WORK SESSION MINUTES
April 11, 2017 9:00 a.m. Commissioners' Office Conference Room

PRESENT: Commissioners Stan Primozich, Mary Starrett and Richard L. "Rick" Olson.

STAFF: Laura Tschabold, Ken Huffer, Christian Boenisch, and Mikalie Frei,

Guests: Nicole Montesano, News Register, and others as listed on the attendance sheet.

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5-031 §1, 1995; Ord. 90-019

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6.08.070. Dangerous Dog.

A. No owner or keeper of a dangerous dog shall suffer or permit such d
premises of the owner or keeper.
B. No owner or keeper of a dangerous dog shall suffer or permit such animal
such person unless such animal is humanely muzzled and securely le
restrained.

(Ord. 98-008 §1, 1998; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.08.080. Impermissible Harboring.

No person shall own, harbor, or keep any dog with knowledge that, while
controlled by its owner or keeper and while not acting under the directio
employees or agents of such persons, the dog has killed or injured any person.
(Ord. 98-008 §1, 1998; Ord. 90-019 §1, 1990)

6.08.090. Violations.

A. Except as provided herein, violation of any provision of DCC 6.08 is a Cla
B. Violation of DCC 6.08.050(A)(1), (7) or (8), DCC 6.08.060, DCC 6.08.07
A violation.

(Ord. 2003-021 §13, 2003; Ord. 98-008 §1, 1998; Ord. 97-011 §2, 1997; Ord.
§1, 1990)

6.08.100. When Impoundment of Dogs Authorized.

When a dog is a public nuisance under DCC 6.08, any peace officer or a
addition to citing the owner for a violation under DCC 6.08.090, impound the
(Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.025. Definition-Domesticated Fowl.

"Domesticated Fowl" means chickens, geese, ducks, peafowl, guinea fowl and turkeys.
(Ord. 2012-015 §1, 2012)

6.12.030. Killing, Wounding or Injuring Livestock-Nuisance.

A. Except as provided in DCC 6.12.030(C), any dog, whether licensed or not, that, while off the premises of its owner or keeper, kills, wounds, or injures any livestock not belonging to the owner or keeper of such dog, is a public nuisance and may be killed immediately by any person. However, nothing in DCC 6.12.030 applies to any dog acting under the direction of its owner or keeper, or the agents or employees of such owner or keeper.
B. If any dog, not under the control of its owner or keeper, is found feeding upon the warm carcass of livestock not the property of such owner or keeper it shall be deemed prima facie, as engaged in killing, wounding or injuring livestock for purposes of this section 6.12.030.
C. No person shall kill any dog for killing, wounding or chasing chickens upon a public place, highway or within the corporate limits of any city.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.040. Harboring of Livestock Killing Dogs Prohibited.

A. No person shall own, harbor, or keep any dog with knowledge that it has killed or wounded any livestock except as permitted by the Board, a court of competent jurisdiction, or pursuant to adoption or relocation of the dog as approved by the County or its designee.
B. Notwithstanding the foregoing, no person shall be liable for harboring or keeping such dog with knowledge that it has killed or wounded domesticated fowl, unless the owner fails to pay full damages for the domesticated fowl killed or wounded within three days after receipt of a demand for such damages from the owner.
C. Violation of DCC 6.12.040 shall be a class A violation.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.050. Killing, Wounding, Injuring or Chasing Livestock-Evidence.

A. Upon observing a dog engaged in killing, wounding, injuring or chasing livestock or upon receipt from a complainant of a written complaint supported by evidence that a dog has been so engaged, the dog control officer or other law enforcement officer shall impound the dog.
   1. The written complaint referenced in subsection (A), above, shall be made on a form prepared by the Deschutes County Sheriff's Office.
   2. Such form shall clearly state that:
      a. The complaint is made upon declaration of the complainant of the truth of the statements contained therein, and
      b. If the dog is ultimately determined to have not engaged in chasing, killing, injuring or wounding livestock, the complainant may be liable for the impoundment fee and/or the costs of keeping and testing the dog pursuant to DCC 6.12.060(B).
B. If there is reason to believe that reasonable testing of a dog impounded pursuant to DCC 6.12.050(A), including, but not limited to, a fecal examination or examination of the teeth of the dog, will provide substantial further evidence as to whether the dog has been engaged in killing, wounding, injuring or chasing livestock, the County may order administration of tests by a licensed veterinarian.
C. The decision whether to order any such testing shall be wholly within the discretion of the County, and the County's failure to order such testing shall not be considered as evidence by the Board.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.060. Hearing.

A. If a dog is impounded pursuant to DCC 6.12.050, the owner or keeper of the dog shall be entitled to a hearing as follows:
   1. At the time the dog is impounded, or as soon as practicable thereafter, the County shall provide the dog's owner or keeper notice of the right to request a hearing before the Board.
   2. Notice of the right to request a hearing shall be provided in a manner reasonably calculated, under all the circumstances, to apprise the owner or keeper of the specific behavior and incident alleged and the possible penalties, and to provide the owner or keeper with a fair opportunity for making the hearing request.
   3. A dog's owner or keeper shall cause a hearing request to be delivered to the County not later than the 14th day after notice is provided under subsection (A)(1), above.
   4. If the owner or keeper does not make a timely request for hearing, the owner or keeper may be conclusively presumed to have admitted the matter alleged and the County may immediately take action under subsection (C), below.
   5. If the dog's owner of keeper timely request hearing, the Board shall schedule a hearing for the first reasonably available date.
      a. The owner or keeper of a dog shall be provided with notice of the hearing not less than three days prior to the hearing.
      b. If the owner or keeper of the dog cannot be found, notice shall be given by mailing a certified or registered letter to the owner's or keeper's last known address at least five days before the date of the hearing, or, if no last known address is known to the County, by publication at least five days before the date of the hearing.
      c. If the County has ordered that the dog be tested under DCC 6.12.050(B), the hearing shall be convened after completion of those tests.
   6. The owner shall be afforded the opportunity to present evidence to the Board during such hearing. Other individuals may present evidence at the hearing. The owner or keeper of the dog shall have a final opportunity to rebut any evidence submitted by others and shall be entitled to cross examine witnesses.
   7. The hearing conducted by the Board pursuant to DCC 6.12.060 shall be informal and open to the public.
   8. All relevant evidence shall be considered by the Board.
   9. The Board may establish reasonable parameters for the conduct of the hearing to ensure an orderly and complete presentation of the evidence. The Board, on reasonable grounds, shall continue the hearing to allow the owner or keeper of a dog sufficient opportunity to prepare a defense.
   10. The person presiding at the hearing shall ensure that the record developed at the hearing shows a full and fair inquiry into the facts necessary to determine the matter alleged.
   11. A determination made by the Board shall be supported by reliable, probative and substantial evidence.

B. If, after hearing, the Board determines that the dog has not engaged in killing, wounding, injuring or chasing livestock, the dog shall be released to its owner. In such cases, if the dog was impounded upon receipt of a complaint from a complainant, the complainant may be required to pay the impoundment fee and/or the costs of keeping and testing of the dog during its impoundment.

C. If, after hearing, the Board determines that a dog has engaged in killing, wounding, injuring or chasing livestock, the Board shall take action in accordance with the following guidelines:
   1. If the dog has engaged in chasing livestock and has not previously killed, wounded, injured or chased livestock:
      a. The Board shall take reasonable measures to prevent a recurrence. Reasonable measures include, but are not limited to, requiring that the dog owner take specific measures to

adequately confine the dog and provide a notarized written pledge that the owner will prevent the dog from chasing livestock again; and

b. The Board may impose a civil penalty of not more than $500.

2. If the dog has engaged in chasing livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in wounding or injuring livestock and has not previously killed, wounded, injured or chased livestock, the Board shall impose a civil penalty of not less than $250 and not more than $1,000.
3. In addition to imposing the civil penalty, the board may:
   a. Require the dog owner to surrender the dog for adoption by a new owner approved by the Board; or
   b. Require the owner to remove the dog to a location where, in the opinion of the Board, the dog does not present a threat to livestock; or require that the dog be put to death in a humane manner.
4. Before requiring that a dog be put to death under this subparagraph, the Board shall make specific findings on the record that other measures are not available, are not adequate to remedy the problem or are otherwise unsuitable.
5. If the dog has engaged in wounding or injuring livestock and has previously killed, wounded, injured or chased livestock, or if the dog has engaged in killing livestock and has not previously killed livestock, the Board shall impose a civil penalty of not less than $500 and not more than $1,000.
6. In addition to imposing the civil penalty, the Board shall:
   a. Require the dog owner to remove the dog to a location where, in the opinion of the Board, the dog does not present a threat to livestock; or
   b. Require that the dog be put to death in a humane manner.
7. If the dog has engaged in killing livestock and the dog has previously killed livestock, the Board shall impose a civil penalty of not less than $500 and not more than $1,000.
8. In addition to imposing the civil penalty, the Board shall require that the dog be put to death in a humane manner.
9. In establishing the history of a dog for purposes of this section, or the history of an owner for purposes of ORS 609.163, the Board shall consider all known determinations involving the dog or owner by any court, or by a governing body, official or agency of any local or state government, without regard to where or when the incident occurred.

D. Notwithstanding any civil penalty imposed upon a dog's keeper or owner under this section, the owner or keeper of a dog that is determined to have chased, injured, wounded or killed livestock shall be responsible for paying the impoundment fee, the cost of implanting a microchip pursuant to 6.12.120, and all costs of keeping and testing the dog during the impounding.

E. In lieu of payment of a penalty under DCC 6.12.060(C), the Board may consider a petition of indigence and all other relevant circumstances and allow credit for community service at a rate of $10 per hour for each hour of community service performed. However, credit for community service shall not be allowed with regard to payment of the impoundment fee, the costs of microchip implantation, or the costs of keeping and testing the dog.

F. Notwithstanding DCC 6.16.010, a dog impounded pursuant to DCC 6.16.060(A) or DCC 6.16.060(C) shall not be released until a determination is made by the Board pursuant to DCC 6.12.060.

G. The County shall notify the dog's owner or keeper and the livestock owner of its determination and of any civil penalties or other measures imposed, by delivering or mailing a copy of the Board's written decision to the dog's owner or keeper and the livestock owner.

(Ord. 2012-015 §1, 2012; Ord. 2002-036, §1; Ord. 97-011 §1, 1997; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.065. Payment of Costs and Penalties; Liens

A. When the Board assesses any civil penalty, costs and/or fees against a complainant or a dog's owner or keeper under DCC 16.12.060, if the full amount of the financial obligation is not paid within 21 days after delivery or mailing of the Board's determination the County may record the obligation with the county clerk of any county of this state.
   1. The County Clerk shall thereupon record in the County Clerk Lien Record the name of the person incurring the obligation.
   2. The County Clerk shall not record an obligation while a request for Board of County Commissioner reconsideration or a petition for judicial review is pending.
   3. Immediately upon receipt, Deschutes County Legal Counsel shall provide the County Clerk with a copy of any reconsideration or petition for judicial review.

B. In addition to any other remedy provided by law, recording an obligation in the County Clerk Lien Record pursuant to this section has the effect provided for in ORS 205.125 and 205.126, and can be enforced as provided in ORS 205.125 and ORS 205.126.

C. When a civil penalty is assessed against a dog's owner under this section, the county shall supply the State Department of Agriculture ("Department") with information identifying the dog owner on forms provided by the Department for this purpose.

(Ord. 2012-015 §1, 2012)

6.12.070. Killing, Wounding or Injuring of Livestock-Disputable Presumption.

A disputable presumption shall arise that a dog has been engaged in killing, wounding, injuring or chasing livestock within the meaning of DCC 6.12.050 if:

A. The dog is found chasing livestock not the property of the owner or keeper of the dog in an area where freshly damaged livestock are found;

B. The dog is found feeding upon a warm carcass of a livestock animal;

C. An examination of the dog's feces indicates ingestion of portions or covering of the anatomy of livestock; or

D. Portions of the anatomy or covering of the anatomy of livestock is found on the teeth of the dog, unless the dog is regularly used for the purpose of herding sheep.

(Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.080. Owner of Livestock-Damage Claims.

A. The owner of any livestock killed, wounded, chased or injured by any dog may, within ten (10) days after the killing, wounding, chasing or injuring occurred, or became known to him, present to the Board a verified statement containing a full account of the incident, stating in detail the amount of damage claimed on account thereof, and the name and address of the owner or keeper of the dog, if known.

B. The livestock owner's claim shall be supported by the affidavit of at least one disinterested person to all material facts contained in it. The affidavit shall be submitted to the Board at the same time as the verified statement.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.090. Damage Claims Hearing.

A. All claims presented as provided by DCC 6.12.080 shall be heard promptly.

B If the Board determines that any livestock has been damaged by being injured, chased, wounded or killed, the Board may award the livestock owner compensation for such damage in an amount not to exceed a total of $100.00.

C. The Board shall state on the record the basis for its award, and shall order a warrant drawn for the amount of damages awarded, to be paid by the County Treasurer out of the dog fund.

D. If the Board determines the claim unjust, it shall disallow it and enter that fact upon its record.
E. No claim for damages shall be allowed where it appears that the injury or damage complained of was caused by a dog owned or controlled by the claimant or his agent.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 95-014 §2, 1995; Ord. 90-019 §1, 1990)

6.12.100. Damage Claims-Collection.

A. In each case where a claim against the dog fund has been paid by the County, the County shall be subrogated to all the rights of the owner of the livestock killed, wounded, chased or injured against the owner of the dog for damages, and may proceed in a lawful way to collect any amount paid.
B. Any money so collected shall be paid over immediately to the County Treasurer and credited to the dog fund.

(Ord. 2012-015 §1, 2012; Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.12.110. Civil Right of Action.

Nothing in DCC 6.12 shall be construed to prohibit a livestock owner from pursuing civil redress for the injury or death of livestock through any other available means, including, but not limited to, a civil court action for damages.

(Ord. 97-011 §1, 1997)

6.12.120 Microchip Identification of Dog

A. When a dog is determined to have chased, injured, wounded or killed any livestock under DCC 6.12.060, the County shall require that a microchip be implanted into any such dog that is not put to death. Implantation shall be done prior to release, relocation or adoption of the dog.
B. The dog's owner or keeper shall be responsible for paying the reasonable costs of such implementation.
C. The County shall forward the microchip information to the State Department of Agriculture.

(Ord. 2012-015 §1, 2012)

6.12.130 Release of Dog Found to Have Harmed Domesticated Fowl

A. Notwithstanding DCC 6.12.060(C), a dog found to have killed domesticated fowl may be released back to its owner or keeper if the Board finds by a preponderance of the evidence that:
   1. The livestock owner did not make reasonable efforts, under all of the circumstances, to protect the fowl from predation;
   2. The dog's owner or keeper made reasonable efforts, under all of the circumstances, to maintain the dog on the owner's or keeper's property;
   3. The dog has not previously engaged in chasing, injuring, wounding or killing any livestock; and
   4. The dog's owner or keeper will take necessary measures to prevent a reoccurrence.
B. This section shall not exempt the dog's owner or keeper from paying a civil penalty, taking necessary measures to prevent a reoccurrence, or satisfying any other obligations reasonably imposed upon the owner or keeper under DCC Chapter 6.12, which obligations may be imposed as a condition to release of the dog.
C. In addition to any other penalties, fees or obligations imposed upon a dog owner under this subsection, the Board may order that the dog owner pay reasonable compensation to the livestock owner for the domesticated fowl killed, and may make payment of such compensation a condition to release of the dog.

(Ord. 2014-019 §1, 2014; Ord. 2012-015 §1, 2012)

Chapter 6.16. IMPOUNDMENT

6.16.010. Impoundment-Facilities.
6.16.020. Impoundment-Notification to Owner-Disposition of Animals.
6.16.030. Impoundment-Fees.
6.16.040. Care of Dogs of Inmates at County Correctional Facility.

6.16.010. Impoundment-Facilities.

All dogs taken up and impounded under DCC Title 6 shall be held in an adequate and sanitary facility as required by the laws of the state. Any dog so impounded shall be held for at least five days from the date of such impounding before being destroyed or otherwise disposed of. However, in the case of any dog impounded for biting a person, the dog shall be impounded for at least 10 days before redemption or destruction to determine if the dog is rabid.
(Ord. 90-019 §1, 1990)

6.16.020. Impoundment-Notification to Owner-Disposition of Animals.

If the dog is impounded, the impounding officer shall make reasonable effort to identify the owner of the dog and shall notify the owner of the dog of the fact of impounding and the alleged reasons therefor. If the dog is unlicensed, or no owner can be ascertained within five days from its impounding, it shall be killed in a humane manner. The provisions of DCC 6.16 are subject to, and superseded by, any existing and applicable law of the state providing for rabies control.
(Ord. 90-019 §1, 1990)

6.16.030. Impoundment-Fees.

The owner of any dog that is impounded under DCC Title 6 shall be liable to the County for impoundment fees in such amounts as the Board of County Commissioners shall determine.
(Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)

6.16.040. Care of Dogs of Inmates at County Correctional Facility.

A. Animals delivered for impoundment by a county peace officer who removed the animal from possession of a person in custody of the peace officer shall be held for the period prescribed in DCC 6.16.010, during which time the inmate must either make arrangements for the animal to be picked up at the shelter or make arrangements for payment of impoundment fees for the animal. Signature by an inmate of an agreement to be responsible for impoundment fees shall be an acceptable method of assuring payment of such fees.
B. A receipt shall be given to the peace officer, who shall deliver the receipt to the person in custody from whom the animal was taken. The receipt shall recite redemption requirements and shall serve as the notice required by DCC 6.16.040. At that time, the inmate shall also be given the option of releasing the dog.

(Ord. 95-031 §1, 1995; Ord. 90-019 §1, 1990)