

**BUTTE COUNTY  
BOARD OF SUPERVISORS  
AGENDA TRANSMITTAL**

**CLERK OF THE BOARD USE ONLY**

MEETING DATE: JUN 24 2008

AGENDA ITEM: 5.02

AGENDA TITLE: UPDATE ON ANIMAL CONTROL ORDINANCE

DEPARTMENT: PUBLIC HEALTH

DATE: 06/10/08

MEETING DATE REQUESTED: 06/24/08

CONTACT: PHYLLIS MURDOCK *PM*

PHONE: 7750

REGULAR:

CONSENT:

**DEPARTMENT SUMMARY AND REQUESTED BOARD ACTION:**

**SUMMARY OF REQUEST:**

On June 4, 2008, the Animal Ordinance Subcommittee (Supervisors Josiassen and Connelly) met with approximately 100 citizens and County staff to discuss issues related to the proposed animal control ordinance. Many citizens voiced their concerns and issues. County staff recorded the comments and points made by the citizens so they could be used for further conversation. Citizens were requested to identify which issues were their primary concerns. Individuals were given 3 minutes to present any new issues not previously recorded and to also provide suggestions for ways to reach compromises on the issues that are the most contentious.

Attached to this agenda item is a staff report which includes the following attachments:

- A. Citizen concerns from May 20, 2008, Board of Supervisors meeting are the results of the voting by citizens as to what issues are their primary concerns.
- B. Draft ordinance language related to cat issues.
- C. Draft ordinance language related to dog issues.
- D. New citizen concerns received at the June 4, 2008, public meeting.
- E. Draft department policy regarding verification of barking dog complaint.

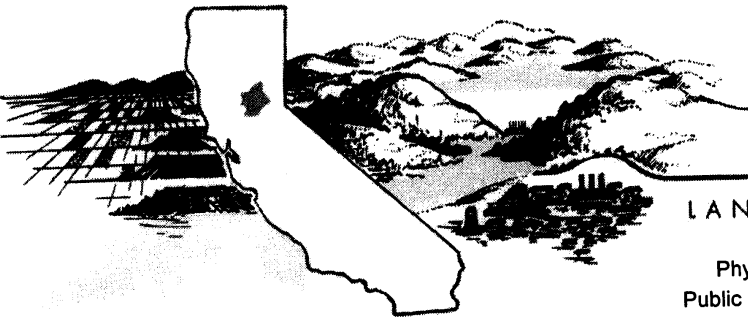
The meeting was productive and allowed the subcommittee and staff to understand more fully the many issue areas surrounding the ordinance. The subcommittee will be meeting with staff to discuss the issues and provide input regarding draft language for the next version of the ordinance.

**ACTION REQUESTED:**

- 1. No action required, for informational purposes only.

**AGENDA ITEM SUBMITTALS REQUIRE THE ORIGINAL AND TWELVE(12) COPIES  
ATTACH EXPLANATORY MEMORANDUM AND OTHER BACKGROUND INFORMATION AS NECESSARY**

<b>Budgetary Impact:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If yes, complete Budgetary Impact Worksheet on back	
<b>Budget Transfer Requested:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> If yes, complete Budget Transfer Request Worksheet on back. (Deadline is one business day prior to normal agenda deadline)	
<b>Will proposal require an agreement:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Auditor's Controller's Number (if required): _____ County Counsel's Approval: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>	<b>CAO OFFICE USE ONLY</b>  Administrative Office Review: <i>MC</i> Administrative Office Staff Contact: <i>PM Condy</i> 4/5's Vote Required: YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Date Received by Clerk of Board: JUN 13 2008
<b>Will proposal require additional personnel:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/> Number of Permanent: _____ Temp: _____ X-Help: _____	
<b>Previous Board Action Date:</b> _____	<b>Additional Information Attached:</b> YES <input type="checkbox"/> NO <input checked="" type="checkbox"/>
<b>Describe:</b> _____	



# Butte County

LAND OF NATURAL WEALTH AND BEAUTY

Phyllis Murdock  
Public Health Director

Mark A. Lundberg, M.D., MPH  
Health Officer

## PUBLIC HEALTH DEPARTMENT

202 Mira Loma Drive, Oroville, CA 95965  
Phone: (530) 538-7581 Fax: (530) 538-2164

June 11, 2008

To: Butte County Board of Supervisors  
From: Phyllis Murdock, Director Public Health  
Subject: Update on Animal Control Ordinance

The Animal Ordinance Subcommittee (Supervisors Josiassen and Connelly) met with approximately 100 citizens and county staff on June 4, 2008. The meeting was held at Checkers Restaurant in Oroville at 6:30 p.m.

At the Board of Supervisors meeting of May 20, 2008 many citizens came to speak on their issues regarding the proposed ordinance. Staff transferred the points made at that meeting to sheets of information placed on the walls in the meeting room on June 4 to assure citizens that their comments had been heard and had been recorded for further conversation.

We had a facilitator ask the members present at the meeting on June 4 to go to the wall and identify which of the issues noted there were their primary concern. We asked them to identify their three most important issues by voting on the issues (see Attachment A to this report). We then distributed two informational sheets containing proposed language changes to the animal control ordinance. The changes were made after considering all public comments received at the Board's May 20<sup>th</sup> meeting. Attachment B provides the draft language related to cat issues, and Attachment C provides draft language to address dog issues. We then provided all attendees an opportunity to make comments on new issues not already on the walls and to also provide suggestions for ways to reach compromises on issues that are the most contentious (see Attachment D).

The meeting was productive and allowed the subcommittee and staff to understand more fully the many issue areas surrounding this ordinance. Some members of the public asked to submit written comments at a later date based on information they either heard or formulated from input at the meeting. Staff has continued to gather this information and will use it to develop another draft of the ordinance language.

Attached to this report you will see the results of the voting by the citizens present on the issues identified on sheets at the meeting. In addition, you will see any new issues that were presented after the voting took place on the priority issues.

The subcommittee will be meeting with staff prior to the June 24, 2008, Board of Supervisor's meeting to discuss the issues and provide input regarding draft language for the next version of the ordinance to be brought forward to the full Board of Supervisors at a date to be determined by the Board at its June 24<sup>th</sup> meeting.



Once a revised ordinance is prepared for presentation to the Board, we will then have sufficient information to develop a financial impact report that will also be presented with the revised ordinance.

In response to Supervisor Kirk's request for a copy of the department's internal policy drafted after the May 20<sup>th</sup> meeting (which was drafted in response to requests to verify a barking dog complaint prior to implementing the complaint process), attached is provided the draft policy language for the Board's review (Attachment E.)

If you need further information or would like to discuss any of the issues please call me at your convenience.

<p align="center"><b>ATTACHMENT A</b></p> <p align="center"><b>Public Comments at May 29, 2008 Board Meeting</b></p>	<p align="center"><b>Attendees at Public Meeting on June 4, 2008</b></p> <p align="center"><b>Rating the Issue as 1 of their 3 top issues</b></p>
<b>CAT ISSUES</b>	
Use ordinance as an incentive to have animals spayed and neutered.	12
Prohibiting catteries forbids anyone from breeding felines.	2
Chico Cat Coalition and other groups that trap/spay/neuter should not be put out of business.	5
Private sector efforts of various groups are helping take care of the problem with overpopulation of cats – the county does not have the kenneling room or resources to take care of it.	11
Cats that otherwise would be spayed/neutered will end up in the SPCA and cost the county more.	0
Ordinance would increase county supported euthanasia.	1
Surrender fee at SPCA is a problem – People will dump along the road instead of paying the fee.	2
Ordinance takes away good humanitarian efforts of people and organizations – The trap/neuter/release program has resulted in a reduction in the cat population.	22
Doesn't want to be placed in position of having to break the law to help the abandoned or feral cats.	13
Concerned with cat colonies/catteries – Fecal matters is a public health concern.	4
People living close together infringe upon others with odor from cats.	7
Put in ordinance something that requires the care and treatment rather than putting limits on catteries.	14
Spay/neuter policies are the only successful way to remedy overpopulation issues.	27
Use the County's nuisance abatement ordinance.	3
<b>DOG ISSUES</b>	
Alternative of education is better than penalty for dog barking.	5
Establish volunteer program to train dogs not to bark.	7
Use county's current nuisance abatement ordinance and give reasonable time to abate the barking problem.	9
Difference between habitual offender and person with dog that barks one time.	15
Concerned with trying to control noise of any animal whether burro, rooster or dog.	1
Need exemption to allow people with disabilities to use service dogs.	2
Concerned with freedom – Found the neighbor complaining to be more irritating than barking dog.	19
Need more than one complaint to be fined.	46
Right to address a person should be part of the process.	8
People should work with neighbors, talk with them, be respectful.	3
Require barking collar after 3 warnings before being fined.	17
Lack of enforcement by animal control on barking dogs. Animal Control can't do anything. They were told by Animal Control to take it to Civil Court.	0

## Attachment B

### **PROPOSED CAT LANGUAGE CHANGES – DELETES THE CATTERIES PROHIBITION AND IMPLEMENTS A COMPLAINT-BASED WELFARE CHECK APPROACH TO REMEDY SIGNIFICANT PROBLEMS**

#### **4-20.2 Welfare of Cats.**

- (a) The department shall use a welfare-based approach to encourage the voluntary prevention or mitigation of conditions that cause a source of offensive odors, source of vermin infestation, source of human or animal disease, or other public health and safety issues related to the keeping of cats on the premise.
- (b) A cat welfare check may be initiated by a complainant by filing a written complaint with the public health department animal control division on forms established by the department. The complaint must include evidence that supports a reasonable concern for animal care and welfare, unsafe, unsanitary or inhumane conditions, or conditions that may cause economic or personal injury to neighboring persons or property.
- (c) Upon filing of a complaint, an animal control officer shall make contact with the owner or responsible person to arrange a personal visit to conduct an initial welfare check. The animal control officer may be accompanied by a licensed veterinarian possessing a current license in good standing with the State of California.
- (d) Where the owner or responsible person voluntarily allows a welfare check to be conducted, such welfare check shall consist of the following:
- (1) The animal control officer shall verify the status of rabies vaccination certificates on all cats located on the premises.
  - (2) The licensed veterinarian shall assess the medical condition of the cats and determine whether medical care is required to any cat(s)-in-distress or any cat(s) exhibiting signs of severe illness.
  - (3) The animal control officer shall assess the provision of sustenance, potable water, clean quarters, protection from weather, or whether through neglect or cruel treatment, a situation has been allowed to exist or persist that would cause a cat-in-distress condition to occur or persist.
  - (4) Where any such conditions exist, the animal control officer shall encourage the voluntary mitigation of conditions by the owner or responsible person so that cats are no longer kept in unsafe, unsanitary or inhumane conditions, or in conditions that may cause economic or personal injury to neighboring persons or property.
  - (5) Where the owner or responsible party does not remediate the conditions within ten (10) calendar days from the date the welfare check was conducted, the department may enforce the provisions of Butte County Code or any law relating to or affecting animals of the State of California, County of Butte, including Penal Code Section 597.
- (e) When upon receipt of a written complaint, the owner or responsible person will not voluntarily allow access to conduct a welfare check, the complainant must sign a sworn affidavit, under penalty of perjury, that sets forth the basis of their complaint.
- (1) If the department determines the complaint provides reasonable suspicion of conditions that pose a significant potential to cause harm to animals, persons, or property, the department may seek an administrative warrant through the Superior Court to allow access for purposes of conducting a welfare check.
  - (2) The welfare check shall be conducted as set forth in sections (d)(1) through (d)(4) above.
  - (3) Where unsafe, unsanitary or inhumane conditions are found, the department shall first attempt to obtain voluntary remediation by the owner or responsible party.
  - (4) Where the owner or responsible party does not remediate the conditions within ten (10) calendar days from the date the welfare check was conducted, the department may enforce the provisions of Butte County Code or any law relating to or affecting animals of the State of California, County of Butte, including Penal Code Section 597.

## Attachment C

### PROPOSED DOG LANGUAGE CHANGES – KEEPS THE BARKING DOG PROGRAM BUT MAKES THE FOLLOWING CHANGES TO ADDRESS PUBLIC CONCERNS

- (1) Amends the definition of “barking dog” to a dog that barks incessantly for 60 minutes.
- (2) Adds: **This Article does not apply to dogs that assist the owner or responsible person in charge of livestock or ranch operations in the herding or guarding of such livestock or ranch operations.**
- (3) Adds what is shown in blue: Upon filing of an initial complaint **by at least two (2) complainants from separate households**, an animal control officer will make a personal visit with the dog owner or responsible person to offer information about a dog violation and civil fine and to provide education materials and **information on dog training courses and trainers.**
- (4) Adds the following language to encourage the resolution of the actual problem rather than just paying a fine:
  - (1) **The hearing officer may consider alternatives that would result in elimination of the barking dog problem in lieu of payment of the civil fine. These alternatives may include, but are not limited to, use of a bark collar, behavior modification training for the barking dog and owner or responsible person, or \_\_\_\_\_.**
  - (2) **The decision of the hearing officer shall list all alternative resolutions considered in lieu of payment of the civil fine and establish a time certain for implementation of such alternative remedies.**
- (5) Requires that both the violator and complainant shall attend the hearing. Also requires the hearing officer to note on his or her decision if the violator or complainant failed to appear at the hearing.
- (6) Adds the following language shown in blue to language contained in the current ordinance:

Acts or conditions committed by a dog that are unlawful and constitute a public nuisance:

  - (a) Being in or upon any public or private school grounds, except when authorized by appropriate school officials, **or where the animal is a service dog;**
  - (b) Annoying, harassing, nipping, mauling or biting any person or persons;
  - (c) A female dog in breedable condition (in heat), being within the county, except when confined in or upon the premises of its owner or custodian, **or where being exercised under the direct and strict control of her owner or responsible person, or where being transported within the county for purposes of veterinary care;**
  - (d) Damaging or destroying any property or thing of value;
  - (e) Creating a disturbance in a neighborhood by howling, barking or making unusual noises;
  - (f) Committing excretion on private property other than the property of its owner or custodian, **or where an owner or responsible person fails to remove such excretion.**
- (7) Adds the following language to protect animal control officers from dangerous exotic animals, such as emus:

**Running at Large.**  
**In the performance of his or her duties, an animal control officer shall not have the authority to respond to calls to assist in situations of exotic animals loose and/or at large unless the public health director or designee authorizes such response.**

## ATTACHMENT D

### NEW COMMENTS RECEIVED AT JUNE 4, 2008 PUBLIC MEETING

#### CAT ISSUES:

- Complaints are done by a neighbor only
- Address rabies issue with feral cats
- Coming onto property to investigate complaint without owner being home – prior notification needed
- Right to know who has complained against you
- Less restriction; not more
- Why can't you have your own vet there?
- Problems with the word "voluntary" – look closely at wording
- Still add working for spaying and neutering (incentive)
- More free/low-cost spay or neutering
- Still considering a limit on cats
- Agree with limit being taken out

#### DOG ISSUES:

- Meaning of "incessantly" barking - unrealistic to define, as is "continual."
- Why can't you have your own vet present?
- Define times – day vs. night (i.e. 12 noon to 1 pm vs. 12 am to 1 am)
- Still looking for one complaint to be enough
- Day can be a problem, as well as night; owners may not be home to talk to
- Penalty for people (neighbors?) who provoke animals on purpose to provide proof (false proof).
- Customer service training for AC officers
- Need exemption for service dogs (re: excretion)
- Problems with the wording of "60 minutes"
- Stronger wording for education section in ordinance
- Wording possible for Kelly Ridge area vs. rest of County
- Add working for protection dogs like service dogs
- Explanation of where funding for AC officers comes from for education so people understand the cost it would take
- Area included in ordinance that marks/identifies why dog barked – stranger/wild animal, etc...
- Percent of AC \$ from taxes to go to funding for spay & neutering
- Fees should be cut in half, reduced
- Recording barking to determine type

## ATTACHMENT E

### BUTTE COUNTY PUBLIC HEALTH DEPARTMENT POLICY & PROCEDURE

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**SUBJECT:** Verification of Barking Dog Complaint      **P&P #** 6101

**APPROVED BY:** \_\_\_\_\_

Phyllis Murdock  
Director, Public Health

**EFFECTIVE DATE:** 5/20/08

**REVISION DATE:**

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**Purpose:** The purpose of this policy is to ensure that when a formal written complaint of a barking dog problem is filed with the Animal Control Division, an Animal Control Officer will conduct follow-up with neighbors of the complainant to verify the complaint prior to implementing procedures as outlined in Butte County Code Chapter 4, Article IA – Barking Dogs.

**References:** Butte County Code Chapter 4, Article IA – Barking Dogs.

**Procedure:** The following procedure shall be implemented when the Animal Control (AC) Division has been notified of a barking dog matter:

1. The barking dog civil complaint procedure, as established in Butte County Code (BCC), shall be initiated by a complainant making contact with the AC Division.
2. Upon receipt of a complaint, the AC Division shall provide a complaint form to the complainant for their completion and filing with the AC Division.
3. Upon the filing of the written complaint form, an AC Officer shall contact owners or tenants of properties which are adjacent or directly surrounding the property of the complainant to verify the barking dog information as contained in the complaint form.
4. Upon verification of a barking dog problem as contained in the complaint form, the AC Officer will make a personal visit with the dog owner or responsible party to provide educational materials on how to address barking dog issues and to inform them of the barking dog violation and civil fine procedure in BCC.
5. If after ten (10) days from the day of the visit the AC Division has been notified that the barking dog problem has not been addressed, the AC Division shall provide the complainant with a second written complaint form which is required to be completed and filed with the AC Division by the complainant prior to further action by the AC Division.
6. Upon receipt of the second complaint, which must be accompanied by a signed sworn affidavit by the complainant stating the barking dog is in violation of BCC, an AC officer will make a second visit with the dog owner or responsible party and may issue a civil citation for the barking dog violation.