

Safety Committee Minutes

Honorable Council
City of Newark, Ohio
January 27, 2015

The Safety Committee met in Council Chambers on Monday, January 26, 2015 following the Personnel Committee with these members present:

Alex Rolletta, Chair

Marc Guthrie

Jeff Rath

Carol Floyd

Curtis Johnson

We wish to report:

1. Consider **Ordinance No. 15-04** amending chapter 618 of the codified ordinances of the City of Newark, Ohio regarding breed specific vicious dog designation.

Mr. Rath- the main reason I brought this proposal forward is because of what you see here. We have a Council Chambers that is absolutely filled with citizens of Newark that want their voice to be heard. I did this mainly to give them an opportunity to have their voice be heard. Whether I believe in the Breed Specific Legislation or not is pretty much irrelevant. I do believe in it just to let you know that but the fact of the matter is I was voted as a Council Member to represent the citizens of Newark. The citizens of Newark are overwhelmingly here in the room asking to be represented so that is why I brought it forward. The main gist of the legislation is pretty simple at this point. We have some verbiage in our ordinances that treats dangerous dogs and vicious dogs different than normal dogs. Because of the definition there is a difference between a dangerous dog and a vicious dog. The rules they follow are different, a vicious dog follows more stringent rules. Because of the way our ordinance is written a Pit Bull or whatever breeds that happens to be the day it is born is labeled a vicious dog. What I am proposing is no change to the way that we treat dangerous dogs and no change to the way we treat vicious dogs but that we treat dogs as dangerous or vicious based solely on their actions and not on their breed. So that is what I am proposing today. I say at this time because I would certainly like to have our ordinance looked at and gone over. There are some other changes that I would like to make in the future as well. I will tell you that I have a philosophy that we shouldn't have vicious dogs in our community. It is that simple. If a dog viciously attacks someone I don't think that dog should be allowed to stay in our community. Honestly I don't want that dog to have an opportunity to bite anyone else in another community. We can address some of those issues in the future but today's legislation has nothing to do with that. I have went on the record in the past and I will continue in the future. If the owner of animal allows that animal to viciously attack somebody I want that owner held more seriously accountable as well. That again is not

what we are talking about tonight. We are also not talking about any personnel or positions tonight. What I have done is introduced legislation that will eliminate labeling a dog vicious based on its' breed.

Mr. Rolletta- next I would like to invite Chief Sarver up if he is here. I have invited him here to the meeting tonight. I have asked him to clarify when an animal is deemed exotic versus vicious in enforcement. There has been some confusion about that and some other enforcement issues. Thank you for being here Chief Sarver.

Chief Sarver- thank you for having me. Some of the emails that the Safety Director has received went forwarded to me from people asking why their dog has been listed as an exotic animal. Section 618.22 of the City of Newark's codified ordinance covers exotic and restricted animals. There is a whole host of prohibited animals that you cannot have. Once a dog has been deemed dangerous or vicious it also falls into 618.22 in terms of reporting, insurance and stuff. If our Animal Control Officer through his investigation has deemed a dog to be dangerous or vicious it does fall under this section, part b part which deals with restricted animals. So in no shape, form or fashion are we trying to say that any dog labeled dangerous or vicious is now an exotic animal.

Mr. Rolletta- so a Pit Bull is not labeled exotic for any reason?

Chief Sarver- no

Mr. Rolletta- from your perspective has there been any aspects of the current law that have been challenging to enforce and do you have any personal ideas on how we can improve upon that?

Chief Sarver- the hardest part for our Animal Control Officer to enforce of the dangerous dog ordinance is compliance. We have roughly 150 dogs that have been defined as either dangerous or vicious which fall under certain categories. Insurance, chips, muzzles, restricted fences and so on. Because when he sites them and they become a vicious dog and please Mr. Sassen if I get this wrong help me, once the dog is deemed to be vicious or dangerous and they register their dog they are now registered for a one year period. So 150 dog owners throughout the course of a year have to renew their insurance, their licensing and all of that stuff so Toby spends a great deal of his time checking to see if people are update. One of the things that we are going to ask this committee to do is if any legislation is changed and we are more than happy to sit down with the Law Director and do some wording. We would like to see all the restrictions for licensing of dangerous and vicious dogs to fall under pretty much the same thing as dog licensing does. By January 31st you have to have all of this stuff in compliance and Toby can make sure it is all in compliance then the rest of the year he doesn't have to worry about that until a new or another dog is deemed vicious or dangerous. Then again working with the Law Director on wording there be some kind of prorated amount for the rest of the year than in January they will be right in with everyone else. That is one piece that Toby Wills spends a great deal of time on, it is an administrative function versus sarcastically saying dog catching or being a dog catcher. If this Committee or Council decides not to change anything we would still like somewhere down the road to get this into the legislation. The other stuff as far as the actual enforcement, Toby Wills is very good at what he does and because of that people get upset. If your dog is not in compliance and Toby holds you accountable you as a citizen are not happy. You have to pay the insurance, you have to

get the muzzle on your dog, get it chipped you have to do a lot of things. Toby is following legislation that this Council created. If Council says that a Pit Bull or a dog that has bite somebody is now a dangerous or vicious dog that is his job to bring you into compliance. It's like getting a ticket for running a red light, you don't like getting a ticket but you ran a red light and we give you a ticket which you are not happy about. We are trying to bring you back into compliance; we are trying to change your behavior.

Mr. Rolletta- in your opinion do you think the current law costs your department any unnecessary time or money to enforce?

Chief Sarver- that is a very difficult question to answer. Toby does so much in the world of dogs and cats and we have had exotic animals that he has had to deal with. How much of his job is tied into regulating Pit Bulls and dangerous and vicious dogs, I am going to say that it is tied down to that administrative part of making sure people are complying. He gets calls every day to investigate dogs. I am here to tell you that Pit Bull population in Licking County in the City of Newark is a small percentage but when we deal with dangerous or vicious dogs those seem to be the ones that are causing him to have to do the enforcement. He has Great Danes, German Shepherds and probably Poodles who bite people and he holds them accountable the same way he would a Pit Bull owner. Please keep in mind that this Council decided that a Pit Bull is a dangerous or vicious dog if it bites somebody. Toby Wills didn't create that, he is doing his job and that is enforcing the law.

Mr. Rolletta- if the Pit Bull regulations were repealed do you foresee that creating any difficulties for your department in any way?

Chief Sarver- it's not going to create difficulties for my department. I am going to go out on a limb for a minute and say this is Steve Sarver talking to you not your Police Chief. If my Standard Poodle gets upset with you and snaps at you he is probably going to bite you one time and run. If dogs that we deem as Pit Bulls who have the stronger jaws when they bite you they bite you and often times hang on and they have to be beaten off. Is it going to create anymore work for my Officers? No. Is it going to create some more fear for residents of the City of Newark? Perhaps. I firmly believe that it is the duty of this Council to enact law and it is the duty of our Police Department to enforce it. What you decide to repeal or what you choose to keep in place is your decision.

Mr. Rath- thank you Chief for coming tonight and I appreciate your candicy and sharing with us. You said that Toby spends a great deal of his time dealing with administrative issues based on bringing people back into compliance or keeping people in compliance based on their dog being labeled vicious. I have heard about the different dates and that is something I would like to introduce in the future and I think that makes absolute sense and makes things so much easier to have everyone's license expire at the same time. If Toby had less administrative duties and more dog catching duties as you put it, would that allow Toby to be more effective in keeping the community safe?

Chief Sarver- I am going to answer your question but I am going to go about it in a roundabout way. If Pit Bulls aren't deemed as dangerous and the Pit Bull hasn't bitten anybody that is less dogs, less dog owners that Toby has to ensure come into compliance. That gives him time to do other duties. What we have found is that there are about 150 dogs that have been deemed dangerous or vicious in the City of Newark, so are Pit Bulls

some aren't. So by doing away with the breed specific designation for Pit Bulls it is going to eliminate some of the dogs that have to be licensed and the other stuff that goes along with it. We still have 150 other dogs that have actually bitten somebody. So yes it is going to reduce his administrative duties.

Mr. Rath- I will tell you in dealing with the dangerous versus vicious and there is a distinction between the two of them. The fact that we have 150 in the City of Newark is appalling to me. We need to do something about that. We need to do something about reducing the numbers of bites, the number of vicious dogs we have in Newark that are actually attacking people. You also said that when a Pit Bull bites you, you know it. I am not going to debate that issue, I have never been bite by a Pit Bull and pray that I can make that statement until the day I die. Do you think the same is true for a Rottweiler, or a German Shepard or a Doberman Pincher can they not do the same amount of damage that a Pit Bull can do?

Chief Sarver- I am going to say right up front that I am certainly not in expert in that field. What I am going to share with you in my 40 something years of policing is that a German Shepard's canine tooth could literally go through your arm but they typically bite you then release. Pit Bulls bite you and hold on and as the human tries to pull away it causes more tearing and ripping of the skin. That is all I am saying in terms of the Pit Bull. Police use German Shepards for a reason, because they have big teeth and if we need you to be bitten by a dog we want that dog to bite you. That is the whole message. If you don't comply with us he will bite you. In their breed the tendency is that they will hold on and not let go. Often times their owners can't get them to release. I am not here to say that every Pit Bull is that way. I will be the first to admit that there are great Pit Bulls in this world. When they do damage that is when it is serious.

Mr. Rath- I will also be the first to admit that when that Pit Bull does bite and do that damage I want them out of our town and that it for future legislation.

Chief Sarver- that is up to Council and the administration.

Mr. Guthrie-some of the concerns that we have heard from the folks via email has been regarding the time table. Is this something that you folks have reviewed is there something wrong with the legislation that provides owners with inadequate time to register their dogs and inadequate time for them to put their dogs through the AKC Good Citizen program? When it comes to the time tables are there areas where we can make improvements?

Chief Sarver- I would have to sit down with the Law Director's office and look at that. Looking at the legislation once Toby has put you in the dangerous and/or vicious list or in his opinion he believes you have a Pit Bull then there is a certain amount of time that you have to comply with the requirements. Toby would tell you if he were here that if he gives you 30 days to comply then when the 30 days you aren't in compliance he gets back in touch with you and he kind of points that finger then this is where that discretion comes in because depending on the circumstances he may give someone 10 days, 15 days or even 30 days depending on the circumstances of why they have not complied yet. It is in his discretion. The law is very clear that when you are given notice that your dog fits that category you have X amount of days to do it. Sometimes that involves getting costly insurance or getting a structure built at your home that you can't afford so you don't

come into compliance quite as soon as the law says. I use that word discretion because we do a lot in police work. Just because you run a red light doesn't mean that you are going to get a ticket. There are a lot of things that come into play like did you acknowledge you ran a red light, do you have a good driving record, do you have insurance, were you polite to the Police Officer, did you not almost take out a van with 6 kids in it but with Toby it is not cut and clear. The legislation says that if your dog has been deemed dangerous or is a Pit Bull you will do this. Toby can't say its ok I am going to let you go this time. That is his job and that is why he gets a lot of resentment from the community because he is forcing them to do something that they don't feel they have to do. They have to do it because legislation says they have to do it. This Council approved that.

Mr. Rolletta- Director Sassen could you speak to the time table issue at all? If a Pit Bull owner wanted to apply for the Good Citizen program do they have adequate time to do that before something is enforced on them by say an Animal Control Officer?

Director Sassen- that goes back to the issue of discretion the Chief was talking about. If your initial question was the time frame for coming into compliance that is completely controlled by the issue of discretion. If your question is the time table for redeeming a dog after a dog has been seized, vicious or otherwise for being out of compliance that time table is established by the Ohio Revised Code but the time table for allowing a dog owner to come into compliance rests solely on the discretion of the Officer. I think that in our experience it has been in direct correlation of the degree good faith being exerted by the dog owner.

Mr. Rolletta- my issue was that I wanted to make sure that everybody who wanted to take the Good Citizenship test had the ability to before any action was taken against them.

Chief Sarver- this Council changed legislation to allow a dog, a Pit Bull that has been deemed dangerous strictly because of its' breed to go through the Good Citizen program, we are having very few of those, very few. I can't give you an exact number.

Mr. Rath- 3

Chief Sarver- the other issue we have commented on is that people believe they can take their dog through a 10 week program and the dog completes the program and passes the program then they are coming in saying here is my certificate. The AKC administers the Good Citizen certificate. They have to go to the class plus get the certificate.

Director Sassen- if I could follow up on one issue with the discretion, you talk about enforcement of these provisions for dog owners who are attempting to go through this exemption process for the AKC Good Citizen, understand that there is a second layer of discretion as well and that is with the prosecutors in my office. The case would be brought to them and if there was reason to believe that the dog owner was exercising good faith to accomplish that we would exercise discretion in our office as well before that charge would be filed.

Mr. Rolletta- would there have to be any proof shown that they are in fact enrolled in a training program?

Director Sassen- absolutely we are not in the business of taking people's word for it.

Mr. Rolletta- I had a question for Director Spurgeon. I was wondering if you had any insight as to how our first responders in police and fire feel about loosening the restrictions on Pit Bulls.

Director Spurgeon- I don't I am of the mind that as the Chief said we will enforce to the best of our ability whatever laws this Council passes.

Mr. Guthrie-Bill, I appreciate the fact that you have stated pretty clearly that you will enforce the laws that Council passes but because we are not the enforcers so to speak we don't know what the enforcement problems are and as the enforcers you can tell us if you are seeing problems with the legislation and advise us as to whether or not you think there is a fix that is needed. I know you have said that you are open to modifications but can you in any way be specific for us as to what you think from an enforcement stand point that you would find better than the current legislation.

Director Spurgeon- the Chief has already said it there is a problem with the verification throughout the year. If we could say that there is one designated date to become compliant that would be my recommendation.

Director Sassen- from our end of the enforcement process I understand what the Chief is saying with regards to the time spent on administrative duties and I think that could be a fairly easy fix from a piece of legislation. From our stand point of prosecuting these offenses we don't have any difficulty with the current language and the current structure of the vicious dog ordinance. There was some discussion at a previous committee about cases from Reynoldsburg that had been prosecuted here in court and my office prosecutes those cases from Reynoldsburg in Licking County. Reynoldsburg cases should be distinguished from Newark cases because Reynoldsburg although they have a similar law all be it an outright ban on Pit Bulls they don't have in place an administrative appeals process for the dog owner to challenge administratively the designation from the Animal Control Officer as vicious. Newark does, Newark Police Department has an appeals process in place so we don't experience the same due process difficulties with prosecuting these offenses out of Newark that we do and have out of Reynoldsburg. We don't find this ordinance to be any more confusing than any other law.

Mr. Rolletta- could you explain a little bit about the due process that dog owners have in Newark? Is that established by State law or does Newark have an additional law on top of that?

Director Sassen- this Council passed an ordinance a year and a half ago at my request to incorporate the administrative appeal process that is set forth in the Ohio Revised Code and incorporate that into our ordinances so if the Animal Control Officer designates a dog to be vicious that dog owner has an administrative appeals process. That due process goes through the Hearing Officer to establish evidence that their dog is not vicious. Whether the designation of vicious is based on the Animal Control Officers assessment of the dog's breed or because of the Animal Control Officers assessment of the dog's behavior it is an administrative due process appeal through the Police Department by Captain Connell that Reynoldsburg did not have. The problem the court had with the Reynoldsburg cases is that the first time the dog owner was being charged with somehow violating the vicious dog laws of the City of Reynoldsburg was that the first time they had the opportunity to

challenge that designation was after they had been charged with a crime and were forced into court to defend their liveries.

Mr. Rolletta- how much time does an owner in the City of Newark have for that appeal process, is it 7-10 days?

Director Sassen- I believe it is 10 days.

Mr. Rath- I wanted to ask Bill a question, I appreciate Mr. Guthrie's prompting in saying that you have the ear of our first responders so when we ask you for an opinion it is with feedback from them in mind. In your opinion with the city labeling a dog that is deemed to be a Pit Bull as vicious preemptively, prior to any attacks, do you think that has had any effect on making those breeds safer in the City of Newark?

Director Spurgeon- that is a fair question. The data that I have and I have presented it to a couple of folks on Council shows a consistent challenge with this specific breed of pet. What I don't have is pre-BSL data. I think that you can draw two conclusions from that and I don't know that I could debate either side. If the problem stays the same then what good is the law doing but if you take the law away or reduce the restriction if the numbers spike then there you have it. All I can testify to this committee is that our numbers stay the same with these types of pets in our community.

Ryan Stone, 39 Wing St- he stated that he was the one who originally came to a meeting mid-December and ask for the BSL be repealed from city ordinances. He spoke of an incident that happened regarding his dogs getting out of his fenced in yard and police trying to apprehend them. He stated the dogs were on his neighbor's porch when he arrived home with no indication that someone was trying to apprehend his dogs. He stated that he received a citation 2 months letter for not obtaining a permit for his Pit. Once the issue was settled in court and he paid fines that were approximately \$400.00 compared to the \$15.00 plus court costs someone else who knows a different breed of dog would have paid. He doesn't think that it is fair that Pit owners are charged more for a license than any other breed owners. He stated that he had read the legislation for discussion tonight and that it is exactly what he sked for.

Tammy Mitchell, 26 E Channel St- she stated that she didn't understand how time could be allotted like 30 days to obtain a Good Citizen certificate when the classes are only offered twice a year. She also stated she didn't understand why her son received jail time when he complied with the restrictions before court. She was in support of the change in legislation.

Jeanne Stollfire, 780 Cedar Run Rd- she was in support of removing the BSL in the City of Newark's ordinances and didn't think it was right that Pit Bulls are put on the vicious list even before anything is known about each particular dog. She believes other dogs like Chows should be put on the list as well and be made to prove themselves as not vicious just like the Pits are. She stated that even though the BSL was intended to improve community safety and comfort that the laws can ultimately cause hardship to responsible guardians of properly supervised very friendly, well socialized Pit Bulls or other bully breeds. She stated that we need to pose civil and criminal liability on the negligent guardians for their wreck less behavior and target problematic dogs and their owners sooner than later to make our community and animals safer not BSL.

Terry Wyle, 294 Stare Rd- he stated that he is a Vietnam Veteran and that if he were to get PTSD bad enough they will give him a service dog which more than likely would be a Pit Bull because they are one of the major PTSD service dogs sanctioned and approved by the VA. He was concerned because if this were to happen his service dog would be declared dangerous and vicious according to how the law is written now.

Mr. Guthrie- verified that the Veterans Administration provides the dog and the training to veterans as a service

Terry Wyle- confirmed Mr. Guthrie's statement

Mr. Guthrie- stated that if there was verifiable program than those types of dogs that have been through that type of program should be exempt and asked Director Sassen if that was something we could look at.

Director Sassen- I am familiar with the type of program that you are talking about here, Canine Companions, I believe that it is Canine Companions Inc. that does the training. That would be a fairly simple exception to write into the rule.

Mr. Rath- I think that if the VA thinks these dogs are trainable and good service dogs for people with PTSD and the State of Ohio has repealed its' laws by taking this breed of dogs off its' vicious list then I think we need to come into compliance with the State. All of these people speaking tonight own dogs that aren't attacking people. I am all in favor of removing dogs that are attacking people from our community. I'm sorry if this offends someone but instead of shipping them out I would rather they be euthanized because I don't care who they bite or what community they bite in I don't want they to have the opportunity to bite again. The dogs that are good pets, well behaved and are represented in here by their owners should be treated like any other dog. I also think with this much outcry from the community this is an issue that should be thought about, debated and I am certainly willing to hear more testimony but I think that it is an issue that should be decided on by all of Council and not just a committee of 5.

Motion by Mr. Rath to send Ordinance 15-04 to full Council, second by Mr. Johnson

Jennifer Peck, 89 Forry Ave- stated that she owns a rescue Pit that she saved from a crack house in Columbus where they broke his tail and burned him. She stated she also owns a German Shepard and a Boxer that are rescue dogs as well but out of all three of her dogs the Pit is the most loving and affectionate. She testified that she didn't have the insurance that for her Pit Bull so when he got out and was in her front yard a neighbor call the Dog Warden. She went to court paid fines and had to refinance her house because the bank that had their mortgage wouldn't insure them. She stated how difficult it was to find someone to insure their home but when they did they had to insure their home that is around \$85,000 for \$300,000.00. She was upset because her Pit is labeled vicious just because of his breed and supports the removal of the BSL in our city ordinance.

Jim Reid, 517 Jackson Blvd- he stated that he knew former Councilman Ed Houdeshell and that he would have supported this change. He stated that he and the other Pit Bull owners in attendance are responsible Pit owners and that they don't want people owning Pit Bull that are not going to be responsible. He was in favor of the repeal of the BSL.

Carla McClain, 980 Village Green Ct- no longer is a Pit owner and relayed her story about why and what happened to her 3 year old Pit and mixed breed puppy to cause her to no longer own a Pit. Both of her dogs were taken by the dog warden when he came to her

house regarding a call her received about her puppy being tied up outside for hours. Her dogs were both deemed Pits and she stated she was given 3 days to comply with all of the requirements of the vicious dog ordinance for both animals and that she couldn't meet those requirements so her dogs were euthanized by the pound. She stated she had to go to court 2 months later and now has a criminal record for this incident. She is in favor of repealing the BSL.

Amanda Sayers, 422 Wellington Ave- her son has cerebral palsy and has a Pit Bull as his companion. She stated that the dog is wonderful with her son and the therapists that come in to the home to work with her son.

Samantha Barsotti, 507 Catalina Dr – she stated she has researched whether or not Pit Bulls have the physical capability of locking their jaws and found that it is a myth.

Sandra Spencer, 253 Park Trails Ct- she is not a Pit Bull owner but is there to state that she supports the BSL being removed from the City's ordinance because she doesn't feel that the owners are treated fairly and she thinks that a dog should be judged on its' actions and because of the financial burden it is also putting on the owners.

Allie Long, 217 S Quentin- she stated that she is a Pit Bull owner and that her Pit has short term memory loss. She stated he is a gentle, loving dog. She emailed a video that she made of different Pit Bulls with their owners and family to Council and hoped that they watched the video and saw that the dogs didn't look dangerous or vicious.

Nicki Arter, 13142 Jobes Rd – she read a letter from a postal carrier named Rita Huff who stated the problem in Newark is not a specific breed of dog that it is irresponsible dog owners. She stated that the worst bite she has received has been from a Beagle. She stated that as a letter carrier she has had issues with all sizes and breeds. She stated some of her best canine pals have been a Rottweiler, Boxer and Pit. She stated every dog has the potential to bite regardless of size or breed and urged Council to address the bigger issues in this ordeal to protect both man and beast.

Ryan Stone, 39 Wing St- stated that he was on the County's website looking up information about the number of dogs in Licking County that are tagged and then he broke it down to dogs in Newark. He stated the number one breed was a Labrador then a Beagle then a mixed breed. He stated that there were not many Pit Bulls in Newark but wondered how many were in the mixed breed or how many were mislabeled. He stated that the number doesn't reflect the true because he thinks there are other Pit Bulls out there but are not registered for fear of prosecution.

Kenneth Long, 217 S Quentin- he doesn't think that the law is just or fair. He stated that everyone should be treated equally and fairly. He feels the laws we have discriminate against Pit Bull owners. He stated that his wife has to go to court for having an exotic animal because they own a Pit Bull. He stated their Pit is not an exotic animal.

Mr. Rath- clarified to Mr. Long that Pits are not being deemed exotic they are restricted **but that the section of the code they fall under is Exotic and Restricted.**

Kenneth Long- then why on the charges does it say exotic? He doesn't think that owners should be put in jail for 10 or 30 days for not meeting 1 or 2 of the requirements.

Jessica Linn, Knox County- she stated that she feels the BSL laws don't make the community safer and it makes people afraid to come up and social with Pit Bulls. She stated that they are really great dogs especially when they are socialized and exercised.

Mrs. Floyd- I will move this on to full Council. I want the audience to realize that next week is regular Council and we will be voting on other things then there is another Committee meeting the following week so this will be voted on February 17th. I just want you to be aware that not everyone agrees with you. I have talked to a lot of people and I have made it a point to talk to a variety of people to get their view point on this issue. I don't know how the vote is going to go in 3 weeks but if it doesn't pass my suggestion to you is to take up an initiative petition. That is how citizens make laws. You have to get a certain number of signatures and you need to talk to the Board of Elections and get a lot more signatures than needed in case some are not valid.

Mr. Rath- we have had such an outcry in the community supporting the change in legislation but have not heard any against it so we need to go out and talk to the rest of the people in the community much like Carol just talked about. He called the question for a vote.

Motion to call to the question passed 4-1(Mr. Guthrie)

Motion to send Ordinance 15-04 to full Council passed by a 5-0 vote.

Alex Rolletta, Chair