



BOARD OF ANIMAL SERVICES COMMISSIONERS
CITY OF LOS ANGELES
Monday, October 26, 2009
10:00 A.M.
LOS ANGELES CITY HALL
200 N. Spring St.
Room 1060
Los Angeles, CA 90012

Tariq Khero, President
Kathleen Riordan, Vice-President
Irene Ponce
Melanie Ramsayer
Ruthanne Secunda

Sign language interpreters, assistive listening devices, or other auxiliary aids and/or services may be provided upon request. To ensure availability, you are advised to make your request at least 72 hours prior to the meeting you wish to attend. For information please call (213) 482-9501.

Si require servicios de traduccion, favor de notificar la oficina con 24 horas por anticipado.

COMMISSION MEETING

1. ORAL REPORT OF THE GENERAL MANAGER

2. COMMISSION BUSINESS

- A. Approval of the Commission Meeting Minutes for September 14, 2009
- B. Oral Report by the Commissioners on Meetings and Events attended.
- C. Consideration by the Board to change the meeting days to the second and fourth Tuesday of the Month at 10:00 A.M.. The change to be effective on the second Tuesday of November.

3. GENERAL MANAGER RECOMMENDS FOR BOARD ACTION

- A. Clarifications and Minor Modifications to the Design for the New South Los Angeles Animal Care Center

That the Board receive and file the report of clarifications and minor modifications to the design for the new South Los Angeles Animal Care Center presented on August 10, 2009.

B. Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

That the Board request that the Mayor, and subsequently the City Council, direct the City Attorney to prepare an ordinance amending the Los Angeles Municipal Code (LAMC) Sections 53.18.5 in regard to dog license revocation appeals, Section 53.33 providing regulations for vicious animals on private premises, Section 53.34 in regard to dangerous dog procedures, and Section 53.63 giving definitions for barking dog noise and handling of barking complaints, all as described in the body of the report; and, request that the direction to the City Attorney include integration of these recommended changes with other LAMC changes previously recommended in regard to license revocation hearings to achieve the objectives of this report.

4. DISCUSSION ITEMS

A. None

5. PUBLIC COMMENT PERIOD - (Comments from the public on items of public interest within the Board's subject matter jurisdiction and on items not on the Agenda.)

Public Comments: The Brown Act prohibits the Board and staff from responding to the speakers' comments. Some of the matters raised in public comment may appear on a future agenda.

6. FUTURE AGENDA ITEMS

Requests from Commissioners for future Agenda Items.

7. ADJOURNMENT

Next Commission Meeting is scheduled for 10:00 A.M., October 26, 2009, Los Angeles City Hall, Room 1060, 200 North Spring Street, Los Angeles, California 90012

AGENDAS - The Board of Animal Services Commissioners (Board) meets regularly every second (2nd) and fourth (4th) Monday of each month at 10:00 A.M. Regular Meetings are held at City Hall, 200 North Spring Street, Room 1060, in Los Angeles, CA 90012. The agendas for Board meetings contain a brief general description of those items to be considered at the meetings. Board Agendas are available at the Department of Animal Services (Department), Administrative Division, 221 North Figueroa Street, 5th Floor, Los Angeles, CA 90012. Board Agendas may also be viewed on the 2nd floor Public Bulletin Board in City Hall East, 200 North Main Street, Los Angeles, CA 90012. Internet users may also access copies of present and prior agenda items, copies of the Board Calendar, as well as electronic copies of approved minutes on the Department's World Wide Web Home Page site at <http://www.laanimalservices.com/CommissionAgendas.htm>

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Three (3) members of the Board constitute a quorum for the transaction of business. Some items on the Agenda may be approved without any discussion.

The Board Secretary will announce the items to be considered by the Board. The Board will hear the presentation on the topic and gather additional information from Department Staff. Once presentations have finished, the Board President will ask if any Board Member or member of the public wishes to speak on one or more of these items. Each speaker called before the Commission will have one (1) minute to express their comments and concerns on matters placed on the agenda.

PUBLIC INPUT AT BOARD MEETINGS – Public Participation on Agenda Items.

Members of the public will have an opportunity to address the Board on agenda items after the item is called and before the Board takes action on the item, unless the opportunity for public participation on the item was previously provided to all interested members of the public at a public meeting of a Committee of the Board and the item has not substantially changed since the Committee heard the item. When speaking to an agenda item other than during Public Comment (see Public Comment below), the speaker shall limit his or her comments to the specific item under consideration (California Government Code, Section 54954.3).

Public Comment. The Board will provide an opportunity for public comment at every regular meeting of the Board. Members of the public may address the Board on any items within the subject matter jurisdiction of the Board as part of Public Comment.

Speaker Cards. Members of the public wishing to speak are to fill out one speaker card for each agenda item on which they wish to speak and present it to the Board secretary before the item is called.

Time Limit for Speakers. Speakers addressing the Board will be limited to one (1) minute of speaking time for each agenda item except in public comment which is limited to three (3) minutes. The Chairperson, with the approval of a majority of the Board, may for good cause extend any speaker's time by increments of up to one (1) minute. Total speaker time on any agenda item will be limited to ten (10) minutes per item and fifteen (15) minutes for Public Comment, unless extended as above.

Brown Act. These rules shall be interpreted in a manner that is consistent with the Ralph M. Brown Act, California Government Code Section § 54950 et seq.

STANDARDS OF CONDUCT. Speakers are expected to behave in an orderly manner and to refrain from personal attacks or use of profanity or language that may incite violence.

All persons present at Board meetings are expected to behave in an orderly manner and to refrain from disrupting the meeting, interfering with the rights of others to address the Board and/or interfering with the conduct of business by the Board.

In the event that any speaker does not comply with the foregoing requirements, or if a speaker does not address the specific item under consideration, the speaker may be ruled out of order, their speaking time forfeited and the Chairperson may call upon the next speaker.

The Board, by majority vote, may order the removal from the meeting of any speaker or

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audience member continuing to behave in a disruptive manner after being warned by the Chairperson regarding their behavior. Section 403 of the California Penal Code states as follows: "Every person who, without authority of law, willfully disturbs or breaks up any assembly or meeting that is not unlawful in its character, other than an assembly or meeting referred to in Section 302 of the Penal Code or Section 18340 of the Elections Code, is guilty of a misdemeanor".

VOTING AND DISPOSITION OF ITEMS – Most items require a majority vote of the entire membership of the Board (3 members). When debate on an item is completed, the Board President will instruct the Secretary to "call the roll". Every member present must vote for or against each item; abstentions are not permitted unless there is a Conflict of Interest for which the Board member is obliged to abstain from voting. The Secretary will announce the votes on each item. Any member of the Board may move to "reconsider" any vote on any item on the agenda, except to adjourn, suspend the Rules, or where an intervening event has deprived the Board of jurisdiction, providing that said member originally voted on the prevailing side of the item. The motion to "reconsider" shall only be in order once during the meeting, and once during the next regular meeting. The member requesting reconsideration shall identify for all members present the Agenda number and subject matter previously voted upon. A motion to reconsider is not debatable and shall require an affirmative vote of three members of the Board.

When the Board has failed by sufficient votes to approve or reject an item, and has not lost jurisdiction over the matter, or has not caused it to be continued beyond the next regular meeting, the issue is again placed on the next agenda for the following meeting for the purpose of allowing the Board to again vote on the matter.



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1. ADMINISTRATIVE APPEAL HEARINGS

A. Dangerous Animal Case Number: DA 09340 WL

Appellant: Richard Medina and Nicole Renaud

Complaining Witness: Tina Madden

Field Operations Supervisor, West Los Angeles Animal Care Center, Lt. Jesse Castillo

Hearing Coordinator, Department of Animal Services, Ross Pool, Management Analyst II

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221 North Figueroa Street
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KATHLEEN J. DAVIS
Interim General Manager

Report to the Board of Animal Services Commissioners

Kathleen J. Davis, Interim General Manager

COMMISSION MEETING DATE: October 26, 2009 **PREPARED BY:** Linda Gordon

REPORT DATE: September 29, 2009

TITLE: Sr. Management Analyst II

SUBJECT: Clarifications and Minor Modifications to the Design for the
New South Los Angeles Animal Care Center

BOARD ACTION RECOMMENDED:

That the Board receive and file the report of clarifications and minor modifications to the design for the new South Los Angeles Animal Care Center presented on August 10, 2009.

SUMMARY:

Design for the new South Los Angeles Animal Care Center began in July 2008. Over the course of the design, Department staff have reviewed all aspects and made modifications to best serve the operational needs. A listing of the changes was presented to the Board on August 10, 2009. At that time the Board had some questions concerning some of the choices that were made.

Overall, the Board's concern was for the choice of finishes, i.e. if the material would harbor disease transmitting agents. From the inception of the building program one of the primary goals has been and remains to provide an environment that will enhance the health and welfare of pets in our care and provides a safe workplace for our employees. Additionally, design and construction of environmentally sensitive and sustainable buildings was integral in the decision-making process.

Extensive research has been done to select material that does not promote the propagation of pathogens and can easily be cleaned and maintained, while also being environmentally sound. To that end selections include:

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- Plastic laminate to cover cabinetry and millwork is antimicrobial and easily cleaned. In medical areas stainless steel countertops will be used.
- Linoleum and Mondo flooring are both antimicrobial and environmentally friendly.
- FRP – (fiberglass reinforced plastic) is antimicrobial, will not rust or corrode and is easily cleaned
- Trojan concrete sealer was researched to be the most environmentally responsible, longest lasting concrete sealer on the market. It will prevent penetration of water and contaminants; instead they will stay on the surface where they can more easily be washed off.

In that the new South Los Angeles Animal Care Center is the last facility to be built under the \$154M Animal Facilities Bond Program, the Department has taken advantage of the lessons learned from the six previous building projects. From that the Department has learned such things as: drains are not necessary in some interior spaces; hose reels are expensive, cumbersome to use, and not as durable as required; and cabinets that are too high for most employees to reach are not useful.

FISCAL IMPACT:

All additions, deletions, and modifications as reported resulted in an estimated increase to the construction budget of less than \$100,000. The construction estimate provided by independent cost estimators indicate that the project remains within the allocated construction budget of \$25,500,000 to be funded by the Prop F bond sales.

There is no impact to the City's General Fund.

Approved:

Kathleen J. Davis, Interim General Manager

BOARD ACTION:

_____ Passed	Disapproved _____
_____ Passed with noted modifications	Continued _____
_____ Tabled	New Date _____

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KATHLEEN J. DAVIS
Interim General Manager

Report to the Board of Animal Services Commissioners

KATHLEEN J. DAVIS, Interim General Manager

COMMISSION MEETING DATE: October 26, 2009 **PREPARED BY:** Linda Barth

REPORT DATE: October 22, 2009

TITLE: Assistant General
Manager

SUBJECT: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog
Alternatives Relative to Dog License Revocations

BOARD ACTION RECOMMENDED:

That the Board:

1. Request that the Mayor, and subsequently the City Council, direct the City Attorney to prepare an ordinance amending the Los Angeles Municipal Code (LAMC) Sections 53.18.5 in regard to dog license revocation appeals, Section 53.33 providing regulations for vicious animals on private premises, Section 53.34 in regard to dangerous dog procedures, and Section 53.63 giving definitions for barking dog noise and handling of barking complaints, all as described in the body of the report; and,
2. Request that the direction to the City Attorney include integration of these recommended changes with other LAMC changes previously recommended in regard to license revocation hearings to achieve the objectives of this report.

SUMMARY:

Background

The City of Los Angeles has been a leader in legislative efforts to improve the relationships of pets and people for over 100 years. The City enacted LAMC 53.63 in 1978, to provide a means for expeditiously resolving complaints about barking dogs. In

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1987, the original legislation was amended to create an adjudication process within the Department rather than referring cases to the City Attorney where they did not have priority. With the determination that the Department would conduct hearings on revocation of licenses, for barking dog as well as dangerous dog cases, the City also explored how to achieve the fairest possible appeal process. In 1989, after first considering the City Council as the body to hear appeals, an ordinance was passed establishing the Board as the appeals body for any dog license revocation hearing, whether resulting in revocation, declaration a dog is dangerous, or an Order of Terms and Conditions.

In the intervening years since 1989, there has not been any major policy review of the definition of barking dog noise, nor of options for a dog deemed dangerous besides euthanasia. Even with adoption of a new City Charter effective 2000 and other changes in the Department management, there has been no review of the appeals process for any appropriate updates or modifications.

However, at the May 12, 2008, meeting, the Board requested a more definitive definition of barking dog noise. Research of the municipal codes of other local counties and cities show that more definitive definitions are utilized in many major cities. At the July 13, 2009, meeting, a motion was introduced requesting that staff work with the Board, the City Attorney, the Mayor's Office and any other appropriate entities to review all aspects of barking and dangerous dog investigatory and hearing and appeal processes and bring to the Board proposals for fine tuning them or accomplishing such modifications that are deemed necessary. Discussion at the meeting of July 13, 2009, in regard to reconsideration of a dangerous dog case also suggests that codifying alternatives other than euthanasia for dogs deemed dangerous should be included in recommendations for the Board's consideration.

A proposed mark-up of the relevant LAMC sections is on file and will be provided to the City Attorney.

Barking Dog Definitions – Modifications to 53.63

The current code section states:

It shall be unlawful for any person to permit any dog or dogs under his or her charge, care, custody or control to emit any excessive noise after the Department has issued a written notice advising the owner or custodian of the alleged noise and the procedures as set forth below have been followed. For purposes of this section, the term "**excessive noise**" shall mean noise which is unreasonably annoying, disturbing, offensive, or which unreasonably interferes with the comfortable enjoyment of life or property of one or more persons occupying property in the community or neighborhood. However, the provisions of this section shall not apply to any commercial animal establishment permitted by zoning law where located.

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

The LA Municipal Code definition of barking dog noise has been criticized as being too vague and open to interpretation. Other county and city barking dog ordinances, in Southern California and elsewhere, more clearly define what constitutes a barking dog based on the length of the barking, the number of people that are disturbed, and the proximity of the residence of the barking dog to the residences of the disturbed parties.

For example, **Orange County** Codified Ordinance 4-1-59 clearly defines what is deemed to be a barking dog as:

A dog that barks, bays, cries, howls or makes any noise for an extended period of time... Such extended period of time shall consist of incessant barking for 30 minutes or more in any 24-hour period, or intermittent barking for 60 minutes or more during any 24-hour period.

San Diego Municipal Code Section 59.5.0502C provides that:

The keeping or maintenance, or the permitting to be kept or maintained upon any premises owned, occupied, or controlled by any person of any animal or animals which by any frequent or long continued noise, shall cause annoyance or discomfort to a reasonable person of normal sensitiveness in the vicinity is unlawful; and

Defines a violation of the noise ordinance as any animal noise that disturbs 2 (two) or more residents residing in separate residences adjacent to any part of the property on which the subject animal or animals are kept or maintained or three or more residents residing in separate residences in close proximity to the property on which the subject animal or animals are kept or maintained.

Research of other municipalities show examples such as:

A dog owner is in violation of the City & County of **Honolulu's** animal nuisance law when their dog barks intermittently for 30 minutes or constantly for 10 minutes to the disturbance of others.

In **Dallas**, noise made by any animal is considered unreasonable if it continues for more than 15 minutes or exceeds the sound pressure level allowed in a residential district.

In **Atlanta**, barking dogs shall include a dog that barks, bays, cries, howls or makes any other noise continuously for a period of ten minutes, or barks intermittently for one-half hour or more to the disturbance at any time of day or night regardless of whether the dog is physically situated in or upon private property.

In addition to reviewing the definitions used in other cities, Department staff who have experience conducting and reviewing hearings discussed alternatives and based on their years of experience recommended the following changes.

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog
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- Add defining language: Complainant must occupy property in the immediate proximity of the property where the dog or dogs are kept. The noise must be audible continuously for ten (10) minutes or intermittently for thirty (30) minutes within a 3 hour period.
- Require two complainants at some stages of the process: At the Second Complaint level, which results in an informal meeting with an officer, and at the Administrative Hearing level, require that written complaints be made by both the original complainant, to state that the barking continues, plus at least one other complainant, both of which reside in separate residences (including apartments and/or condominiums) who live within reasonable proximity to the dog(s). Include a provision that the Department may proceed with the meeting or Administrative hearing on the basis of a complaint of only one person if circumstances are determined to exist where a noise disturbance caused by the dog or dogs affects only one individual. Circumstances may be determined through review of documents provided by the complainant, information from an animal control officer working on another case, or other persuasive means.

Revision of LAMC 53.63 to more clearly define what constitutes barking dog noise would result in fewer barking dog noise cases as the criteria would be clear to both dog owners and complainants. The addition of administrative penalties would likely compel better cooperation on the part of dog owners with barking dog problems. The revision would also allow speed resolution of cases as the Hearing Examiners would spend less time per case deciding whether or not the level of barking is a nuisance as the parameters will be more clearly defined and less open to interpretation.

Re-Aligning the Appeals Process with State Law

California Food and Agricultural Code Sections 31621-31626 provide regulations for due process for a probable dangerous dog, specifically, that the Department or appropriate representative of the Department should petition the Superior Court for a hearing on the matter. Los Angeles County conforms to this process in handling dangerous dog cases.

However, the Food and Agricultural Code also allows that a city or county may establish an administrative hearing procedure to hear and dispose of petitions regarding dangerous dogs. Most major California jurisdictions have established such an administrative hearing procedure, including the City and County of San Francisco, Orange County, Riverside County, San Diego County, and San Jose. Under State Code, an animal owner wishing to appeal a decision in an administrative hearing program must petition the Superior Court for a Writ of Mandate. Most of the jurisdictions reviewed do provide some internal review process for persons who wish to appeal an administrative decision, which consists of an executive-level manager

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

reviewing the case, the hearing report, and the decision for consistency with procedure and appropriateness under the law.

The City of Los Angeles also has established an administrative hearing process. The LAMC provisions for the conduct of the hearings, notification of participants, presentation of evidence and testimony, and other elements is in conformance with State Code. The City has also chosen to use the same administrative hearing process to adjudicate barking dog cases when initial steps to mitigate complaints fail to resolve the problems. What deviates from State requirements, however, is the appeal process. Other animal control legislation in California, if an administrative hearing process is established in place of going straight to court, offers a secondary administrative review at a higher level, if any review is provided for at all. From the language of the various local ordinances, it appears the focus of both the administrative hearing process and any review process is to provide timely and expert review of the case for the best and most prompt resolution of circumstances for the safety of the public, to identify the most humane alternatives for the animal, and to provide the wisest instructions to owners.

Summary of Complaints and Cases in the City of LA						
Fiscal Year	Barking Complaint Letters	Barking Informal Hearings	Barking Administrative Hearings	Barking Appeals	Dangerous Dog Administrative Hearings	Dangerous Dog Appeals
2006-07	1393	247	110	14	87	4
2007-08	1692	295	86	22	62	2
2008-09	1761	275	56	10	60	8

Less than 20% of initial barking dog complaints are not resolved by a letter and go to an informal hearing; only about 5% of the initial complaints end up at a formal administrative hearing, and less than 1% of original complaints proceed all the way to appeal. Less than one-half of the appeals are license revocations. No death warrants were issued or signed by the General Manager in the last three fiscal years, therefore all appeals in dangerous dog cases were for terms and conditions or license revocation for dogs deemed "not dangerous."

Over twenty years ago, the current Board appeal process was considered and ultimately made law. The step was taken in the context of adding barking dog cases to the existing administrative hearing process, at which time the public expressed concern about the possibility that large numbers of dogs' licenses would be revoked on the basis of barking accusation, with Superior Court the only recourse if excess occurred.

Among the concerns described in the 1987-1989 hearings about adding the Commission as an appeal body was timeliness of action, that is, the length of time a dog that had shown vicious behavior or may have been barking excessively was out in the community without specialized conditions or other mitigating actions. This was in contrast to the procedure at the time, which referred barking dog revocation cases to the City Attorney, or to the option of awaiting City Council to act as an appeal body. Another concern was that the Department supervisors or managers would be unduly

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog
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partial to their own staff's decision-making. This latter concern was strongly contested by the Department and its Commission at the time, who felt that expertise in dog training, behavior, and legal issues was needed by persons who conducted hearings and who reviewed decisions on appeal. The final decision, to supersede the process delineated in State law and add a judicial responsibility to a Board otherwise appointed for policy reasons, has not improved the appeal process.

In actual practice over the last twenty years, the appeal process has seen significant delays awaiting scheduling by the Board, which focuses primarily on other humane-related business in accordance with their responsibility in setting policies and direction for the Department and the General Manager.¹ Appointees to the Board are generally business professionals, managers, or citizens interested in serving the residents of the City. No animal experience is required or expected from Commissioners, although some Commissioners have personal experience with rescue organizations, with animals, or as volunteers. Members of the Board are not trained and experienced to handle the adjudication of a situation of a barking or potentially vicious dog, so therefore the Board often struggles with reviewing the decision of the Hearing Officer.

As a result the Board is compelled to delve deeply into the case, as opposed to evaluating if in the original hearing the evidence that was presented supported the case or if there was any technical mishandling of the case, as provided in the LAMC. After exhaustive re-analysis of the case information, often featuring extensive conversations with dog owners, complainants, and even witnesses, and the attendant delays that are creating, the Board can still deadlock, because they are not in all cases equipped to determine the veracity or likelihood of what they are told in testimony. Cases can be held over from meeting to meeting or back-logged because only one or two cases can be scheduled for a Board meeting where policy matters necessarily take priority on the agenda.

Revising the appeals process to align with State Code and typical practice in California will allow the Board to focus all energies on program and policy matters as required. The changes recommended will provide more timely and expert review of appealed decisions, which in tandem with the additional recommendations in the next section,

¹ The Department and the Board were established by ordinance (Los Angeles Administrative Code; Article 2, Section 22.4). The Department operates "under the control and management of a general manager" who "administer[s] the affairs of the department" (Charter Section 509. Powers of Chief Administrative Officer of Department Under the Control of a Board of Commissioners). Created by ordinance after passage of the Charter which was effective July 1, 2000, the Department and its General Manager are subject to the "Board of Animal Services Commissioners who shall be appointed, removed, and organized in accordance with Charter Sections 501 and 503, who shall have the power to make and enforce all rules and regulations necessary for the exercise of powers and the performance of the duties conferred upon that board..." (Charter Section 506. Powers of the Board and the Head of the Department).

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benefits the community in terms of safety and nuisance mitigations as well as expediting matters for the dog and the dog owners.

- Hearing Examiner's Report is Final: Designate that the report of the Hearing Examiner represents the findings, decisions, and orders on a case.
- General Manager Performs Review: Replace the Board as the body to hear appeals with the General Manager or appropriate designee, whose decision after review shall be final. Remove all details regarding the Board appeal hearing processes but retain the process for filing appeals, notifications, and grounds for appeal. Provide that timely appeals must result in a review of the case within 10 days.
- Standards for Hearing Examiner and Reviewer: Require that both the Hearing Examiner and General Manager or designee for review shall have appropriate qualifications to conduct hearings and shall not have been directly involved in the subject action.

Alternatives for Dogs Deemed Dangerous

California Food and Agricultural Code Section 31641-31646 provides special rules for dogs that are potential dangerous or vicious, including a provision that they be uniquely registered and that the city or county may charge an additional fee to offset the increased costs of maintaining the records of the dog. The special registration requirement can be released at the end of or at any time within a 36-month period if no additional instances of vicious behavior occur. A dog determined to be vicious can be destroyed, subsequent to the findings of a hearing process, but an option exists for the dog to not be destroyed, so long as conditions are imposed on the owner to insure the public health, safety, and welfare.

Again, most major jurisdictions in California have a dangerous dog or vicious dog registration or permit program. In contrast, in the City of Los Angeles, either a dog is dangerous and the only option is euthanasia, or the dog is found not dangerous, but to have committed a bite, attack, or injury that was the result of improper or negligent training, handling or maintenance. In the latter case, the dog license can be reissued with terms and conditions, which would include steps to safeguard the public, or the license can be revoked and the dog owner required to remove his dog from the City.

The City does not accommodate a dangerous dog registration or vicious dog permit program, which lessens the effectiveness of the City in protecting the public safety. Because a dog found dangerous must be destroyed under the current LAMC, the tendency therefore on the part of the Hearing Examiner, any reviewer of the Hearing Examiner report, and the Board on appeal, is to seek all interpretations of the dog's

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behavior and the biting or attacking event to justify a decision to avoid euthanasia. Nearly all dangerous dog cases resolve to a finding that the dog “not dangerous.” If Terms and Conditions are ordered, since the City has no special permitting process or extra fee, there is little that can be done to compel compliance, and important conditions such as additional liability insurance are virtually impossible to apply. If revocation is ordered, a dog that has exhibited vicious behavior or engaged in biting or attacking is merely sent packing to another jurisdiction, where another attack must occur or some other notification provided, so that the receiving jurisdiction can require dangerous dog registration. This unnecessarily burdens other communities and may place others outside the City at risk.

An improvement for the safety of the public, and humane treatment of the animal and the owner, would be to implement a Vicious or Dangerous Dog Permit Program that enveloped all appropriate Terms and Conditions and operated in accordance with State Code, and allowed dogs who have been involved in biting or attacking to stay with their owners and to be closely monitored by the Department.

- Create a Vicious or Dangerous Dog Permit Program: The permit would be the result of a dangerous dog case and could be an alternative for euthanasia that would incorporate all reasonable terms and conditions to protect public safety. The program would conform to State rules including a 36-month maximum term. Initial cost for the Permit should be \$120 annually based on the time for at least one inspection in the year and cost of processing the Permit, but should be assessed annually or as needed by the Board as with other permit and adoption fees. This would be addition to owner obtaining a regular dog license.
- Expand Terms and Conditions for Dangerous Dogs: Specifically include as potential terms and conditions sterilization of the dog regardless of exemption status under the Spay/Neuter Ordinance, requirements for liability insurance meeting the requirements of the City Risk Manager but no less than \$100,000, and requirement to obtain a Vicious or Dangerous Dog Permit.
- Extra Penalty for Incidents under Vicious or Dangerous Dog Permit: Provide that any recurrence of biting or attack that originally resulted in the order to obtain a Vicious or Dangerous Dog Permit will trigger impoundment, revocation of the Permit, payment of an additional \$250 penalty, and a Dangerous Dog Hearing.

The July 13, 2009, discussion by the Board in connection with determining an outcome other than euthanasia for a dog declared dangerous in 2006 resulted in a recommendation to the Mayor and Council that the LAMC be amended to allow the Board to reopen appeals cases after they are final if new information becomes available. The underlying intent, to make available an alternative action that allows an animal to remain alive while also protecting the public safety, would be met by accepting

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

the recommendation of a Vicious or Dangerous Dog Permit program option. Further, aligning the Hearing and Appeal process with State law and other major jurisdictions relieves a current sitting Board from debating whether actions of previous Boards should be re-visited. Staff recommends that the Department request the Mayor and City Council to instruct the City Attorney to integrate the previous recommendations on the hearing and appeal processes with the recommendations of this report. This would not change the aspect of that recommendation which included dealing with Case No. 05331 NC (regarding "Stu") and determining liability and retroactivity of provisions that would impact that case.

Additional Modifications Affecting the Hearing or Appeal Process

Another provision found uniformly among other jurisdictions and supported by staff with hearing experience is the addition of a reasonable civil penalty assessment when the Hearing Examiner finds that the allegations of either excessive barking, as defined, or dangerous or vicious behavior, are sustained. The civil penalty would partially offset the cost of conducting necessary investigation, pre-hearing, and hearing activities.

- Civil Penalty: Add a Civil Penalty of \$100 to be assessed for reissuance of a dog license upon an initial hearing that results in Terms and Conditions or an order to obtain a Vicious or Dangerous Dog Permit.

Dog owners who have had the license revoked of a dog or dogs for barking or because of dangerous behavior generally lose the privilege of owning, possessing, or controlling a dog (an exemption is possible by request to the General Manager). For a barking dog revocation case, the period in which a dog cannot be owned in the City is one year, for a dangerous dog revocation case, the period is three years. Staff finds that the intent of removing a barking or dangerous dog permanently is circumvented because the LAMC does not clarify that the dog or dogs with revoked licenses cannot be returned to the City after the one year or three years, or cannot be licensed by another person residing in the City who received the dog from the former owner.

- Dog License Revocation is Permanent: In each provision of the LAMC about license revocation, add language to clarify that the dog is permanently prohibited from being housed in the City by the former owner, even after the requisite period of prohibited dog ownership has been concluded.

The Board has also been allowed to hear appeals of persons requesting reconsideration if the General Manager refused to grant any request to reinstate licensing privileges. In at least the last three years, no reinstatement requests have been denied which then lead to a request to appeal. Since the LAMC already provides a hearing and appeal process for cases that may result in license revocation, the later consideration of reinstatement is a discretionary decision and should not be subject to appeal.

Subject: Barking Dog Noise Definitions, Appeal Processes, and Dangerous Dog Alternatives Relative to Dog License Revocations

- License Reinstatement Decision Final: The General Manager's decision shall be final with no appeal to the Board.
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FISCAL IMPACT:

The activities described above are existing continuing programs of the Department and the changes should bring improved clarity and efficiency to the process resulting in faster resolution and better safety for the public. With an average of 120 hearings per year, and about one-half of them for dangerous dog cases, the recommended penalties and Vicious or Dangerous Dog Permit fees would at most yield about \$15,000 to \$18,000 per year.

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Approved:

Kathleen J. Davis, Interim General Manager

BOARD ACTION:

_____ Passed	Disapproved _____
_____ Passed with noted modifications	Continued _____
_____ Tabled	New Date _____

Summary of Board Requests for Additional Information

Item	Location	Description	Commission concern	Clarification
1	South wall of animal receiving	Provide millwork	Wood may harbor disease transmitting material	Wood will be covered with plastic laminate
2	District Manager office	Provide Carpet	Harbors disease transmitting material	Department offered to place carpet in District Manager Office to gain LEED point; now Office floor will be linoleum. (LEED Gold rating obtained without this point.)
3	Outside area of ACO holding room no.162	Provide an area on the exterior to photograph animal in garden like setting, Provide lighting, Provide I-bolt with sufficient anchoring capabilities.	Will the I-bolt be able to hold a 100 pound dog?	I-bolt as designed will withstand 3,000 pounds of shear weight, sufficient to hold 100 pound dog.
4	Clerical counter	Provide glass between customer and clerical, with side through passage for paperwork	Glass needs to be bulletproof	No such thing as bulletproof glass. There are levels of bullet resistance from I - III. Plans call for 1.25" level II bullet resistant acrylic.
5	District manager's office	Provide one more door in this office	Door adds cost to project	Request was to provide a door from the district manager's office to the remainder of the administrative office. Original design provided for only an exterior door.
6	Doors	Provide 18" stainless steel kick plate	Where are the kick plates to be located?	Kick plates will be on all wood and metal passageway doors.
7	Women's restroom Room. No. 180	Change flooring from Sealed concrete to linoleum	Why	Aesthetically more attractive for employees, easier to keep clean. All linoleum is antimicrobial.
8	Men's restroom Room. No. 181	Change flooring from Sealed concrete to linoleum	Why	Aesthetically more attractive for employees, easier to keep clean. All linoleum is antimicrobial.
9	Rabbit Room	FRP (Fiberglass Reinforced Plastic panles) behind rabbit cages.	Plastic can harbor bacteria. Is FRP appropriate?	FRP is easy to clean, does not support mold or mildew. Used extensively in laboratories, and health care facilities. Meets USDA Standards for sanitation.
10	Small animal holding room	Reduce size of the room by 80 Sq. Ft.	Why?	Bigger room not needed for amount of cages requested by SLA lead rabbit volunteer.
11	Parking	Delete roofing over city vehicle	May need area to keep animals during an emergency	The deleted roofing is 3,400 sq. ft. on asphalt There is 31,552 sq. ft. of landscaped area inside the kennel area available for additional animal keeping

Summary of Board Requests for Additional Information

12	Cot room	Remove this room from men's and women's restroom	May need area for employees to rest during long workhours after an emergency	Room removed to enlarge locker room to provide room for full sized lockers for employees.
13	Kennel area	Remove kennel Hose Reels	Why?	Hose reels installed at other locations were difficult to use and required constant maintenance.
14	Exam rooms No. 109,110,125,153	Remove floor drain	Why?	Better practice to clean room with mop.
15	Get Acquainted rooms 154 and 147	Remove floor drain	Why?	Better practice to clean room with mop.
16	Exam Room. No. 153	Change flooring from Mondo to Sealed concrete	Why?	Easier to maintain and clean.
17	Get Acquainted Room. No. 154	Change flooring from Mondo to Sealed concrete	Why?	Easier to maintain and clean.
18	Get Acquainted Room. No. 147	Change flooring from Mondo to Sealed concrete	Why?	Easier to maintain and clean.
19	Holding Room No. 103	Delete Cabinet from this room	Staff may need cabinets.	Cabinets provided in adjacent areas.
20	Cat recovery Room 104	Delete Cabinet from this room	Staff may need cabinets.	Cabinets over cages at 5 feet above floor not useful, other cabinets in room.
21	Dog recovery Room 105	Delete Cabinet from this room	Staff may need cabinets.	Cabinets over cages at 5 feet above floor not useful, other cabinets in room.
22	Community room & Training Yard	Modify floor plan layout.	Why?	Better adjacency for use of both rooms.
23	Vet Assistant area	Remove workstation and add work counter/cabinet	Staff will need work area	Work area to be provided by modular furniture.
24	Medical Area Recovery	Move medical area recovery	Why?	Better adjacency for medical workflow.
25	Near ACO Animal Transfer/Holding	Modify hallway wall to glass wall	Could pose hazard	Area of modified hallway eliminated-no glass wall now.
26	Surgery room no. 107, prep room no. 108, minor procedure no. 127, prep room no. 126, and food storage	Gypsum ceiling	Why?	Veterinary Medical Practice Act requires hard ceiling in surgical rooms. Hard ceiling for food storage is to minimize vermin infestation.
27	Holding room no.147	Concrete	Why?	Easier to maintain and clean.
28	Exotic reptile room no. 142	Concrete	Why?	Easier to maintain and clean.
29	public animal receiving room no. 122	Concrete	Why?	Easier to maintain and clean.
30	Cat lobby room no. 101	Change from tile flooring to Vinyl Composition Tile	Why?	Easier to maintain and clean.
31	Cat lobby room no. 100	Change from tile flooring to Vinyl Composition Tile	Why?	Easier to maintain and clean.
32	Behavior assessment	Change from epoxy floor to mondo floor	Why?	Epoxy difficult and expensive to install, and maintain. Mondo flooring environmentally sound.

South Los Angeles Animal Care Center
Summary of Board Requests for Additional Information

33	Grooming	Change from epoxy to concrete	Why?	Easier to maintain and clean.
34	Dog and cat recovery	Concrete	Why?	Easier to maintain and clean.
35	Behavioral assessment Area	Remove concrete kennel and replace with pre-fabricated kennel.	What type of material?	Kennel caging identical, sides of metal rather than concrete. Same as used in all other facilities.
36	Public receiving	Raise the height of the counter	Why?	Raised to a standing height counter.