

Honorable Council  
City of Newark, Ohio  
October 9, 2012

The Safety Committee met Monday October 8, 2012 in council chambers following the Finance Committee. These members were in attendance:

Marc Guthrie  
Rhonda Loomis  
Jeff Rath

Carol Floyd  
Bill Cost Jr.

We wish to report:

1. Ordinance No 12-37 amending section 852.04 of the codified ordinances of the City of Newark, Ohio regarding records to be kept by pawnbrokers was considered.

**Detective Vanoy-** was in attendance to discuss Leads on Line. Leads on Line is a law enforcement database ran out of the state of Arizona. He stated if the City is able to obtain it, it will save the Police Department a tremendous amount of man power. He stated that if a pawn broker is a member of this Leads on Line then when items come into their shop they have to log them into the database. He stated that when they have a report of a theft related crime which is 20-70 a week in Newark an officer has to go to the local pawn shops looking for the items reported stolen. With this database an officer can sit at their desk and type in the item or a suspect's name and the database will check it nationally for thirty days. He stated that Heath Police Department has this database as well as the Sheriff's department and that HPD assisted NPD with a burglary by using this database.

**Mr. Guthrie-** asked either Mr. Frost or officer Vanoy to explain the difference between LEADS that the City does participate in and this program in particular with pawn shops.

**Officer Vanoy-** stated that the two systems are not correlated. LEAD is the system that is utilized to gather information on an individual or a vehicle by putting in a social security number or a VIN number.

**Mr. Frost-** stated that LEADS on Line is a private company and that they don't charge the pawn shops to put the information on line they charge the police department. He believes that the legislation has merit anyways because

other police departments could check pawn shops in Newark for stolen property if they are members of LEADS on Line.

**Mr. Guthrie-** asked about the cost

**Mr. Frost-** stated that the cost to the Police Department is based on the size and the number of licenses they want to have. The pawn shops are not charged to input information into the database.

**Mr. Guthrie-** inquired as to what information the pawn shop has to put on line.

**Mr. Frost-** stated that as the legislation is written all blanks must be filled in if the information is available.

**Mr. Guthrie-** stated that he spoke to Director Spurgeon about this legislation. He stated that he didn't think that we should put this mandate on pawn shops if Newark is not going to participate. He stated that Director Spurgeon assured him the money would be budgeted for this database next year.

**Mayor Hall-** supported the legislation

**Mrs. Loomis-** inquired as to what happens if a pawn broker doesn't comply.

**Mr. Frost-** stated that he would defer to the Law Director. There are laws in place but this legislation has an additional requirement that would require the person who wishes to sell an item produce a valid identification card.

**Law Director-** stated that it is an unclassified misdemeanor, which means there is no jail time but there is a fine and the same would be true if they didn't comply with this legislation.

**Mr. Rath-** asked how many pawn shops are in Newark

**Officer Vanoy-** answered two or three not included the flea markets.

**Mr. Rath-** asked Officer Vanoy how many cases he thought that there was where Newark has sold stolen items due to the lack of this requirement.

**Officer Vanoy-** stated he didn't know for sure but that it was minimal.

**Mr. Frost-** asked Officer Vanoy if he thought that this legislation will help catch criminals.

**Officer Vanoy-** He affirmed that the legislation would increase the ability to catch criminals. He stated that there would be less man power hours spent out of the office investing one case if they could search the database. It would enable them to investigate other cases at the same time.

Motion by Mr. Rath, second by Mrs. Floyd to send to full Council

Motion passes by a 5-0 vote.

2. Ordinance No 12-36 amending sections 618.15 and 618.22 of the codified ordinances of the City of Newark, Ohio regarding dangerous and vicious dogs was considered.

**Mr. Rath-** highlighted the changes that are proposed.

**Mrs. Floyd-** clarified her understanding of the changes. She stated that she understood the legislation would remove Pit Bulls from under the vicious and dangerous dog definition; there wouldn't be a microchip or insurance requirement for those that own a Pit Bull, and people may have more than one Pit Bull. She also thought that every time a vicious dog was mentioned so was a Pit Bull.

**Mr. Rath-** confirmed all is correct except the last statement

**Law Director-** clarified that he created a new subsection in 618.15 which is number 7 defining a Pit Bull dog. The vicious dog laws that were previously in effect remain in effect. He stated that what this legislation does is removes Pit Bulls as being defined as a vicious dog and imposes additional requirements on Pit Bull owners. Those requirements are what you will find in subsection 618.15 e that is a new section that he created for requirements of a Pit Bull owner on and off premises. He stated that it goes along word for word with the restraining of a vicious dog requirement. Broken down it removes the number of Pit Bulls you can have, it removes the microchip and insurance requirement, it imposes a minimum fence requirement of 6 feet if that is the method of restricting a Pit Bull or a vicious dog.

**Mr. Guthrie-** stated he talked to the County Dog Warden about the State Law and he would like the Law Director to explain the Supreme Court's decision regarding Pit Bulls. He also asked a question about what the City would have to do regarding housing for the dog if Toby Wills were to cite someone for violating the 6 foot fence requirement. The County Dog Warden advised him that that requirement goes beyond the States and since we don't have a contract with the County to house dogs in violation of City ordinances the City must handle the housing of that animal.

**Law Director-** with regards to the 6 foot high fence, we can impose that requirement because we are a Charter City, however he stated he could not answer the question as to whether it would be the City's responsibility to work out housing for that dog due to his lack of familiarity with the agreement between the City and the County for housing

dogs. He clarified that the Supreme Court basically stated that breed specific legislation is constitutional.

**Mr. Guthrie-** asked Director Spurgeon for his opinion on the proposed legislation scheduled for discussion regarding the vicious dog /Pit Bull legislation. Mr. Guthrie read Director Spurgeon's email which stated that based on the information he has received as the Safety Director he recommends that the ordinance remains unchanged. Furthermore he stated that there are those in our community that do not comply with the written laws whom also seem to be the owners who have animals which attack. This breed of dog is capable of inflicting damage which to the best of his knowledge is not paralleled. For these reasons he stated that he believes relaxing of the current regulation could adversely affect the public safety.

**Captain Riley-** stated that he is here tonight for Director Spurgeon since he could not attend. He stated that Director Spurgeon and the Chief are in agreement regarding Director Spurgeon's comments. They also asked that he remind everyone within the last two weeks since the last meeting there have been two incidents of Pit Bulls running at large who attacked. One was an attack of a mail carrier on the East side of Newark and the other incident was in Heath. He stated that Director Spurgeon stated they will enforce whatever the legislative body decides. He stated that Director Spurgeon stated that there are things within the legislation that could be changed to make enforcement and reporting easier.

**Mr. Guthrie-** asked Captain Riley to relay any concerns that officers may have dealing with Pit Bulls.

**Captain Riley-** stated that most of the enforcement is handled by Toby Wills but that they are the first to respond to a dog bite incident and especially after hours they handle the calls. He stated that Director Spurgeon was correct in his statement that for the most part there are responsible owners but there is that small percentage that they have to deal with where officers have to shoot dogs of the Pit Bull variety or officers are injured trying to retreat from a Pit Bull.

**Mr. Rath-** asked Captain Riley if he thought that the proposed changes of no insurance, micro chipping and not limiting the number of Pit Bulls one can own will put officers in danger more and if he thought that small percentage of owners would comply with the proposed restriction if they are not complying with what is written now.

**Captain Riley-** stated he doesn't see where the insurance requirement is a safety issue, the micro chipping does help with tracking.

**Mr. Rath-** stated that it does not remove the requirement of vicious and or dangerous dogs to be micro chipped, regardless of breed.

**Captain Riley-** he stated that he acts as the hearing officer under the current ordinance. The majority of the hearings he has is due to owners not obtaining the insurance or the micro chipping whether it be financial reasons or other, not meeting the confinement requires with regards to their yard and possessing more than one Pit Bull.

**Mrs. Floyd-** asked how seriously the child was injured in Heath due to Pit Bull attack.

**Mr. Guthrie -**stated he saw the pictures and the attack was serious.

**Mrs. Loomis-** wanted to point out that the Postmaster in Newark stated that his carriers are attacked by other dogs as well, not just Pit Bulls. She stated that she felt people hear or read the Pit Bull name and stop right there.

**Captain Riley-** stated that he thinks that people are fixated on the Pit Bull name because of the difference in the damage that is reported due to an attack or bite.

**Mrs. Loomis-** asked Captain Riley if he would say the same thing regarding a Rottweiler.

**Captain Riley-** stated that he thought Rottweiler's were capable of it but on a routine basis other breeds don't do the same type of damage a Pit Bull can do.

**Mr. Rath-** asked where the dogs are now those responsible for the recent attack.

**Toby Wills-** stated that dog that attacked the mail carriers was here illegally and the owners have received written warning to have the dog removed from the City of Newark. The other incident occurred in Heath, it is not in his jurisdiction.

**Mr. Rath-** stated that if a dog is vicious and attacks it needs to be enforced that the dog is eliminate.

**Law Director-** summarized Captain Riley's earlier statement regarding the appeal process. He stated he believed Captain Riley was commenting that he would like to see the appeal process in Newark be handled like it is under the State law. The appeal process goes to the Police Department and he would like the appeal to be heard by the courts.

**Mr. Guthrie-** asked if we should hold on to the legislation for two more weeks to make changes.

**Law Director-** stated that he did not feel that it was necessary. The changes that are being discussed some wouldn't take an act of Council other would but should be a separate piece of legislation.

**Mr. Houdeshell-** stated that he has been bitten three times,

twice by a Chi Wawa and the other time by a Cocker Spaniel. All three times skin was broken so he asked if they should be terminated. He stated that he has friends with Pit Bulls that are the most gentle dogs. He doesn't feel that it is right to call a Pit Bull a vicious dog and he doesn't feel that it is right to require all these other regulations just because someone owns a Pit Bull.

**Mr. Guthrie-** asked the County Dog Warden to answer a question. He stated that he looked at the pictures from the Pit Bull attack and thinks of his granddaughters. He stated he knows how he would feel as a parent if something like this happened. He stated that he can't get over that issue. He asked the County Dog Warden what was going to happen to the dog.

**County Dog Warden-** stated that according to State law on day 11 after the owners are served with a notice stating they are harboring a vicious dog assuming that they don't appeal; they have to carry liability insurance, etc. They will be the owner of a vicious dog by way of incident and have special obligations.

**Mr. Guthrie-** inquired that the Pit Bull that bit the 8 year old in the face is not going to be destroyed.

**County Dog Warden-** stated that the owners did not want the dog destroyed and he doesn't have the authority to do that.

**Law Director-** clarified that that is true because that dog had not been labeled a vicious dog before the incident. If it had been the dog could have been euthanized. He stated that under Mr. Rath's proposed amendment and Newark's current law there are provisions that if the dog killed or seriously injured the court shall order the dog euthanized. If a vicious dog or Pit Bull bites a person and it is a first degree misdemeanor the Court may order it euthanized.

**Mr. Guthrie-** asked Toby about the 6 foot high fence requirement. If Toby would cite someone for violation of that requirement, he asked what would happen to the dog. He asked if the County would have to take the dog.

**Toby Wills-** stated that the County normally does.

**County Dog Warden-** stated that there isn't an intergovernmental agreement for the County to hold an animal which is evidence of abuse or neglect for instance because that is a City Ordinance mimicking State Law, which is a separate responsibility outside of the Chapter 955 of their law. He stated that there needs to be an intergovernmental agreement for the County to house dogs that come to them based on City Ordinance.

**Mr. Guthrie-** inquired if there was an intergovernmental agreement in place now.

**County Dog Warden-** stated that there isn't an agreement with Newark or any of the other incorporated areas.

**Mr. Guthrie-** asked Toby Wills how he can then take a Pit Bull to the County pound for a violation of the 6 foot high fence requirement if we adopt these amendments.

**Toby Wills-** stated that they have two holding cages at the station to temporarily hold animals.

**Mr. Marmie-** Brought this point to attention, that under our current laws a Pit Bull can't go to the County pound for violation of a City Ordinance nor will they be able to under the proposed amendments. The housing issue will not change.

**Mr. Rath-** advised everyone that a 6 foot high fence is not a requirement just because you have Pit Bull or a vicious dog, there are other options.

**Mr. Guthrie-** asked the Law Director if there were any other City regulations that would prevent someone from putting up a 6 foot high fence, assuming that the neighborhood doesn't have deed restrictions.

**Law Director-** stated that it would depend on the zoning classification there are fence types and height requirements.

**Toby Wills-** wanted to advise everyone why they instituted the micro chipping. He stated that when no one wants to claim the Pit Bull after it has bitten or attacked someone they can scan the microchip and prove ownership and prosecute. They also limited the number of Pit Bulls to one at the same time they instituted the micro chipping because what the situation could be if you had two Pit Bulls coming after you. He stated that he would hate to see two Pit Bulls that are breed to hang on to you and kill get ahold of a child just to change the regulation back.

**County Dog Warden-** wanted to advise Council that considering Toby is a lone animal control officer and if there would be an instance where he would have two Pit Bulls coming after him he advised Council that they should make sure he has the proper equipment to defend himself.

**Mr. Rath-** inquired as to the equipment that Toby Wills currently has.

**Toby Wills-** he stated that he wears what they currently see him in and that he has a six foot snare and that is it.

**Mrs. Loomis-** asked the County Dog Warden what they wear.

**County Dog Warden-** stated that they carry a fire arm and recently acquired a Taser. Three officers carry a Taser and two are authorized to carry a fire arm.

**Mr. Rath-** asked what it would take to authorize Toby Wills to carry a fire arm.

**Law Director-** stated that the changing of the regulation would be the easy part the training would be the hard part.

He stated that it is fairly complicated if you are going to carry a concealed weapon for a municipality or as part of your duty.

**Mr. Guthrie-** asked Toby Wills if there has ever been an instance where he had to call Newark Police to shoot a dog.

**Toby Wills-** stated that they have come close a few times.

**Mr. Cost-** stated that he feels that we have not really boiled things down. He stated that he feels we need to get back to talking about general safety, owner responsibility and owner control, he feels they are continuing to talk about a breed of dog. Safety of the neighborhood and owner responsibility needs to be discussed regardless of the breed of dog.

Motion by Mr. Rath to send to full Council, second by Mrs. Loomis

**Mrs. Floyd-** stated that she will vote to send this to full Council but still doesn't know how she is going to vote on this at Council. She stated she feels some of it has merit. She stated that they have gotten opposing emails and information regarding this issue. She stated that she usually defers to the professionals on these issues, those that are doing the enforcement and she knows they are difficult issues. She agrees with Mr. Cost's statement and stated she is going to do more research to try to decide. She also pointed out that laws have changed in the last few years because of a few people, for instance at airports. Unfortunately that is the way society works. She stated it is not cut and dry and is an emotional issue because people love their pets.

**Mr. Rath-** stated that he brought this legislation forward because he felt it was a good compromise and stated that he thought that all dogs should be treated the same despite the breed. Stated that he met Hector the Pit Bull and "Wallace" the Pit Bull that were Michael Vicks Pit Bulls that was trained to fight and it is now a certified therapy dog. He promotes the Pit Bull breed all over the country. "Wallace" the Pit Bull is a champion disc dog.

He stated that this is a very serious issue. He shared that his son was bit by a Pit Bull in the face and it was the fourth time the dog had bit someone. He stated that the same dog a month later bit a five year old child and the child needed 192 stitches to reattach his ear. He stated that the dog was at Newark Catholic high school not muzzled on a leash among other children at a football game. He stated that the problem is the lack of prosecution and lack of enforcement. He asked Captain Riley what they needed to do to aid that.



**Mr. Cost-** stated that he agrees with Mrs. Floyd and believes this legislation deserves to go to full Council for consideration. He feels it is a good attempt at a compromise but still doesn't know how he would vote. He asked Mr. Rath what type of dog bit his son.

**Mr. Rath-** stated it was a yellow lab.

**Mr. Cost-** reiterated owner responsibility, enforcement and prosecution is necessary.

**Mr. Guthrie-** stated that it was hard for him to vote affirmatively after he saw the pictures of the little girl who was bit, but he feels that this was a good attempt at a compromise. He stated that when he was in the House of Representatives he voted for the original legislation. He also stated he doesn't know how he is going to vote at Council but there has been enough effort put into this to send to full Council.

**Mr. Marmie-** stated that he likes the job that has been done and doesn't feel as though the safety of the citizens has been compromised. Removing the breed specific language was intended for those who are doing right. He stated that he feels it is very beneficial that even though the breed specific language has been proposed to be removed that it was included back in that if one of those Pit Bull do bite it doesn't get that first free bite. Is this legislation enough to protect every citizen from being bit, no we can't do that but we can make sure there is better enforcement. This means we have to actually enforce it. No matter what each incident must be documented. He also believes that this legislation should be passed to full Council.

Motion to send to full to Council passed by a vote of 5-0.

Marc Guthrie, Chair