

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
December 13, 2013

The Safety Committee met in Council Chambers on Monday, December 09, 2013 following the Finance Committee meeting. These members were present:

Marc Guthrie, Chair
Jeff Rath
Bill Cost Jr

Carol Floyd
Rhonda Loomis

We wish to report:

1. **Ordinance No. 13-41** amending chapter 618 of the codified ordinances of the city of Newark, Ohio to exempt certain dogs from the initial enhanced requirements relative to dangerous and vicious dogs was considered.

**Motion by Mrs. Loomis to take Ordinance 13-41 off the table, second by Mrs. Floyd
Motion passed by a vote of 5-0.**

Mr. Guthrie- we have a substitute that was prepared by the Law Director's office with the purpose of addressing some of the concerns that were brought before the Committee. Mrs. Guthrie asked Mrs. Loomis if she wanted to make a motion to substitute.

Mrs. Loomis- yes, part of it from what I understand is in the red you have changed the information to reflect there is no rehab for the dogs?

Law Director- can I just tell you what I did?

Mr. Guthrie- can we get a motion to get it in front of us first?

Law Director- there doesn't need be a motion to amend because it was tabled. Essentially we are looking at this is a new 13-41 in place of the old 13-41 until there is a motion to adopt.

Mr. Guthrie- I disagree but you are the Law Director

Law Director- I only say that because there wasn't a motion to adopt on the floor as I understood

Mrs. Loomis- there was not, there was a motion to table

Law Director- the changes that I made and without repeating the discussion that happened at the last meeting, I think everybody understands what the initial purpose was. The concerns were two full. The first was that there might be some confusion in the legislation that would provide an opportunity for a dog that has been deemed to be vicious based on its' conduct to get a waiver of that status for having completed some course of training and having been deemed by the American Kennel Club as a Canine Good Citizen. There was a provision in what would be marked 618 AB that would have been at the top of your second page of your old Ordinance. It would have

been the definition of vicious dog, where it says D the vicious dog does not include; there is 1 & 2 in there now. I had added a 3 to address this issue, based on the comments of Committee, based on my re-reading of that and the concerns, it was pretty clear that that number 3 caused some confusion on this issue as to whether a dog deemed vicious based on conduct as opposed to breed might be subject to some exemption after completing this course. That was removed to remove that confusion. As it reads now, the exemption for completing the training and being deemed a Canine Good Citizen is under Section 619 A(5)(c) which relates only to dogs that are deemed vicious based just on their breed. Backing up a half of a step under the existing Ordinance there are two means which a dog can be deemed vicious, conduct or breed. This Ordinance now would exempt a dog deemed vicious based on breed alone from that designation if it has done two things. This now then incorporates the other change that was made since the last meeting of the Committee. First is not only pass the American Canine Good Citizen test but that they successfully complete an American Kennel Club sponsored training program and that they submit to that Canine Good Citizen Test and pass that test annually. So confusion with regard to an exemption for behavior based vicious dogs removed and the addition of the training requirement and the annually testing for breed specific vicious dogs.

Mrs. Loomis- that satisfied the requirements of Chief Sarver and the Safety Director

Mr. Guthrie- I think that it addressed their concerns. If they would like to speak for themselves whether they support the legislation your welcome to do that. Can we get a motion to get this in front of us.

Motion to send Ordinance 13-41 to full Council by Mrs. Loomis, second by Mr. Rath

Mr. Guthrie- one of the things that I thought because I think Doug did a good job of explaining this but because folks don't have this in front of them I am going to read it. He read the old language then the new language.

The floor was then opened for comments.

Pat Smith- 233 Price Rd asked what the AKC training program was. We are an AKC licensed Club and we give training classes but there are lots of other training classes available through private trainers. They can't give the CGC test without being certified or accredited by the AKC but they can certainly train and some of them are accredited.

Mr. Guthrie- my response and then I will turn it over to the Law Director to respond. My thought is that if Council adopts this and there are other certified programs they should come forward and ask to be included specifically in revised legislation in the future.

Pat Smith- we have a form that we give them for completion our classes but it's not furnished to AKC at all

Mr. Guthrie- since you are involved in the training itself what do you think the ramifications are of requiring this annually from the trainers perspective? What do you think?

Pat Smith- I think any dog under the age of 2 is probably good idea to have reevaluated. Once they are 4 or 5 when they are mature and they have been tested and tested I don't know that it needs to be done yearly personally.

Mr. Guthrie- how frequently have you been involved in the certification of Pitt Bulls?

Pat Smith- I don't know that I have a count I would have to go back over the paperwork a lot of them are just listed as mix breed.

Law Director- I am looking at specific language here to try to answer your question. You offer training programs for dogs correct?

Pat Smith- correct

Law Director- are those programs AKC certified, is there some stamp of approval?

Pat Smith- AKC is affiliated but to the best of my knowledge they don't evaluate our training programs and they don't keep track of who has been in them.

Law Director- do you use training methods or a program of training that is AKC sponsored, approved?

Pat Smith- I don't believe that they have a certain set of training methods

Mrs. Loomis- are you audited do they check to see who you have certified, who you have given the Good Citizen Test to?

Pat Smith- the Good Citizen test is but the training classes are not

Law Director- they are different and that is why I am asking. The AKC Good Citizen, I get that it has the AKC stamp of approval. I am trying to clarify from a practical stand point is there an American Kennel Club sponsored training program?

Pat Smith- no, not to my knowledge

Law Director- is there some recognizable standard of training that I could put in brief language that everyone would know what I was talking about?

Pat Smith- most of them are methods that work with that particular dog with that particular person

Mr. Rath- are you certified by the American Kennel Club as a trainer?

Pat Smith- no, they don't certify trainers

Mr. Rath- are you licensed or acknowledged by them as a trainer?

Pat Smith- no they don't monitor trainers not is not one of their functions. Our Club is and that is one of the things we do as our community service is provide training classes for to the community. They are aware we do it but they don't send anyone out to monitor it. Certainly if they had complaints they would be asking.

Mr. Guthrie- they provide you a standard test of some sort correct?

Pat Smith- that is what the Canine Good Citizen is

Mr. Guthrie- As a good Samaritan of the local Kennel Club you do this testing then you submit if you feel like the dog has completed the 10 point test then you certify that dog back to the American Kennel Club

Mrs. Floyd- asked about/suggested changing wording in the Ordinance to read a training program and crossing out an American Kennel Club sponsored

Law Director- can I assume that if I take my dog to one trainer I may get a completely different level of service than if I take them to another trainer because of this lack of professional minimum standards.

Pat Smith- that is correct

Law Director- while I am sure most people who offer a service of training dogs probably know each other and probably kind of do the same things and it's not like reinventing the wheel everyday there are probably some trainers that are what you would consider up to snuff. There isn't a minimum professional standards upon which a dog trainer must operate or else.

Pat Smith- if they're not getting that training they are probably not going to pass that test. Part of that training is socialization and teaching the owner to look for signs of problems.

Law Director- theoretically I could bring my 12 year old mutt into you and say I would like this dog to take the AKC Good Citizen test

Pat Smith- yes

Law Director- and you might say has he ever had a training class and I would say no but he could still take the test.

Pat Smith- yes they don't require a training course

Law Director- and if my dog passed the Canine Good Citizen test, good for him, and he gets his certificate. What is the likelihood of my 12 year old dog that knows to go to the door and bark when he needs to go out, what are his chances of passing the Canine Good Citizen test?

Pat Smith- if it is a friendly dog, it has been handled and it walks nicely with you on a leash it probably has better than a 50/50 chance.

Mr. Guthrie- how does the AKC determine who they allow to do the testing?

Pat Smith- there is a test you have to take for it and a background form you have to fill out stating your experience. Every 2-3 years you have to re-test.

Mr. Guthrie- so you feel pretty good about that piece of the process

Pat Smith- yes

Mr. Guthrie- back to Mrs. Floyd's point, Law Director Sassen, do you think that we need some clarification in this language?

Law Director- in hearing Ms. Smith's comments I think that if we are going to leave the language an American Kennel Club sponsored training program then we have completely cut the legs out of this amendment because there is no such thing. If we just say successfully completed and passed a training requirement what does that mean because from your description I think my dog that is very social and walks around the block with me has a 50/50 chance of passing the test and he hasn't had a minute of professional training. Is there something in between AKC training and just training?

Mr. Guthrie- if an owner who knows what standards have to be met can do the training themselves correct?

Pat Smith- correct

Law Director- I wasn't advocating one or the other I was stating that they are on opposite ends of the spectrum. If those are our only choices than you can make your choice as to which one you want. I was just clarifying for myself that they are on opposite sides of the spectrum.

Mr. Guthrie- even if we say a training program I am not so sure because if someone self-trains than you can't really say that they have completed any kind of formalized training program. The kicker is will they pass the AKC test.

Law Director- if you want to keep this training element in here I think that you might have just hit on the wording. You said a formalized training program. Let's say that we completely eliminate that language. My dog has now the Canine Good Citizen test but it didn't go through any training. So I am not subject to this exemption. If you want to keep some type of training prerequisite like the Canine Good Citizen, I like the word formalized. That tells me as a lawyer it is something other than the dog owner saying they have trained them.

Mr. Cost- before you said formalized the word that came to my mind was professional

Law Director- I think formalized or professional works. It makes a designation somewhat higher than self-training.

Mr. Cost- the thing that I felt was important was that we are not only insisting that the dog pass we are insisting on that the dog has some specific training. I was under the impression by the wording here it was the AKC testing. Is there are word that you would feel comfortable with that would describe a level of training of what we seem to be looking for here?

Mr. Guthrie- are you bothered by the wording formalized training?

Pat Smith-no

Mr. Rath- just playing devil's advocate Mr. Sassen. If I download a dog training program off of the internet and follow that program and train my own dog myself couldn't that be considered a formalized training program.

Law Director- Looking down the road and I am trying to figure out whether your dog should be exempt from this breed specific legislation to determine whether that was formalized or

professional training because you come in and say that I downloaded this program off the internet and I followed it to a tee I might give you the benefit of the doubt.

Mr. Rath- in the same respect if we changed it to say completed a formalized a training program by a professional trainer.

Law Director- I saw where you were going and my fear was we don't have professional trainers because professional trainer means that they are subject to some industry wide minimum standard and that doesn't exist. If you were going to say by some third party a formalized/professional training program administered by a third party now we are getting there. If you keep the word professional out of third party because we don't have professional trainers.

Mr. Rath- my idea of a professional is somebody who gets paid

Law Director- that is a tradesman. A professional is someone who operates by a minimum set of standards that are recognized throughout the industry themselves.

Mrs. Floyd- when American Kennel Club sponsored training was in there it was a recognized group. How do we know this is all happening?

Mr. Guthrie- we don't know it is happening but I believe Ms. Smith made a point 2 weeks ago that without adequate training only like 2% of these dogs could even pass the 10 point test.

Law Director- stated that how we would know would be when owners brought their Pitt Bulls in annually to the Animal Control Officer they would have to show the officer both their AKC Good Citizen certificate and proof of their dog completing formalized training. There would have to be both to receive the exemption. I am still good with formalized.

Mr. Guthrie- would you need to something in addition as far as what is provided to the Newark Animal Control Officer?

Law Director- you are right it should be added to the last sentence where it says proof of such status as an AKC recognized Good Citizen and proof of completion of a formalized training that needs to be added. The last sentence would then read "proof of such status as an AKC recognized Good Citizen and proof of completion of a formalized training program be provided too.

Mr. Guthrie- clarified with the Law Director, the way you are fashioning this it would be a one-time training program, annual recertification?

Law Director- correct

Motion by Mr. Rath to amend Ordinance 13-41 to read exactly how Mr. Sassen has it written down in his notes.

Law Director- which would remove the language American Kennel Club sponsor and insert the word formalized and add in the last sentence proof of such status as an AKC recognized Good Citizen and proof of completion of a formalized training program must be provided. That is the motion to amend.

Mrs. Loomis seconded the motion to amend

Mr. Cost- I am going to ask the Law Director a question, are we separating someone doing this themselves from formalized? It seems as though every time we try to make something specific we leave something hanging out there vague and I lose my confidence.

Law Director- until we come up with a better word for formalized, if you play this forward and you think of it from a practical stand point, somebody is going to come in to see Toby and ask for their exemption from the breed specific enhanced requirements he is going to say show me your Good Citizen award and they put it on the table then he says show me your completion of a formalized training program and the person says I downloaded a program off of the internet and I did it and my dog passed and Toby is going to come to my office and say does that work? If I pay \$50.00 and I go through that program and I self-police, honor system and say I did all these things and it prints out a certificate I am probably going to accept it. Ask yourselves who would go to that trouble just to dupe the system? I think that the benefit of the doubt should go to the person who cares

enough about this whole process, this person is probably not going to be the kind of person who lies about their on line training. I would probably give that person the benefit of the doubt and give them their exemption.

Mr. Cost- so in a sense we are trying to measuring the pet and we are trying to measure the owner as well as far as being responsible?

Law Director- as Ms. Smith said the training program is to train the owners as much if not more than the dogs.

Mr. Rath- what we are really trying to do here is take a dog that society has looked at and said look at that dog it is vicious based on its' looks. What we are trying to do is put that dog through some type of qualification that that dog and dog owner can look back at society and say look I'm not. It is that simple. The fact of the matter is the measure of whether that dog is likely to be vicious or not is the Canine Good Citizen test. The training is what enables that dog to pass that test or not. We are talking about people who are responsible dog owners. He referenced a hand out they had stating that there are 110 Pitt Bulls here legally and 293 illegally. He stated that he was much more worried about the 293.

Mr. Guthrie- I think that is a good point. I did want before the Committee acts on this to see if anyone from the administration, the Chief, the Safety Director, the Animal Control Officer would like to comment on especially the enforcement ramifications of the passage of this legislation.

Safety Director- I tell the Committee the enforcement details I defer to Chief Sarver that aside 2 of the 3 issues discussed tonight were my direct objections and those have been met. I would like to say that any relaxing of the Ordinance is good for the overall public safety. It brings me some difficulty, as a private citizen I can understand these nice people wanting to alter a law so they can have their pet and enjoy them like they would want to but as your Director of Public Safety we still have an enormous challenge with these animals in the community, so that would be my comments to the Committee.

Chief Sarver- strictly an enforcement stand point, it is going to be a nightmare. I have two dogs, I am a dog lover, and I have owned dogs all my life. We have trained our dogs, we believe in making them good citizens. So I fully support the fact that they want to be able to walk down the street with their dog just like anybody else would and have their dog under control. It is the Committee's decision and Council's decision whether or not to adopt the amended legislation. As the Safety Director so elegantly said we don't oppose what you are trying to do we just don't support it for the interest of the safety of the community in case one dog unmuzzled makes that bite because history has shown that that dog will bite more severely than another dog would if it would happen and I am not saying it will and I hope it never does. I saw on the Advocate today that a Boxer did 50 puncture wounds to a child's face and it was a friendly dog and it happened to get lose. No reasons known it bite this kid in the face about 50 times. Having said that it is the Committee's and Council's decision whether or not to adopt it. From an enforcement stand point the statics Toby has supplied to us in an 11 month period he has come in contact with 403 Pitt Bulls in the City of Newark. I would suffice it to say that probably some of these dogs are 2 timers, 3 timers or frequent flyers so maybe it's not 403 specific dogs but we are talking about a huge number of dogs in the City of Newark. Every time one of my officers or Toby Wills drives down the street and sees a dog without a muzzle we are going to have to stop to see if they are possessing proper credentials and we would like to think that we would get to know these dogs but 403 different dogs. If citizens walking down the street, we don't know you and you are acting suspicious we stop you to talk to you and citizens get upset with that, they haven't done anything wrong why are you stopping me? So now we have a dog owner walking his/her Pitt Bull down the street unmuzzled and we are going to stop them and ask for proof of registration and the community is going to be upset. So is the enforcement aspect going to be difficult, absolutely? 403 Pitt Bulls in 11 months in

2013. As I said earlier I am not opposed to this new legislation I think it is a step in the right direction but I don't support it.

Mrs. Loomis- I just want to address the enforcement. It seems Toby has already had to stop 403 times if out of those 403 times is Charley the dog and he whips out his AKC certification than Toby is no more or less doing what he was paid to do in the first place which is how we got here. So to me he is already going to have to stop every Pitt that doesn't have a muzzle that is his job. I just don't see where the enforcement got any harder because he already has to stop those dogs anyway.

Chief Sarver- keep in mind Mrs. Loomis these aren't always dogs stopped on the street. He may have to respond to a resident where a complaint came in about a Pitt Bull living there so he is going to have a friendly conversation about do you have a license. So it's not like we are talking about 403 dogs walking down the street that we come into contact with. The second piece of that that I will address is that Toby is one person and Toby will get to know the legal dogs the certified dogs very quickly. We just swore in our 71st Police Officer today. In a sense 71 different Police Officers will see that dog and not know it has been stopped by any other officer prior to that. The other aspect of that is citizen satisfaction. In the State of Ohio you have to have a driver's license to drive a car but if I see you driving down the street I can't stop you just to see if you have a driver's license, you have to have done something wrong. So if you have been exempted from the muzzle requirement and you are walking down the street and I stop you have you committed a violation of the law? No yet as a Police Officer I have to have reasonable suspicion that you have committed a violation of the law. You are telling some dog owners you now don't have to have the muzzle but I am still going to have to stop you. The enforcement is going to be difficult until we know specific dogs. Perhaps over time that will work but it is going to be an enforcement nightmare, maybe it is just going to take a year or two and at some point we will know all the dogs that are Good Citizens.

Mr. Cost- I want to make sure I understand what you are saying Chief, these are numbers of instances not dogs, this 293 and 110 and the 403, they are instances that they have encountered?

Chief Sarver- being 100% hypothetical we could write out 50 tickets a month, 3 of those tickets could be for the same person. I am sure that these 403 contacts he has made aren't 403 separate dogs.

Mr. Cost- So the distinction you are making here legally and here illegally is that the muzzle or what distinction are you making there?

Chief Sarver- it could be a host of things. I had a conversation with Toby before we walked in here, if he is made aware that a Pitt Bull exists in the City of Newark, he follows up. He gives people 7 days to comply, hopefully they do but if not he will tell them that we are serious about this you have to comply. Then at a certain point those good dog owners will come into compliance with the law.

Mr. Guthrie- the odds are fairly good that the actual number of Pitt Bulls in the City could exceed these numbers because they are flying under the radar.

Chief Sarver- absolutely, yes, sure

Mr. Marmie- I am going to go back to Mrs. Loomis's enforcement with your Police Officers. Before we were told that the Police Officers weren't trained to be able to tell the difference between Pitt Bull and all the different breeds but Toby is. So are you saying that if your officers see something they think is a Pitt Bull they are going to stop them if they don't have a muzzle, that they are doing that now?

Chief Sarver- I would like to think that they are. We don't want to alienate the Community against us, we don't want to be harassing dog owners' that is the bottom line but on the same token as the Safety Director said we want to ensure public safety.

Mr. Cost- the break down that we are seeing here all the specifics for the different animals for the year, if we were to have this legislation go through would we be able to get this type of information about how many people have come through with this training, have gotten this certification what kind of a success this whole concept has been. Would we be able to see if this is working or not working?

Chief Sarver- Toby would be able to show you the documentation by adding another column. What we would be able to show you was that the dog came in and it was certified and given the exemption and we will tell you later if it bit someone. Hypothetically once this legislative body saw that there were dogs being good citizens but still biting then you would have to come back and say did that legislation work?

Mr. Guthrie- Chief could you do me a favor and get a number for me, the number of sworn officers in 1971 versus as of today, could you email that to me.

Matt Frieschen- 949 W Church St, stated all he wants is to be able to walk my dog down the street. My dog is not a vicious animal and I want to prove it. He trusts his dog with his 2 children and that he is not a status symbol for him he is a member of his family. He said he just wanted to say that if there is a dog walking down the street without a muzzle or a chain link leash according to the law it should probably be stopped

Jeremy Blake- are any other cities doing this

Mr. Guthrie- the Chief sent in an email out to other Chief's in Ohio, he got some comments back but none of them that had included in language like this in their City legislation.

Lesa Best- asked the Law Director if dangerous and vicious was just Pitt Bulls

Law Director- stated that dangerous and vicious is defined and you can be a dangerous dog or a vicious dog based on your behavior. You can be a vicious dog based on your behavior or based on your breed, Pitt Bull.

Motion to amend passed by a vote of 5-0

Mr. Guthrie- with a level of reluctance I am going to vote to send this to the full Council and I am doing that reluctantly because I have seen the damage Pitt Bulls can do but I also think that this will have a very, very small impact and that the folks that would use this option are probably the best dog owners in our City, folks like Mr. Frieschen.

Motion to send the amended version of Ordinance 13-41 to full Council passed by a vote of 5-0.

Marc Guthrie, Chair