Green webpage.

The CFE unanimously approved this proposal and requests the BOCC's consideration and endorsement of CFE's convening a Renewable Energy and Efficiency Work Group.

## Attachment E

**COUNTY OF ORANGE  
DEPARTMENT OF ENVIRONMENT, AGRICULTURE,  
PARKS AND RECREATION**

**MEMORANDUM**

**To:** Board of County Commissioners  
Michael Talbert, Interim County Manager

**From:** David Stancil, DEAPR Director  
Rich Shaw, Land Conservation Manager

**Date:** April 8, 2014

**Subject:** State of the Environment 2014 and Environmental Summit

---

The Orange County Commission for the Environment is working on its **State of the Environment report**—a report that that began in 2000 and has been updated every two or four years since then (2002, 2004, and 2009).

The report is prepared by the Commission for the Environment and DEAPR staff, but this time we also received help from a graduate student at UNC Chapel Hill—Malcolm Munkittrick—who worked with DEAPR in the summer of 2013 as a Research Associate.

The State of the Environment report uses a template of around 22 measurable “indicators” of the current status of air quality, water quality, and other environmental conditions within Orange County. The indicators help reveal trends that can alert us to potential impacts on human health and suggest areas where additional information, research, and monitoring are needed. Finally, the report identifies critical issues and makes recommendations for future County actions to help address certain issues.

The following are some changes to the 2014 report from the 2009 document:

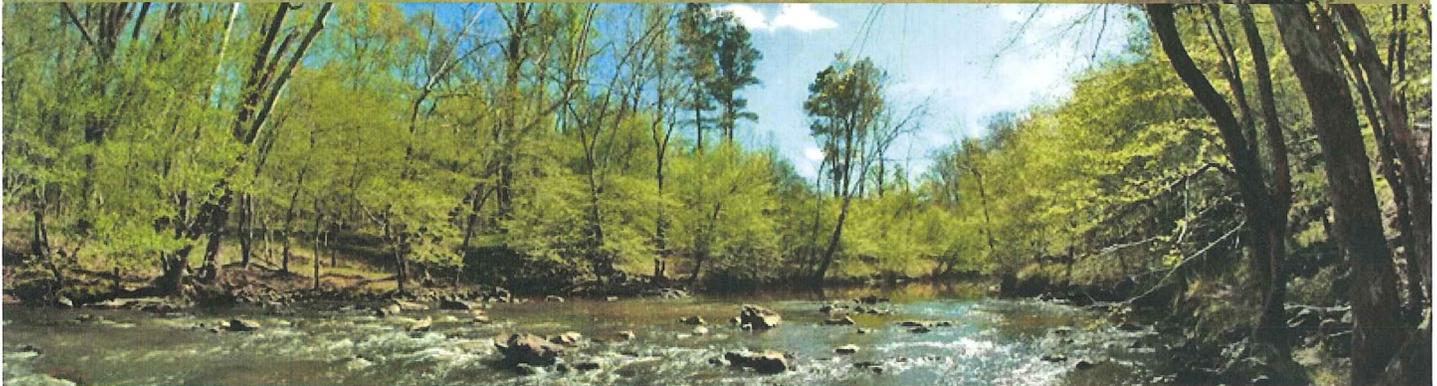
- Includes new indicators of surface water quality
- Highlights innovative measures employed by Orange County to conserve energy resources and promote the conservation of energy
- Includes a section on “fracking” as an “emerging issue”
- Links recommendations to 2030 Comprehensive Plan goals and objectives
- Provides a greater emphasis on citizen education and participation

The SOE report will be completed in time for its presentation at an **Environmental Summit planned for May 31 at the Maple View Agricultural Environmental Center**. The CFE has invited Dr. Norman Christensen (Duke University) to be keynote speaker, along with a panel of speakers on topics that will be highlighted in the report.

Attachments

# State of the Environment

# 2014



**Orange County  
Commission for the Environment**

# Orange County Commission for the Environment

Lucy Adams	Loren Hintz	Tom O'Dwyer
May Becker	Bill Kaiser	Rebecca Ray
Terri Buckner	Donna Lee Jones	Jan Sassaman
Peter Cada	David Neal	Gary Saunders
Susie Enoch	Steven Niezgoda	Lydia Wegman
	Jeanette O'Connor	David Welch

**Orange County**  
**Department of Environment, Agriculture, Parks & Recreation (DEAPR)**  
 306-A Revere Road / P.O. Box 8181, Hillsborough, NC 27278

### Staff Members

**David Stancil, Director**

**Tom Davis, Water Resources Coordinator**

**Richard Shaw, Land Conservation Manager**

**Beth Young, Communications Manager**

### Other County Contacts

Commission for the Environment	<a href="http://www.co.orange.nc.us/boards/indivbd.asp?BoardID=54">http://www.co.orange.nc.us/boards/indivbd.asp?BoardID=54</a>
Health Department—Environmental Health Services	<a href="http://www.co.orange.nc.us/envhlth/index.asp">http://www.co.orange.nc.us/envhlth/index.asp</a>
Board of County Commissioners	<a href="http://www.co.orange.nc.us/occlerks/bocc.asp">http://www.co.orange.nc.us/occlerks/bocc.asp</a>
Planning and Inspections Department	<a href="http://www.co.orange.nc.us/planning/index.asp">http://www.co.orange.nc.us/planning/index.asp</a>
Cooperative Extension	<a href="http://orange.ces.ncsu.edu/">http://orange.ces.ncsu.edu/</a>

Copies of this report are available at the Orange County public libraries and at the DEAPR office.  
 It can be viewed online at <http://www.co.orange.nc.us/deapr/>

# TABLE OF CONTENTS

## OVERVIEW

<i>Introduction</i> .....	#
<i>Critical Issues</i> .....	#
<i>Highlighted Recommendations</i> .....	#
<i>Demographics</i> .....	#

## AIR and ENERGY RESOURCES

<i>Introduction</i> .....	#
<i>Emissions Estimates</i> .....	#
<i>Emissions from Point Sources</i> .....	#
<i>Ozone Threshold Exceedances</i> .....	#
<i>Daily Vehicle Miles Traveled</i> .....	#
<i>Commuting Patterns and Modes</i> .....	#
<i>Emerging Issue: Plug-in Electric Vehicle Infrastructure</i> .....	#

## LAND RESOURCES

<i>Introduction</i> .....	#
<i>Acres of Protected Land</i> .....	#
<i>Acres of Protected Natural Heritage Sites</i> .....	#
<i>Prime Forest</i> .....	#
<i>Acres in Voluntary Agricultural Districts</i> .....	#
<i>Acres in the Present Use Value Program</i> .....	#
<i>Status of Rare Plants and Animals</i> .....	#
<i>Solid Waste Management: Waste Reduction and Recycling</i> .....	#
<i>Emerging Concern: Invasive Terrestrial Plants</i> .....	#
<i>Update: Land Application of Biosolids</i> .....	#

## WATER RESOURCES

<i>Introduction</i> .....	#
<i>Water Resources in Orange County</i> .....	#
<i>Water Usage</i> .....	#
<i>Groundwater Quantity</i> .....	#
<i>Groundwater Quality</i> .....	#
<i>Surface Water Quality: Specific Conductance</i> .....	#
<i>Surface Water Use Assessment</i> .....	#
<i>Emerging Concern: Invasive Aquatic Plants</i> .....	#
<i>Emerging Concern: Fracking</i> .....	#

**ORANGE COUNTY  
BOARD OF COMMISSIONERS**

**ACTION AGENDA ITEM ABSTRACT**

**Meeting Date:** April 8, 2014

**Action Agenda  
Item No. 4**

**SUBJECT:** Next Steps - Strategic Communications Plan

---

**DEPARTMENT:** County Manager

**PUBLIC HEARING:** (Y/N)

No

**ATTACHMENT(S):**

- A) Department on Aging Strategic Communications Plan
- B) Animal Services Outreach and Communications
- C) BOCC-Clerk's Office Communication Information 2014
- D) Department of Environment, Agriculture, Parks and Recreation (DEAPR) Communications and Public Outreach
- E) Health Department Communications
- F) Library Communication-Outreach Summary
- G) Solid Waste Management Communications Summary
- H) Public Affairs – Public Outreach Methods

**INFORMATION CONTACT:**

Michael Talbert, 245-2308

---

**PURPOSE:** To provide an update and receive comments from the Board regarding the development of a Strategic Communications Plan for Orange County.

**BACKGROUND:** On January 31, 2014 the Board held a Retreat and discussed the need for an Orange County Strategic Communications Plan. The Board requested that the Manager provide a recommended strategy for a Communications Plan.

On February 27, 2014 a Manager-appointed Communications Plan Committee met to discuss how the County could move forward with a Strategic Communications Plan. The Committee attempted to address the following questions:

1. What is the role of the Board of County Commissioners in developing a Strategic Communications Plan?
2. What is the purpose of the plan?
3. Is there a need for a communications team approach and, if so, would the appointees to the team be staff, or staff and elected officials?

4. Will the Plan be a county-wide plan or a plan to address communications from the Board of County Commissioners?
5. Where and how does the Public Affairs office fit into the Plan?
6. How do individual County Departments fit into the plan and how would the plan govern the role of each individual department's communications and outreach programs?

All of the questions that have been identified cannot be sufficiently addressed by staff, without meaningful participation from the Board of County Commissioners. A Three Phase approach is recommended to move the process of developing a Strategic Communications Plan toward to a successful conclusion.

## **Three Phase Approach**

### **Phase One**

Identify and share with the Board Individual department public information strategies. Outlining the dedicated resources, communications tools, target audiences and how the department interacts with the Public Affairs Office.

### **Phase Two**

Engage Rod Visser or another School of Government professional to gather internal information by interviewing the Board and County staff to present a summary to the Board at a May, 2014 work session. The summary will outline Board of Commissioner's consensus regarding a Strategic Communications Plan, target audiences, communications tools, composition and purpose of a Communications Committee.

### **Phase Three**

With the assistance of Rod Visser or other School of Government professionals, draft a Strategic Communications Plan to be presented to the Board in September, 2014.

**FINANCIAL IMPACT:** The financial impact of engaging professional assistance to complete Phase One & Two is estimated not to exceed \$10,000. The scope of services approved by the Board for Phase Three will determine the total financial impact.

**RECOMMENDATION(S):** The Manager recommends that the Board receive the updates from individual departments and provide direction to staff as to how to proceed with a Strategic Communications Plan.

## Attachment A

Orange County Department on Aging  
Strategic Communications Plan

1. Communication / Public Outreach Process
  - a. Appendix A – OCDoA Communication Procedure (daily outreach)
  - b. Senior Times Public Outreach Process (quarterly outreach)
  - c. OCDoA E-Newsletter Outreach Process (bi-weekly outreach)
  - d. In-House Communication Process (as needed)
2. Human Resources
  - a. Communications Coordinator – 1 FT staff (66% time dedicated to communications)
    - i. Contract Employee – (10-20 hour per week dedicated to web redesign, Facebook page development, and department logo design. Project ending ~May)
  - b. Senior Center Administrator – Senior Times Project Manager
    - i. Volunteer Assistant
  - c. OCDoA E-Newsletter – 1 FT Johnson Intern (10 % dedicated time)
  - d. Senior Center Program Assistant Manager (10 % dedicated time)
3. Communication Tools
  - a. News Release
  - b. Public Service Announcement (written and recorded by the Public Affairs Director)
  - c. Advertisement (newspapers, magazines, and billboards)
  - d. Orange County Facebook & Twitter Accounts
  - e. OCDoA Website
    - i. OCDoA Facebook (launching in April-May)
  - f. OCDoA E-Newsletter
  - g. Senior Times
  - h. Orange County Community Connections e-newsletter
  - i. Posters
  - j. Postcards
  - k. E-Postcards
  - l. Brochures
  - m. Flyers
4. Target Audience
  - a. Individuals 55+
  - b. Individuals turning 55
  - c. Families of 55+ individuals
  - d. Caregivers of 55+ individuals
  - e. Caregiving and Healthcare professionals
5. Public Affairs Office Interaction
  - a. OCDoA Communications Coordinator communicates multiple times each week and often every day to issue media release requests, collaborate on OCDoA print material (brochures, postcards, posters, etc.) design, content and ordering.

- b. OCDoA Communication Coordinator communicates with the Public Affairs Office as needed to plan for and place paid advertisement in newspapers, magazines and billboards.
- c. OCDoA department head, supervisors, communication coordinator and program managers meet with the Public Affairs Office as needed to plan media campaigns for upcoming programs and projects
- d. OCDoA Friends of Central Orange Senior Center, Friends of the Robert and Pearl Seymour Center, and the Prime Time Players (all axillary OCDoA organizations) work with the OCDoA Communications Coordinator and the Public Affairs Office to advertise their programs through media releases, PSA's, and print marketing materials.
- e. OCDoA Communications Coordinator interacts with the Public Affairs Office to remain up-to-date on County communications protocol, training and methods.

## APPENDIX A – ORANGE COUNTY DEPARTMENT ON AGING COMMUNICATIONS PROCEDURE

1. Master Communications Outlook Calendar: For all “public” communications, i.e. brochures, press releases, public service announcements, flyers, post cards, etc.
  - Beverly will establish and maintain an Outlook Master Aging Communications Calendar coordinating OCDoA public communications.
    - Public communication requests must be submitted to Beverly by the following persons:
      - Director (Janice Tyler), Supervisors (Myra Austin, Mary Fraser, Kathie Kearns, Kathy Porter/Vicki Hill), Senior Center Managers (Terry Colville, Cydnee Sims), and the Wellness Coordinator (Latonya Brown).
      - Accompanied by all supporting information (listed below):
        - Program/Event details (who, what, when, where, how, why), photos, media release (if needed), documents, clipart, date to publish, etc.
      - Copy your supervisor on all requests.
2. Public Communication Request Timeline
  - Quarterly planning
    - Print Shop Materials (brochures, posters, signs, etc.)
      - Deliver to Beverly 4-5 weeks prior to needing and/or event
        - Include all details including date needed and supporting information
      - Ready for delivery to Carla 3 weeks prior to need/event
    - Press Release – Note: must be news worthy, current
      - 4 weeks prior to Beverly.
      - Carla’s deadline is 3 weeks prior to release
    - Calendar of Events
      - Senior Center Manager / Wellness Coordinator determine what events to highlight per month at each Center. Sends list with event/program details for the coming month to Beverly on the 2<sup>nd</sup> Friday of each month. Carla will distribute to the appropriate news venues.
        - Another alternative method: Plan quarterly what “Calendar of Events” to highlight and give list to Beverly the month before the new quarter
    - Public Service Announcement – Carla pays for 4 PSA’s per month. PSA’s are scheduled by Carla based on the most news worthy, timely, and distributed among County departments.
      - Quarterly: send to Beverly (at least 4 weeks prior to need/event) who, what, when, where, why
      - Carla will write the script for the PSA
    - Website
      - Posting requests 5 business days in advance
      - Include start/end dates for postings
      - Include attachments, photos, etc.
        - Photos must include media release if they were not taken at a public event
        - Images/clipart must not be copyrighted
    - Social Media
      - Posting permissions include Director, Supervisors, Communications Coordinator, Johnson Intern, Sr. Center Managers, and Wellness Coordinator
        - After launch of Facebook page the Johnson Intern will maintain the site
        - Must be pertinent information and department/aging related
    - Katherine Leith’s Editorial Article
      - Send to Myra for approval and cc Beverly
    - Listserv (Newsletter)
      - Johnson Intern sends “submit an article” notices, checks emails and maintains list
        - Myra checks and approves newsletter for distribution

## Attachment B

Animal Services has a variety of outreach and communication mediums it currently uses to advertise, promote and otherwise inform the public. Included regularly in this rotation are media releases, newspaper and occasional online ads, adoptable pet inserts, facebook, flyers and brochures, and off-site outreach and adoption events. Flyers are available in-house, at events, and distributed to the community monthly by Animal Control Officers. Other occasional outreach items have included newspaper columns by the Director, Every Door Direct Mail, Newspaper Mass-Mail Inserts, Billboards and Chapel Hill Transit ads.

All media releases go through the Public Affairs Office before going out. Most of the advertisements and flyer-style outreach have been seen by Public Affairs, but were created before the office was present or designed in collaboration with specific newspapers.

Because Animal Services performs a variety of services to the citizens of Orange County, the target audience varies greatly with each piece of outreach performed. Even within a single medium (media releases for example), target audience can vary drastically between persons interested in adopting, viewing lost pets, spay/neuter assistance, low-cost rabies and microchip clinics, coyote awareness, tethering, special events, cruelty and nuisance, etc.

We work closely with the Public Affairs Office and others to pair the most effective communication mediums with the appropriate target audience in a way that will best inform and reach citizens interested in any pertinent news, updates and events from Animal Services within resource allocations. We have one Communications Specialist that creates, manages and oversees the department's communication efforts and a Program Coordinator that also works to schedule, staff and plan outreach and other special events. The concentrated efforts to promote animal services has been important to the department's successes.

## Attachment C

**BOCC / Clerk's Office Communication Information 2014**

## Headcount –

- The Deputy Clerk/Information Specialist position duties are split into about 33% each for three primary tasks. Deputy Clerk, webmaster and communications. Each utilizes a technology background.

## Communication Duties –

- Write news releases, including publicizing opportunities on BOCC advisory boards and commissions
- Distribute agenda and overview of BOCC meeting before the meeting
- Create and distribute a short summary of BOCC meeting actions after the meeting
- Maintain high level areas of the Orange County website (One of three County employees with full update authority) Respond to webmaster emails
- Maintain online public meeting calendars
- Interact with Granicus on streaming video issues
- Serve as alternate PIO in the absence of the Public Affairs Officer (for primary duties)
- Serve as the alternate PIO during times of emergency and disaster. The PIO position for the EOC tends to be on 12 hour shifts
- Photograph various County events
- Serve on Council of Webmasters (internal to Orange County Government)
- Serve on Orange County Communicators Workgroup (external with towns and other agencies)

## Projects –

- Website redesign project, helped to guide individual departments to update or remove out of date content, helped to prepare the bid parameters for vendors. Reviewed and removed around 3,000 web files in preparation of transition.
- Design of BOCC meeting chambers tech room and space for studio
- Moving TWC head-in from Chapel Hill to Hillsborough
- Monitor Orange County social media sites to maintain standards including policy compliance and use of disclaimer created with the Attorney's Office.
- Maintain and check-out ADA hearing assistance / translation equipment.
- Communicating with employees during emergency/security event

## Services provided for BOCC/Clerk by Public Affairs –

- Provide boards and commissions vacancies on digital message monitors
- Assist with special events
- Business Cards
- Create news releases as requested by BOCC

Audience –

- BOCC
- Residents
- Taxpayers
- Visitors
- Voters
- Businesses
- Employees

Tools -

- News Releases / Public Service Announcements
- Public Meeting Calendars/Events
- Purchased print ads)
- Listservs (allows users to add or remove automatically)
- Brochures, flyers, booklets
- Photos
- Dedicated Orange County cable TV channel
- Streaming video on website
- Orange County Web
- Branding
- Facebook
- Twitter
- Employee news on intranet (HR)
- Digital message boards installed throughout County buildings

## Attachment D

## Communication and Public Outreach Process

Department of Environment, Agriculture, Parks and Recreation (DEAPR)

DEAPR engages in a wide variety of different communication and public outreach processes, for a variety of different purposes and programs (Soil and Water and Natural and Cultural Resources environmental programs, nature programs, recreation and athletic programs, and special events by all of the department's divisions.

- A web site through the County's webpage for sharing information and upcoming events.
- A published Program Guide with recreation and nature program activities, published three times per year and distributed through the school system to all elementary and middle school students, and available at libraries, recreation centers and other public facilities.
- Email listserv and text message information on recreation/athletic programs.
- Social media (Facebook, Twitter, etc) to notify public of upcoming events, programs or news.
- Flyers in community locations around the county to advertise programs and events.
- Outreach and training to teachers on curriculum activities and events (such as the Food, Land, Water curriculum).
- Environmental education and nature program events held in the classroom (Arbor Day, groundwater presentations), and special "field trip" events for school groups such as Earthwalk and Farm-to-Table.
- Photography contests (such as "The Nature of Orange") and other open contests.
- Cooperation with other community events and street fairs to share information and exhibits (Earth Evening with Hillsborough Last Fridays, Festifall booth).
- Many speaking engagements, both solicited and requested, by civic groups.
- Training for volunteer coaches in athletic programs.
- Blogs and video publishing (such as through the Little River Park social media accounts).
- News releases and public service announcements on many of the above activities, and other special events (Fishing Rodeo, Egg Hunt, Halloween fair).

In terms of Human Resources allocated to this area, the department has a Communication Manager position responsible for coordinating and disseminating communications and public outreach from all of the different areas noted above, and coordinating publicity for different events and activities. This is a full time position in the Support Services Division of the department, reporting directly to the DEAPR Director. Four other divisions - Soil & Water, Parks, Recreation and Natural and Cultural Resources each have staff that may dedicate approximately 5-10% of their work time to preparing public outreach products.

The Communication Manager position is responsible for all web pages in the department, posting all agendas and meeting summaries for the following boards: Agricultural Preservation Board, Commission for the Environment, Intergovernmental Parks Work Group, Historic Preservation Board, Parks and Recreation Council, Soil & Water Board of Supervisors. The Communication Manager is also responsible for the departments Facebook page, Twitter account, Google, Flickr (Yahoo), and survey monkey accounts, placement of legal advertisements in local papers, news releases, and department fliers. Little River Park, as a multi-county facility, has its own Facebook page. The target audience for these programs and events is varied depending on the type of activity, but generally is any citizen in Orange County

interested in the county's parks, recreation programs, environmental education, environmental issues, agriculture, historic preservation, ground water, soil, and land conservation.

The Communication Manager works closely with the County Public Information Officer to provide event information for the digital messaging monitors, press releases, communication planning, and the promotion of department website. The communication manager also consults with the Public Information Officer on a regular basis seeking input on ways to best promote DEAPR activities. The Public Information Officer provides design work, translations services, video production and funding for many of these promotions. As previously noted DEAPR uses staff resources to promote upcoming programming via listserve; FaceBook, Twitter, blogging, and program guides.

DEAPR implemented a draft Communications Plan in 2012.



## Orange County Health Department Communications

The Orange County Health Department has one FTE designated for health communications and public information. This position works closely with staff throughout the health department. The Health Department's Communications Manager/ Public Information Officer must not only have the skills and experience needed to effectively manage marketing campaigns, public relations and the media, and graphic design, but also needs a background in diverse range of public health related topics. In situations such as disease outbreaks, it is critical that the Health Department's Communications manager be intimately involved in the investigation and mitigation, and needs a working knowledge of infectious diseases to be most effective in communicating the situation to the community.

The Health Department's Communications Manager reports directly to the Health Director to give the position full access to critical information both in times of crisis and for strategic planning. The Communications Manager works in partnership with the County's Office of Public Affairs by providing press releases for editing prior to dissemination to the media and seeking professional input on projects as needed.

Responsibilities of the Health Department's communications position include but are not limited to:

1. Health Campaigns and Outreach
  - Working with the various sections to
    - identify marketing needs,
    - research audience and messaging,
    - develop and test campaign messaging and materials (including graphic design)
    - implement the campaign through various channels including paid media, earned media, and social media
    - evaluate the campaign and make modifications as needed
  - Examples of campaigns have included
    - [Smoke-Free Public Places](#) (press releases, bus posters and wraps, newspaper ads, ad placement in visitors guides and on local websites, sandwich boards, restaurant table top signs, window clings, [television commercials](#), digital/online ads, billboards, social media, smoking response team outreach events, webinars, etc...)
    - Smoking Cessation Services (bus posters, posters, website, intranet, smoking response team outreach events, newspaper ads)
    - [National Nutrition Month](#) (Magazine ads, social media, contests, website, and activities, classes)
    - [Take it to the Box](#) a prescription drug overdose prevention campaign of Orange County Healthy Carolinians and the Health Department (bus posters, webpage, window clings, newspaper ads, press release with media coverage, social media, outreach events)
    - [Affordable Care Act Enrollment](#) (webpage, posters, press release, resources in multiple languages)
2. Health Department Marketing
  - Rebranding and integrating our new brand throughout all aspects of the health department to reflect the health department as a caring, high quality, and innovative health presence within the community

- Promoting the health department, our services, our purpose, policies, and achievements to potential clients, partners, and the community at large (social media; advertising in newspapers, magazines, billboards; press releases and media pitches; relationship building with the media; live tweeting during Board of Health meetings; ongoing strategic planning and brainstorming with staff regarding new and emerging issues, services, and policies to that affect the health department)
  - Representing the health department on the county wide communicators work group
  - Developing and designing reports, brochures, presentations, posters, and other marketing materials
    - Examples include: [Annual reports](#), [OCHD brochure](#), [Board of Health strategic plan timeline](#), [OCHD Dental Services brochure](#)
  - Video production and editing for promotional and educational videos
    - Examples include: [Virtual Tour of the Orange County Health Department](#), [Virtual job shadowing of a health inspector](#), [special presentations to the Board of Health](#), and [Maintain, don't gain: Healthy Eating Tips for the Holiday Season](#))
  - Facilitating speed storming sessions with staff and the Board of Health to stimulate creative and innovative ideas and solutions
  - Managing and maintain the health department's websites ([OCHD](#), [Healthy Carolinians](#), and [Environmental Health](#))
  - Creating a monthly staff newsletter
3. Emergency Preparedness and Outbreak Management
- Working with preparedness coordinator to develop the health communications components of the county's emergency response plan
  - Participating on the county wide communicator's workgroup
  - Participating as an active member of the health department's Epidemiology team evaluating and responding to communicable disease risks within the county.
  - Training internal content experts on conducting media interviews
  - Serving as the spokesperson, or identifying and preparing an appropriate spokesperson depending on the situation, during times of outbreak and crisis
  - Creating press releases and other forms of community education to prevent the further spread of disease, minimize public panic, and assure accurate and timely information is being shared (media outreach, website updates, social media).
  - Monitoring all forms of media to track trends in the story, identify misinformation and rumors, and maintain an open line of communication.
  - Communicating with the state's Division of Public Health, UNC, and partnering organizations to create consistent messages and streamline communications efforts during outbreaks and other emergencies, often being asked to take lead in communications efforts.
  - Attached
    - Packet of [media coverage](#) from February 2014
    - [Press releases](#) issued by the health department
4. Day to Day Communications
- Social media posting, monitoring, and engagement ([Facebook](#), [Twitter](#), and [YouTube](#))
  - Webpage management ([Health Department](#), [Healthy Carolinians](#), and [Environmental Health](#))

## Attachment F

## Library Communications-Outreach Summary

### FTEs

Due to the public-oriented nature of library services, several staff have a hand in communications and outreach work. It's estimated that various staff contribute approximately **65 hours a week (1.625 FTE)** toward communication and outreach activities. The library's part-time, non-permanent Communications Specialist represents .5 FTE of this time. A breakdown of these hours is available.

### Communications Tools

- Press releases
- *News of Orange County* column
- Three monthly e-newsletters
- Facebook
- Twitter
- Library website
- Online events calendar
- Off-site visits
- Periodic public speaking appearances
- Digital message monitor slide in county buildings
- Flyers, bookmarks, posters, signs
- Promotional displays
- Friends of the Library email listserv
- Friends of the Library newsletter
- Membership in Downtown Merchant Association of Historic Hillsborough
- Paid advertising
- *County Connection* newsletter

### Target Audiences

The library offers programs, activities, events and services for all sectors of the general public. Service divisions specifically target: 1) youth (babies, toddlers, preschoolers, school-age children, tweens); 2) teens; and 3) adults.

Subset target audiences of these groups include:

- Seniors
- Job hunters
- Teachers
- Homeschoolers
- Writers/authors
- Non-library users

### Process

Some library offerings are communicated directly to the target audiences, while general library news/initiatives are communicated from the administrative level via the Communications Specialist, after approval by the Library Director.

The Communications Specialist coordinates external, inter-departmental and internal communications. **External communications** efforts include: writing/editing all library press releases; writing the *News of Orange County* column; editing the library's three monthly e-newsletters; representing the library at Downtown Merchants of Historic Hillsborough Association meetings; and contributing content to the library's website, Facebook and Twitter accounts, DMM slides, and Friends of the Library newsletters. **Inter-departmental communications** efforts include: making presentations (e.g., ERC meeting); contributing content to the *County Connection* newsletter; and creating a monthly library services and events flyer for the Orange County Health Department. **Internal communications** efforts include: assisting the Library Director and Assistant Director in keeping organization informed of policies, procedures, events and activities; participating in Leadership Team meetings; and writing Leadership Team highlights that are shared with all staff after each meeting.

The Communications Specialist is also heavily involved in the public input process for the current **Southern Branch Library project**. Efforts include: managing the entire promotional campaign; making paid advertising buys; coordinating with local media; creating flyers, comment cards and survey; and writing website content. [www.orangecountync.gov/library/southernbranch.asp](http://www.orangecountync.gov/library/southernbranch.asp)

#### Public Affairs Office Interactions

The library sends all press releases via the Communications Specialist to the Public Affairs Director for editing and distribution to local media outlets. Since February 2013, the library has published an average of 4.5 media releases a month.

The Public Affairs Director is sent the *News of Orange County* column before the Communications Specialist sends it to the newspaper's editor.

The Public Affairs Director was invited to the library's Marketing Committee as an ex-officio member to offer a county-level perspective on library communications/marketing projects. The Marketing Committee convened for the first time in January 2014 and has met a total of three times in 2014. The Public Affairs Director attended the first meeting.

## Attachment G

Orange County Solid Waste Management Department  
 Communications Summary  
 March 2014

The Solid Waste Management Department has one full-time staff position responsible for public outreach, education, advertising, classes and demonstrations, and organizing staff, operations and information for public events. Department operations and proper public participation are further supported by the information services of one full time and one part-time administrative assistant, who answer phones and emails. Staff at the County's solid waste convenience centers and other facilities provides "point of contact" information directly to customers. The Solid Waste planner writes articles, analyzes and releases data, and organizes strategic outreach operations. Environmental Enforcement staff provides outreach regarding construction and demolition waste minimization and regulations, illegal dumping and burning, disposal bin placement and solid waste plans for development projects.

Orange County Solid Waste operations are County-wide and are also integrated into the functioning of all three towns. Because of the split media market in Orange County, the Solid Waste Management Department employs a variety of strategies to communicate to all of their customers.

#### **Print advertising**

- In local newspapers to publicize program or operational changes, special events, and seasonal program reminders
- In specialty circulations to target a specific audience about a particular program (such as mulch sale advertising twice per year in the "Triangle Gardener")
- Bus Posters inside Chapel Hill Transit busses
- Shred-a-thon banners hung in busy intersection

#### **Articles**

- One monthly article with timely Solid Waste and Recycling news published in two local papers, the Chapel Hill Herald and the News of Orange
- Frequent interviews with local media

#### **Online**

- Comprehensive website that offers static information specific to each division as well as a "Latest News" page and "Inclement weather/Unscheduled changes" page for information that is subject to change
- Public email address for questions and concerns
- An electronic newsletter with nearly 2,900 subscribers published monthly with Solid Waste and Recycling news
  - This list-serv is also utilized for inclement weather messages and other sudden or unscheduled changes in operations

#### **Radio**

- Paid radio advertising for special events, major program changes.
- Monthly ½ hour radio show on WCOM "All Things Solid Waste"
- Regular appearances on WCHL to promote program changes and seasonal reminders

#### **Program Brochures**

- Residential collection details for Curbside and Multi-Family recycling
- Commercial recycling details for businesses and school collections

- Food Waste Diversion
- Electronics recycling
- Rigid Plastics recycling
- Landfill tipping fees and service schedule
- Drop-Off Sites and Convenience Centers
- Household Hazardous Waste Collection
- Mulch and Compost Sales
- Regulated Recyclable Materials Ordinance

**Point of contact information**

- Bilingual decals and signage on recycling containers with collection details
- Targeted door to door outreach to address customers directly and distribute related brochures
- Mailings to customers with program information when major changes occur
- Calendar Cards mailed annually to 13,500 rural residents with their collection schedule and program details
- Annual newsletter mailed to all residents, businesses and non-profits in Orange County
- Information table and services at large special events and street fairs
- Informational signs and banners at Solid Waste Convenience Centers and other Department facilities
- Staff provides tours, lectures, professional consulting and information services to other government officials, students, professionals and the public

**Contact and cooperation with County Public Information Office**

- Press releases sent regarding program changes, inclement weather and special events
- Active involvement in County-wide communication and media buys as organized by the County PIO
- Collaboration with other local government such as Towns, OWASA and UNC Chapel Hill



## **Public Affairs – Public Outreach Methods**

The Director of Public Affairs is tasked with promoting a professional image of Orange County, while increasing awareness of the County's departmental operations, services and programs by utilizing multiple mediums, such as radio, television, print, and social media.

### **Press Releases**

- On average the Public Affairs Office issues between 25-30 press releases a month
- The News list serve consists of 560 subscribers, which includes media and residents

### **Print Materials**

- The Public Affairs Office facilitates the design and printing of the following print materials for all of the County departments :
  - Brochures
  - Post Cards
  - Posters
  - Magnets
  - Business Cards
  - Event Invitations

### **Traveling Banner Exhibit**

- A series of 6-foot tall vertical banners have been designed to cross promote various department programs and services. The banners are displayed in various County facilities to enable the public to learn about different County functions than those provided by the facility they are currently visiting (i.e. A banner about Aging is displayed in the lobby of Planning).
- A series of 8-foot long horizontal banners are designed for Emergency Services Telecommunicators Month

### **Newspaper Ads and Inserts**

- Full color half page and full page have been displayed to promote County services and events
- Orange County was featured in the center spread of the All About Orange – Herald Sun insert

### **Billboards**

- Billboard advertising allows for County messages to be displayed in Hillsborough at the intersection of 70 and 86 as well as at Hillsborough Exit 170 off of I-85

### **Radio PSAs and Interviews**

- From March 2013 through February 2014, the County aired a series of public service announcements spanning information from multiple departments. The messages aired 70 times each on a monthly basis. Additionally, 12 staff members conducted in depth topical interviews during the Aaron Keck show, which was replayed after the live interview.

### **County Connection Newsletter**

- The County-wide resident newsletter is entitled, In the Know. It is currently a weekly publication distributed via e-mail on Friday. The content includes announcements spanning multiple County departments. The distribution is through the News list serve.

### **Web site**

- Working with I.T. to revamp the County's Web site; deploy a Content Management System (CMS), and launch the new County Web site to the public
- Public Affairs Office will manage the content submitted by the departments to ensure continuity and professional communication

### **Social Media**

- Assist departments with account setup to ensure compliance with the County's Social Media policy
- Post County updates and event photos on Facebook and Twitter
- As of March 26: 130 Facebook Likes and 347 Twitter Followers

### **OCTV Channel 1301**

- Informational bulletins are designed by the Public Affairs Office and displayed on the TV channel to provide filler between the replay of BOCC meetings
- The bulletins promote events, programs and County services for all of the departments

### **Phone System**

- Develop departmental phone system scripting, e.g. what customers hear, and how they navigate the phone system
- Configure Public Service Announcements (PSA) to play during customer on-hold time

### **Digital Message Monitors (DMMs)**

- Existing DMMs: Hillsborough Commons (DSS), Gateway (Tax, ROD), and Public Library
- Additional DMMs requested for Link Building, Sheriff's Office, Animal Services, and SHSC as a 2014-15 Capital Improvement Project
- Respective County department's author and display location based bulletins on their individual DMM zone
- Public Affairs Office designs and displays global bulletins, which are displayed on all DMMs
- Public Affairs Office manages and approves all bulletins prior to being published

### **Community Giving Fund**

- The marketing materials and Web site are designed and managed by the Public Affairs Office
- The Annual Report for the Fund is facilitated by the Public Affairs Office

### **Orange County Expo**

- Coordinated event to showcase BOCC and multiple departments as a citizen engagement opportunity that included a partnership with WCHL radio. The live remote broadcast included 10 department directors being interviewed about the programs and services provided by their department.