

CITY COUNCIL SPECIAL SESSION MINUTES

March 5, 2019

The City Council of the City of Norman, Cleveland County, State of Oklahoma, met in Special Session at 5:30 p.m. in the Municipal Building Conference Room on the 5th day of March, 2019, And notice and agenda of the meeting were posted in the Municipal Building at 201 West Gray and the Norman Public Library at 225 North Webster 24 hours prior to the beginning of the meeting.

PRESENT: Councilmembers Bierman, Carter, Clark, Hickman, Scott, Wilson, Mayor Pro-Tem Castleberry

ABSENT: Councilmember Holman and Mayor Miller

Item 1, being:

DISCUSSION REGARDING PROPOSED AMENDMENTS TO THE ANIMAL CONTROL ORDINANCE.

Ms. Jeanne Snider, Assistant City Attorney, said in 2009, City Council approved amendments to Chapter 3 of the Code of Ordinances establishing the number of cats and dogs allowed at a residence and enacting guidelines for kennels. In 2016, further revisions were approved that included amendments to the vicious and dangerous dog and pet license ordinances. In mid-2018, after review with some members of City Council and the Animal Welfare Oversight Committee (AWOC), further revisions were recommended. Those recommendations include topics such as definition updates to adequate shelter, service animal, and owner; time frame to hold animals not retrieved by owners; animals impounded due to arrest of owner; medical seizure and other conditions of the animal owner; process of owner relinquishment; cats at large; mandatory alteration of cats and dogs; marking of altered animals; breeding license; prohibition on dyes, colored or similarly altered animals and as prizes; tethering restriction; and animals at events.

Ms. Snider said the AWOC has spent a lot of time reviewing the proposed amendments beginning in September 2018. She said in November 2018, a public meeting was held for input and questions and in December 2018, the AWOC had the opportunity to review, discuss, and recommend changes to the draft ordinance. She said proposals related to mandatory spay/neutering, marking of altered animals, and breeding licenses were all removed by recommendation of the AWOC and City Staff. She thanked everyone that spent so much time working on these proposed amendments, especially the AWOC and the public.

Captain Brent Barbour, Norman Police Department, said due to the significant number of updates and alterations being recommended, Staff divided the changes into three tiers - Tier 1, significant updates to current ordinances, Tier 2, new ordinances with potential side spread impacts, and Tier 3, minor and administrative updates.

Mayor Pro-Tem Castleberry said the Tier 1 changes are pretty simple and forthright and asked Captain Barbour to highlight Tier 2 amendments. Captain Barbour said the amendments include a definition for adequate shelter and pet owner.

Tier One

Captain Barbour said Tier 1 amendments consist of clarifying language regarding the sales and distribution of animals not retrieved by owner; animals held at shelter due to legal seizure, arrest, medical situation, protective custody seizures, or the legal means involving law enforcement; animal's impoundment period; manner and method of disposal or destruction of an impounded animal; adoption of animal; sale of cats/dogs; possible partnering with an organization as part of a Trap Neuter Return Program (TNR); restrictions on sales of dogs or cats; and keeping of animals other than dogs and cats.

Councilmember Wilson asked how Animal Welfare currently handles theft of an animal and Captain Barbour said Animal Welfare Officers will investigate to determine ownership to the best of their ability to return the animal to its owner, but this issue is usually cleared up quickly and easily.

Item 1, continued:

Tier One, continued:

Councilmember Bierman asked for more information on Section 3-210. Owner relinquishment of dogs and cats and Captain Barbour said the current ordinance allows citizens to relinquish their animal to the Animal Welfare Center for any reason and the Animal Welfare Center screens the animals for placement into the adoption program. He said additional language will allow the Animal Welfare Center, if warranted in the future, to limit the times and scope of that acceptance of relinquished animals. He said many times people will bring in stray animals they have found wandering at-large early in the mornings, on weekends, or after holidays and Staff is generally very busy dealing with these intakes and may not have the staffing, time, or resources to dedicate to citizens wanting to relinquish their animal. This proposal would allow Staff to stagger the workload to properly obtain the information needed on the animal being relinquished, i.e., health issues, personality issues, etc., to determine adoptability. He said any limitations to accepting relinquished animals would be publicly advertised in advance of any changes.

Councilmember Bierman said she understands need to obtain information about the animal, but she is concerned that it is sometimes difficult for citizens to bring an animal to the Animal Welfare Center on a weekday if they work. She said by codifying this language instead of adopting it by policy, it is basically codifying understaffing so she would rather see a demonstrated need for the language before establishing it by ordinance. Captain Barbour said the way the ordinance is currently written does not allow Staff to make time restrictions and an ordinance supersedes a policy, which can be problematic so having that language in the ordinance would give Staff the flexibility to use it if needed.

Councilmember Hickman said this proposal concerns him because citizens believe the Animal Welfare Center should take all animals being surrendered to them or people will abandon the animals in the community. He said the Animal Welfare Center is taxpayer funded and part of the customer service is accommodating owners relinquishing their pets. He is concerned this would be a step back from the goal of preventing people from abandoning animals in Norman.

Councilmember Carter he would not be in favor of owner relinquishment changes at this time because it would encourage owners to release animals into the environment. He said the Animal Welfare Center needs to be staffed in a way that allows animal relinquishment at citizens' convenience.

Tier 2

Captain Barbour said Tier 2 amendments consist of new language for cruelty to animals; reporting found animals; tethering of animals; confinement of cats and dogs; use of animals at festivals, carnival, and other similar events; and number of large reptiles allowed.

Under cruelty to animals, it would be unlawful to dye, color, or alter an animal for the purposes as a promotional item, prize, or giveaway or allow an animal to be provided to another person as a promotional item or prize to be given away at any event.

Captain Barbour said concerns raised about tethering have been very valid; however, Staff feels that issue is covered under current cruelty language and tethering does not need to be prohibited as a whole. He said there are sometimes a valid reason an animal is tethered and if the animal is tethered safely and humanely that is better than having an animal escape and run at-large. He said from an educational standpoint the proposed language could be helpful in understanding there is a safe way to tether animals.

Councilmember Bierman said she does not believe current cruelty to animal language adequately addresses some issues. She said proposed tethering language does not completely prohibit tethering, it simply insures that if someone is going to put his or her dog on a tether that the animal is supervised. She said the Animal Welfare Center Veterinarian is vehemently opposed to tethering because any number of things can happen to a tethered dog in a yard, e.g., strangulation, attack by other dogs, etc.

Item 1, continued:

Tier 2, continued:

Councilmember Clark said there is an exemption proposal to the tethering language and asked how someone would request an exemption. Captain Barbour said if the language is adopted, a policy would need to be developed and it is proposed a person would request an exemption through an Animal Welfare Officer or Police Officer if the request were made after hours. Councilmember Clark asked how many exemptions Staff perceives will be requested based on feedback from residents and Captain Barbour said possibly several dozen. Councilmember Clark said an exemption is good, but would like more information because she would not want this to be an onerous process on residents or Staff.

Councilmember Hickman said he is concerned about using the type of tether where an animal could choke to death so the proposed language is trying to prevent this. He said part of the education process is safe tethering and if exemptions are granted Staff will have the opportunity to educate animal owners on safe ways to tether their animal. He is sensitive to the workload this may create, but feels a streamlined process can be developed and this language gives the City a stronger ability to intervene if there is potential cruelty to an animal.

Councilmember Scott said she has always been against tethering dogs for extended periods of time from a cruelty standpoint so if dogs are going to be tethered they should absolutely be supervised. Also, the owner needs to be educated on the proper way to tether an animal.

Councilmember Carter said he would not support tethering of dogs due to unsafe risks to the animal.

Captain Barbour said for proposed language regarding confinement of dogs and cats, Staff will need direction on which option Council prefers. He said Option 1 prohibits cats at-large throughout the City limits unless they are part of a TNR program or a barn cat and Option 2 allows cats to be at-large if the cat is current on its vaccination, has a valid pet license attached to its collar, or has a registered microchip containing accurate owner information. He said the AWOC was torn on this issue and felt it would stir a lot of community discussion. He said Staff has concerns about capturing a stray cat because cats are extremely agile, quick, versatile, and can jump great heights so capturing them can be challenging. Another concern is related to an increase of cats into the Animal Welfare Center because the return rate of cats to owners is very low. He said under the TNR program, the cat's ear is clipped to make them easily identifiable and some owners have stated they will clip their cat's ear so they can allow it to be at-large, which would be illegal and unacceptable. He said there have been discussions with other cities that have this type of ordinance and none of the cities enforce the ordinance because of the difficulties in capturing and returning cats to their owner.

Councilmember Clark said based on feedback from constituents, Option 2 would be the better option to at least ensure cats are vaccinated and have a valid City pet license. Councilmember Wilson agreed and said there seems to be support from the public, veterinarians, and rescue groups for Option 2.

Councilmember Bierman said if Option 1 is not enforceable, what makes Option 2 more enforceable? If the City is not capturing cats, how is the City going to enforce vaccinations, spay/neuter, or microchip requirements? Captain Barbour said there is an educational component that if the cat is going to be at-large there are expectations of current vaccinations, proof of spay/neuter, and current owner information whether through a pet license tag on the collar of a microchip. She felt cats should be treated the same way as dogs or other animals in not letting them run loose. She asked the difference between TNR and return to field and barn cats and Captain Barbour said barn cats are generally kept in rural areas to hunt rodents so they are trapped, spayed or neutered, and returned to their environment, but are not adoptable due to their feral temperament. He said the TNR is a program in which an active colony of cats is located within a community and are spayed or neutered so they cannot reproduce, which helps shrink the stray colony population. Councilmember Bierman asked what helps reduce feral or community cat population if there are owned cats that are allowed to roam free and Captain Barbour said that comes back to education and funding low-cost spay/neuter programs. He said if Option 1 is adopted there will be an expectation from the public for enforcement that Staff believes is simply not possible.

Item 1, continued:

Tier 2, continued:

Councilmember Scott asked if the City offers free vaccination or spay/neuter events in Norman and Captain Barbour said the City does not offer free vaccinations but does advertise local groups that offer that. The City does help fund local organizations who provide spay/neuter services free or for a low fee if the owner meets certain criteria.

Councilmember Hickman said he wanted more information about the TNR Program and Ms. Amy Tyler, former Animal Welfare Center Veterinarian, said if the captured cat is healthy it can be returned to area where it was found once it has been vaccinated and spayed or neutered. She said in 2018, the return to owner rate for cats was 5.6% so if only 5.6% of these owners are learning that their cat went into the Animal Welfare Center they cannot expect to be educated. She said many times, multiple people might be feeding a cat and do not become concerned if they do not see it for a few days because they do not feel responsibility for the cat. She says the TNR Program is an opportunity for the cat to be spayed or neutered and placed back into its environment if it is healthy and not expected to potentially spread contagious diseases to other cats. She said the return program is used in different communities and has proven to be very successful with a 50% decrease in the intake of cats. She said this program requires an ordinance that does not ban free roaming cats.

Councilmember Hickman said he is concerned about unintended consequences of TNR and finding a fair balance for citizens with nuisance cat issues and those cats being released back into the neighborhood.

Councilmember Bierman said Councilmembers received a video of seven cats hanging around a Norman resident's front lawn and the resident stated he has trapped 20 plus cats since 2008. The resident brought the cats to the Animal Welfare Center and reported where the cats are living, but nothing has been done about this problem. She said nuisance cats, TNR cats, or owned free roaming cats do not really matter to this resident when he has a bunch of cats in his front yard and they continue to be a persistent issue for him. She is concerned that if Option 2 is unenforceable, this will continue to be a problem with cats eating birds, pooping in flowerbeds, congregating in someone's front yard, spreading disease, etc.

Councilmember Clark said she is not a fan of creating ordinances the City cannot enforce, but at least in Option 2 cats will need to have current vaccinations and owner identification so the cat can be returned to the owner versus being taken to the Animal Welfare Center. She said feral cats are the problem and she is not sure how to address that. She asked what other cities do and Councilmember Bierman said she researched that and Oklahoma City is the only City that excludes cats from their at-large ordinance. She said most citizens want to be law abiding and if the City adopts Option 1, she would like to think a majority of people will figure out a way to keep their cat indoors or at least on their property. She said Norman and Oklahoma City are outliers since a majority of cities in Oklahoma include at-large cats in their ordinance. She would not consider a pet license to be foolproof because most people that allow their cats to run at large use breakaway collars on the cats in case the collar becomes entangled in something. She has concerns about both options and does not know if there is a perfect solution, but Norman is an outlier and this is a discussion worth having.

Councilmember Carter said he agrees with Councilmember Bierman that there is no perfect solution for at-large cats, but feels Option 1 would be unpalatable to many people so he would prefer Option 2.

Councilmember Hickman suggested neighborhoods be notified when cats are going to be re-released in the neighborhood and give the neighborhood a reasonable period of time to object.

Captain Barbour said language is proposed that would not allow the use of animals at festivals, carnivals, and other similar events on City property and requiring a permit for private property events using animals. Language has also been added to address limiting the number of large reptiles that are capable of exceeding 40 pounds without registering with the Animal Welfare Center because this could be a public safety concern.

Councilmember Carter does not support banning animals from festivals and other events because many parades in Norman include horses or ponies. He would be in favor of requiring registration of large reptiles so Animal Welfare Officers will know where the reptiles are located in case there is any type of incident or natural disaster where the reptiles could possibly be set free.

Item 1 continued:

Tier 3

Captain Barbour said Tier 3 amendments consist of clarifying or adding language regarding service animals; the Animal Welfare Center; foster homes; kennel classifications; exotic wildlife and native wildlife; duties of Animal Welfare Supervisor and Animal Welfare Shelter Manager; fees, charges, and deposits; obtaining release of impounded animals; pet license requirements; attachment of pet license to pets; authority to euthanize; animals that are nuisances; prohibition of dogs and cats in certain areas; interference with enforcement; prohibiting allowing dogs or cats to deposit solid waste material on places open to public or certain private property; movement of livestock; and animal bites.

Captain Barbour asked if Council wants to move forward with the proposed ordinance language in sections or wait until language on tethering, cats at-large, and owner relinquishment has been solidified.

Councilmember Clark said she would not want to move forward with tethering until there is a clearer process on exemptions.

Councilmember Bierman supports the tethering ordinance as written and said one way to address exemptions is to have a six-month lead in time to give people time to educate themselves on proper ways of tethering as well as give Staff time to work on the policy before it goes into effect. She also supports the language for not using animals in festivals or events and prefers Option 2 for cats at-large. She does have problems with the owner relinquishment language, but feels enough progress has been made on the proposed ordinance to move forward.

Councilmember Scott said she would like to vote on each section separately.

Councilmember Hickman does not support the owner relinquishment section as currently proposed, supports the tethering language as written, supports Option 2 for cats at-large if a majority of Council is okay with the language, and supports not allowing the use of exotic animals in events on City property.

Councilmember Carter said he would like owner relinquishment, tethering, confinement of cats, and use of animals in festivals to be debated separately by Council and Councilmember Clark agreed. Ms. Kathryn Walker, Interim City Attorney, said Staff will work on drafting ordinance language to be voted on separately.

Items submitted for the record

1. Memorandum dated March 5, 2019, Jeanne Snider, Assistant City Attorney, to Honorable Mayor and Councilmembers, with draft ordinance
2. Alterations to Animal Welfare Related Ordinance, Updated December 11, 2018

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Item 2, being:

CONSIDERATION OF ADJOURNING INTO AN EXECUTIVE SESSION AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25 §307(B)(3) IN ORDER TO DISCUSS THE ACQUISITION OF REAL PROPERTY FOR RECREATIONAL PURPOSES CURRENTLY OWNED BY THE OKLAHOMA DEPARTMENT OF MENTAL HEALTH AND SUBSTANCE ABUSE SERVICES LOCATED IN THE VICINITY OF EAST ROBINSON STREET AND 12TH AVENUE N.E. AND EAST ROBINSON STREET AND 24TH AVENUE N.E.; AND AS AUTHORIZED BY OKLAHOMA STATUTES, TITLE 25, TITLE 25 §307(B)(4) TO DISCUSS POSSIBLE LITIGATION WITH THE UNIVERSITY NORTH PARK TAX INCREMENT FINANCE DISTRICT.

Councilmember Clark moved that the Special Session be adjourned out of and an Executive Session be convened into in order to discuss the acquisition of real property for recreational purposes currently owned by the Oklahoma Department of Mental Health and Substance Abuse Services located in the vicinity of East Robinson Street and 12th Avenue N.E. and East Robinson and 24th Avenue N.E. and to discuss possible litigation associated with the University North Park Tax Increment Finance District, which motion was duly seconded by Councilmember Scott; and the question being upon adjourning out of the Special Session and convening into an Executive Session in order to discuss the acquisition of real property for recreational

Item 2, continued:

purposes and possible litigation associated with the University North Park Tax Increment Finance District, a vote was taken with the following result:

YEAS: Councilmembers Bierman, Carter, Clark,
Hickman, Scott, Wilson, Mayor Pro-Tem
Castleberry

NAYES: None

The Mayor Pro-Tem declared the motion carried and the Special Session adjourned out of; and an Executive Session was convened into in order to discuss the acquisition of real property for recreational purposes currently owned by the Oklahoma Department of Mental Health and Substance Abuse Services located in the vicinity of East Robinson Street and 12th Avenue N.E. and East Robinson and 24th Avenue N.E. and to discuss possible litigation associated with the University North Park Tax Increment Finance District.

The City Council convened into Executive Session at 7:24 p.m. Ms. Kathryn Walker, Interim City Attorney, Ms. Mary Rupp, Interim City Manager; Ms. Beth Muckala, Assistant City Attorney; and Mr. Anthony Francisco, Director of Finance, were in attendance at the Executive Session.

Thereupon, Councilmember Wilson moved that the Special Session be reconvened, which motion was duly seconded by Councilmember Bierman; and the question being upon reconvening the Special Session, a vote was taken with the following result:

YEAS: Councilmembers Bierman, Carter, Clark,
Hickman, Scott, Wilson, Mayor Pro-Tem
Castleberry

NAYES: None

The Mayor declared the motion carried and the Special Session was reconvened at 8:56 p.m.

The Mayor Pro-Tem said the acquisition of real property for recreational purposes currently owned by the Oklahoma Department of Mental Health and Substance Abuse Services located in the vicinity of East Robinson Street and 12th Avenue N.E. and East Robinson and 24th Avenue N.E. and to discuss possible litigation associated with the University North Park Tax Increment Finance District were discussed in Executive Session. No action was taken and no votes were cast.

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ADJOURNMENT

The Mayor adjourned the meeting at 8:57 p.m.

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ATTEST:

City Clerk

Mayor