



City of Bunnell, Florida

Agenda Item No. H.1.

Document Date: 12/19/2019 Amount: \$170.00 (agreed amount)
Department: City Clerk Account #: 001-0524-524.3402
Subject: Request from the Flagler Humane Society for the City to pay costs to house and shelter confiscated dogs until a Court order is obtained.
Agenda Section: New Business:

ATTACHMENTS:

Description	Type
Letter from Flagler Humane Society	Exhibit

Summary/Highlights:

This is a request from the Flagler County Humane Society for the City to agree to pay the housing and sheltering costs for 7-9 dogs that need to be confiscated for cruelty.

The costs to house 7 to 9 dogs between being confiscated and a Court order being issued were not budgeted and would be in addition to the costs the City gets billed for monthly for Humane Society services.

The City is billed \$833.33 monthly for Animal Control Services plus an additional \$85.00 per animal picked up within the City of Bunnell limits. The number of animals picked up varies every month and include animals that may be surrendered by owners, feral cats residents request be picked up, animals that get loose and are returned to owners or any other animal picked up for any other reason within the City limits.

The City budgeted \$18,750.00 for the entire Fiscal Year. We have not received the invoices for the services provided in October 2019 nor November 2019.

The City paid the following to the Humane Society for previous months:

September 2019 = \$1,751.66

August 2019 = \$2,431.66

July 2019 = \$2,533.33

June 2019 = \$2,193.33

May 2019 = \$1,088.33

(using the above the City is averaging almost \$2,000.00 per month to the Humane Society and may not have budgeted enough for Fiscal Year 2019/2020)

Upon further discussion over the Christmas holidays, Amy Carotenuto from the Flagler County Humane Society told the City Attorney and the City Manager the only costs to be charged to the City was a flat fee of \$170.00.

The dogs in question have already been picked up by Animal Control and the hearing has been set for February 28, 2020 at 2:00 PM.

Background:

From the Bunnell Code of Ordinance:

Sec. 10-4. - Cruelty:

(a) Acts deemed as cruelty to animals, as listed in F.S. §§ 828.12 and 828.13, shall be incorporated in this chapter by reference.

(b) No owner, keeper or agent of an animal shall fail to provide the animal with adequate food, water, shelter or veterinary care.

(c) No animal shall be kept in unsanitary conditions, or in areas where there is vermin-harboring debris or other material which can provide an opportunity for injury or a danger to the animal's health or welfare.

Sec. 10-180. - Prohibition of tethering dogs to stationary objects while outdoors; exceptions.

(a) No person shall tether a dog to a stationary object while outdoors, except when all of the following conditions are met:

(1) The tether is connected to the dog by a commercially available buckle-type collar or a body harness made of nylon or leather that is of sufficient size to adequately and safely restrain the dog.

(2) The tether is of a size and weight that is reasonably necessary to safely restrain the dog without placing excessive strain or weight on the dog.

(3) The tether is at least five times the length of the dog's body, as measured from the tip of the nose to the base of the tail.

(4) The dog is not tethered outside in periods of extreme weather, including but not limited to extreme heat (in excess of 85 degrees) or cold (lower than 50 degrees), thunderstorms, lightning, tornadoes, tropical storms or hurricanes.

(5) The dog has access to water, shelter, shade, and dry ground.

(6) The dog is at least six months of age.

(7) The dog is not sick or injured.

(8) If there are multiple dogs, each dog is tethered separately.

(9) There shall be no tethering of any dog during the hours which occur from dusk until dawn.

Staff Recommendation:

Per the Commission. It may be necessary to do a Budget Amendment at some point later in the year based upon the rising costs being invoiced to the City.

City Attorney Review:

Reviewed and approved.

Finance Department Review/Recommendation:

Recommend approval. We will monitor the account as monthly intake invoices are received and may have to request more funding closer to year end.

City Manager Review/Recommendation:

Approved



One Shelter Drive
Palm Coast, Florida 32137
386.445.1814 ph
flaglerhumanesociety.org

December 17, 2019

City of Bunnell

Dear Mayor Robinson, Vice Mayor Rogers, Commissioners Baxley, Nobles and Reeger,

The purpose of this letter is to clarify that The City of Bunnell indeed wishes to use our officers (along with Bunnell Police Department and Flagler Sheriff's Department as needed) to investigate and take legal action when necessary in cases of animal abuse.

Flagler Humane Society has contracted since the 1980's with The City of Bunnell to provide these services. In 2016 then manager Dan Davis requested that we work without a contract, which we have done. The work and payments for the work have been the same, just without a contract.

Our officers have been working on 2 abuse cases in which neglected dogs are imprisoned on short chains. On multiple occasions the dogs have been found with no access to water, chains tangled to the point of not being able to reach any form of shelter.

In one of the cases the dogs have not been off of their chains since we forced the owner to take them in during Hurricanes Matthew, Irma and Dorian. The dogs are chained in the summer when temperatures reach the upper 90s and in the winter when temperatures drop. Most recently our officer was there when the temperatures were in the upper 30's - lower 40's.

We have photographic and video evidence. Owners have been warned over and over. They have been ticketed for ordinance violations but refuse to sign citations. When we send citations certified mail, they do not pick up the certified mail.

We ask that you allow us to move forward with this case, having your city attorney represent our officers just as County Attorneys Al Hadeed and Sean Moylan represent our officers in Flagler County cases. The county attorneys are more than willing to offer any guidance that Bunnell attorney's would like. They have successfully worked on dozens of these with us.

Board of Directors: Karen DeSalvo, President ■ Laura Gazzoli, Vice President ■
Isabel Conde, Treasurer ■ Lori Zimmerman Secretary ■ Dave Zaslavsky ■ Timothy Conner, Esq. ■
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Florida Statute 828.073 allows us to seize animals who are in jeopardy. We then are required to petition for permanent custody. The petition must be filed within ten days of the rescue of the animals. The hearing must be held within 30 days after it is scheduled. So potentially the animals would be in temporary custody for that amount of time. The judge could order that the owner pay costs involved in the animal's rescue. If the owner was not held responsible, Flagler Humane Society would bill the city for costs incurred during this time.

Boarding costs for neglect cases are normally billed at \$30.00 per day per animal. We understand that funding is an issue for The City so Flagler Humane Society would be willing to provide sheltering services for these particular dogs for \$15.00 per day per animal. Our costs begin the day the animal is seized and end as soon as the judge would sign the order. Once the Judge's order is signed, Flagler Humane Society would begin absorbing the costs to house and care for the animals until they are sterilized and healthy enough to be adopted. Our most pressing case includes two chained dogs. Estimating that we could most likely have a hearing within 30 days, the potential cost to the city would be \$900.

I am attaching a copy of Florida Statute 828.13 and 828.12 which address the abandonment of care, lack of exercise and deprivation of shelter and Statute 828.073 which addresses the custody of the animals. I am also attaching your ordinance which was passed in 2018. When your ordinance first passed, our officers provided owners of chained dogs with copies of the ordinance. They issued warnings for months before resorting to citations. We offered assistance with the cost and the labor to build fences. We offered free crates so that animals could sleep inside the home. The ordinance's tethering restrictions have been completely disregarded.

It is our ethical duty to provide these animals with the sustenance, shelter, proper exercise and veterinary care. We value our long standing partnership with The City of Bunnell and we intend on providing the best possible service to your constituents.

I plan on attending the commission meeting tonight. Please contact me if there are any questions beforehand.

Respectfully,

Amy Wade-Carotenuto
Executive Director
386-246-7684

From Florida Statutes:

828.12 Cruelty to animals.—

(1) A person who unnecessarily overloads, overdrives, torments, deprives of necessary sustenance or shelter, or unnecessarily mutilates, or kills any animal, or causes the same to be done, or carries in or upon any vehicle, or otherwise, any animal in a cruel or inhumane manner, commits animal cruelty, a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or both.

(2) A person who intentionally commits an act to any animal, or a person who owns or has the custody or control of any animal and fails to act, which results in the cruel death, or excessive or repeated infliction of unnecessary pain or suffering, or causes the same to be done, commits aggravated animal cruelty, a felony of the third degree, punishable as provided in s. 775.082 or by a fine of not more than \$10,000, or both.

(a) A person convicted of a violation of this subsection, where the finder of fact determines that the violation includes the knowing and intentional torture or torment of an animal that injures, mutilates, or kills the animal, shall be ordered to pay a minimum mandatory fine of \$2,500 and undergo psychological counseling or complete an anger management treatment program.

(b) A person convicted of a second or subsequent violation of this subsection shall be required to pay a minimum mandatory fine of \$5,000 and serve a minimum mandatory period of incarceration of 6 months. In addition, the person shall be released only upon expiration of sentence, is not eligible for parole, control release, or any form of early release, and must serve 100 percent of the court-imposed sentence. Any plea of nolo contendere shall be considered a conviction for purposes of this subsection.

(3) A person who commits multiple acts of animal cruelty or aggravated animal cruelty against an animal may be charged with a separate offense for each such act. A person who commits animal cruelty or aggravated animal cruelty against more than one animal may be charged with a separate offense for each animal such cruelty was committed upon.

(4) A veterinarian licensed to practice in the state shall be held harmless from either criminal or civil liability for any decisions made or services rendered under the provisions of this section. Such a veterinarian is, therefore, under this subsection, immune from a lawsuit for his or her part in an investigation of cruelty to animals.

(5) A person who intentionally trips, fells, ropes, or lassos the legs of a horse by any means for the purpose of entertainment or sport commits a felony of the third degree, punishable as provided in s. 775.082, s. 775.083, or s. 775.084. As used in this subsection, the term “trip” means any act that consists of the use of any wire, pole, stick, rope, or other apparatus to cause a horse to fall or lose its balance, and the term “horse” means any animal of any registered breed of the genus *Equus*, or any recognized hybrid thereof. This subsection does not apply when tripping is used:

(a) To control a horse that is posing an immediate threat to other livestock or human beings;

(b) For the purpose of identifying ownership of the horse when its ownership is unknown; or

(c) For the purpose of administering veterinary care to the horse.

(6) In addition to other penalties prescribed by law, a person who is convicted of a violation of this section may be prohibited by the court from owning, possessing, keeping, harboring, or having custody or control over any animal for a period of time determined by the court.

828.13 Confinement of animals without sufficient food, water, or exercise; abandonment of animals.—

(1) As used in this section:

(a) “Abandon” means to forsake an animal entirely or to neglect or refuse to provide or perform the legal obligations for care and support of an animal by its owner.

(b) “Owner” includes any owner, custodian, or other person in charge of an animal.

(2) Whoever:

(a) Impounds or confines any animal in any place and fails to supply the animal during such confinement with a sufficient quantity of good and wholesome food and water,

(b) Keeps any animals in any enclosure without wholesome exercise and change of air, or

(c) Abandons to die any animal that is maimed, sick, infirm, or diseased, is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.

(3) Any person who is the owner or possessor, or has charge or custody, of any animal who abandons such animal to suffer injury or malnutrition or abandons any animal in a street, road, or public place without providing for the care, sustenance, protection, and shelter of such animal is guilty of a misdemeanor of the first degree, punishable as provided in s. 775.082 or by a fine of not more than \$5,000, or by both imprisonment and a fine.