



CITY OF HENDERSONVILLE
ANIMAL SERVICES ADVISORY COMMITTEE
HPD Police Headquarters - Training Room | 630 Ashe St. | Hendersonville NC
28792



Thursday, April 18, 2024 – 5:00 PM

AGENDA

1. **CALL TO ORDER**

2. **APPROVAL OF AGENDA**

3. **APPROVAL OF MINUTES**

A. Approval of October 19, 2023 Meeting Minutes - *Caroline Gunther, Chair*

B. Approval of February 15, 2024 Meeting Minutes - *Caroline Gunther, Chair*

4. **OLD BUSINESS**

A. Update on Spay & Neuter Program & appropriation of state funds

B. Proposed Fee's, Licensing, Registration update from Benchmark cities

C. Review & Approve the New Appointee Orientation checklist

D. Clarification on research from the Department of Agriculture

E. City Clerk added sentence *"Please note that there is a possibility of seeing things in relation to the mistreatment of animals"* to the ASAC page of the COH website

5. **NEW BUSINESS**

A. Possible change to number of members for Dangerous Dog hearings

B. Discuss increasing the amount of ASAC members

6. **ADJOURNMENT**

The City of Hendersonville is committed to providing accessible facilities, programs and services for all people in compliance with the Americans with Disabilities Act (ADA). Should you need assistance or an accommodation for this meeting please contact the City Clerk no later than 24 hours prior to the meeting at 697-3005.



Regular Meeting
City of Hendersonville
Animal Services Advisory Committee

Meeting Minutes | October 19, 2023 | 5:00 p.m.

HPD Police Training Room | 630 Ashe Street | Hendersonville NC 28792

1. Call to Order

Meeting was called to order at 5:06 p.m. Members present were Caroline Gunther, Chair; Angela Prodrick, Vice Chair; Jean Greeson, Katie Weibel, Robin Grainger, Melissa Vazquez, James Lyon, and Marianne Pendleton.

City Staff present: Melissa Justus, Committee Secretary, Civilian Animal Control Officer Alexis Barker and Chief Blair Myhand.

Also in attendance was a member of the public, Nancy Schnider.

2. Public Comment

There was no public comment.

3. Approval of Agenda

Motion made by Vice Chair Angela Prodrick to approve the agenda; unanimous vote followed.

4. Approval of Minutes

Motion made by Vice Chair Angela Prodrick to approve the minutes of the August 17, 2023 meeting; unanimous vote followed.

5. Old Business

Spay & Neuter Program Update – Angela Prodrick gave an update on the 8/17/23 topic of possible special appropriated funds being available from the State of NC to the City of Hendersonville for the General Fund for participation in the S&N program. The information

has been passed on to City Manager John Connet and he will talk with the Finance Department, and we should hear something soon. Angela shared with the committee a spreadsheet from Henderson County Animal Services showing intake numbers, etc., from 2010-2022.

Proposed Fee's/ Licensing of Individual Breeders – Discussed options and procedures on how to proceed with the possibility of implementing fees and the licensing of individual breeders. The process would need to be regulated by the Hendersonville Police Department. Chief Myhand suggested that the behavior vs. the number of animals should be considered. Suggested to get 3 comparisons from the Benchmark cities that would show how they handle 1) Breeders, 2) # of Feral cat colonies, and 3) # of pets allowed per household.

Dangerous Dog Hearings Training Updates – Continued discussion about presenting the former video of Quasi-Judicial training by City Attorney Angie Beeker as a refresher for all current committee members. Discussed possible options for continued training of Quasi-Judicial training procedures/process for Quasi-Judicial meetings, such as new in-person training and possible off-site training with Henderson County Animal Services Advisory Committee.

6. New Business

Caroline Gunther submitted an example of a New Appointee Orientation checklist that she came up with to be given to new members upon joining the committee. Caroline asked Melissa to forward a copy to the existing members. Suggestion was made to possibly update the COH website dedicated to the description of the ASAC Committee duties to reflect that members may see things in relation to the mistreatment of animals while serving on the committee and to link to the Charter/By-Laws.

Alexis Barker is the recipient of the Hunter Auto Group Hometown Heroes Award on Friday, September 15th for her dedication, passionate and caring attitude toward animals. The ASAC appreciates her hard work and commitment.

7. Adjournment

There being no further business Angela Prodrick moved to adjourn the meeting at 6:19 pm.

Caroline Gunther, Chair



Regular Meeting
City of Hendersonville
Animal Services Advisory Committee

Special Called Meeting Minutes

February 15, 2024 @ 5:00 p.m.

COH City Hall | 160 6th Ave. East | Hendersonville NC 28792

1. Call to Order

The meeting was called to order at 5:06 p.m. by Robin Grainger and Jean Greeson. Members present were Angela Prodrick, Vice Chair; Jean Greeson, Katie Weibel, Robin Grainger, Melissa Vazquez and Marianne Pendleton.

City Staff present: Melissa Justus, Staff Liaison; Blair Myhand, Chief of Police; Alexis Barker, Civilian Animal Control Officer; Angela Beeker, City Attorney; and Daniel Heyman, Staff Attorney.

2. Public Comment

There was no public comment.

3. Approval of Agenda

Motion made by Robin Grainger to approve the agenda as amended, Katie Weibel seconded. Amended to show move of Item A, Quasi-Judicial Training to Item B, and to have Item A changed to the Order Affirming Dangerous Dog Turbo; unanimous vote followed.

4. New Business

Motion made by Jean Greeson to approve the Order Affirming Dangerous Dog Determination of Turbo. Robin Grainger seconded the motion; unanimous vote followed.

Quasi-Judicial Training was conducted by City Attorney Angela Beeker and Staff Attorney Daniel Heyman.

5. Adjournment

There being no further business Robin Grainger made a motion to adjourn the meeting at 6:40pm.

Approved by: _____
Angela Prodrick, Vice-Chair

Chapter 10 ANIMALS

Sec. 10-2. Definitions.

For the purposes of this chapter, the following words and phrases shall have the meaning respectively ascribed to them by this section:

Dangerous dog means any dog that:

- (1) Without provocation has killed or inflicted serious injury on a person; or
- (2) Is determined by the chief of police, their designee, or the animal services advisory committee to have engaged in one or more of the following behaviors:
 - a. Inflicted a bite on a person that resulted in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization, or
 - b. Has killed or inflicted severe injury upon a domestic animal when not on the owner's real property, or
 - c. Has approached a person when not on the owner's property in a vicious or terrorizing manner in an apparent attitude of attack; or
- (3) Is owned or harbored primarily or in part for the purpose of dog fighting, or any dog trained for dog fighting.

This definition shall not apply to: (1) a dog that has been subject to provocation, (2) any dog responding to a trespass upon the animal owner's premises, if the victim is the trespasser, or (3) dogs used by law enforcement agencies to carry out official law enforcement duties. Provocation must be clearly established.

Dog means a domestic canine of either sex.

Harboring an animal means feeding or sheltering and animal for 14 days or more unless the animal is being boarded for a fee.

Owner means any person owning, keeping, harboring, possessing, or acting as custodian, however temporarily, of an animal; provided, however, that a person having temporary custody or possession of an animal for the sole purpose of turning over such animal to a member of the animal services division or other peace officer shall not be deemed the owner of the animal.

Provocation means conduct or actions on the part of any person or animal that is likely to arouse a violent or aggressive response by an animal. This term does not include any action on the part of an individual or animal that pertains to reasonable efforts of self-defense.

Serious injury means a physical injury resulting in broken bones, disfiguring lacerations, or requires cosmetic surgery or hospitalization.

Sec. 10-34. Animal services advisory committee.

The animal services advisory committee shall make recommendations to the city council regarding animal-related ordinances, policies, and procedures. The animal services advisory committee may undertake the study of areas under their authority to advise city staff and city council.

The animal service advisory committee, or a duly appointed subcommittee thereof, shall act as the animal services appellate board and hear all appeals under this chapter when permitted by state law, including appeals of dangerous dog determinations.

The composition, rules of procedure, and all other matters shall be governed by the animal services advisory committee charter and rules of procedure, as amended.

Sec. 10-182. Declaration of dangerous dogs.

The chief of police shall have the authority to declare a dog to be a dangerous dog. Any determination that a dog is a dangerous dog shall be made in writing, summarizing the available evidence. The letter shall be served by personal delivery or by certified or registered mail to the owner. The written determination shall order compliance with the appropriate provisions of this chapter and may impose reasonable conditions to maintain the public health and safety.

Sec. 10-183. Dangerous dogs restricted.

It shall be unlawful for any person to own or in any way maintain or harbor a dog that has been deemed dangerous, except as provided in this chapter. Notwithstanding any enumerated exception in listed in section 10-2, any dog which has killed a person shall be immediately euthanized.

Sec. 10-184. Appeal.

Any person who owns a dog that has been declared a dangerous dog shall have the right to appeal the declaration to the animal services advisory committee as provided herein:

- (1) *Manner of appeal.* The owner of a dangerous dog may request an appeal of the determination in writing. The written appeal must be submitted to the chief of police, must state the owner's address, and must be received or postmarked within seven calendar days of the receipt by the owner of notice of the declaration.
- (2) Pending the appeal, the owner of a dangerous dog shall comply with the provisions of section 10-184 herein.
- (3) *Hearing procedures.* Once properly appealed, the animal services advisory committee shall conduct a quasi-judicial hearing to determine whether the declaration of the dog as a dangerous dog should be upheld.
- (4) *Outcome.* If the dog is affirmed by the animal services advisory board as being a dangerous dog, then the owner shall comply with the provisions of this chapter. Any person who owns a dog upheld as a dangerous dog by the animal services advisory committee has the right to appeal this determination to the county superior court.

This document is the script used in quasi-judicial proceedings. It shows the process, but also contains explanations as to the "why" for the steps in the process.

General Introduction to Quasi-Judicial Decisions

This is a quasi-judicial hearing on the application submitted for the McConnell Property Subdivision.

This hearing is a quasi-judicial evidentiary hearing. That means it is like a court hearing. State law sets specific procedures and rules concerning how this board must make its decision. These rules are different from other types of land use decisions like rezoning cases.

The board's discretion is limited. The board must base its decision upon competent, relevant, and substantial evidence in the record.

Competent evidence is evidence that is sufficiently trustworthy and reliable, and that is legally fit and acceptable for consideration by the Board. Examples of evidence that would likely not be competent includes: speculation, vague evidence, non-expert opinions as to something that requires an expert, evidence that is not relevant as to whether a standard has or has not been met, hearsay evidence, unless it is presented under an exception that make it competent, such as reports written by experts.

Material evidence is evidence that shows that the standards will or will not be met.

Substantial evidence is more than a scintilla. Evidence is substantial if it is relevant and something that a reasonable mind would regard as sufficient to support a specific conclusion. Examples of evidence that is not substantial includes mere speculation, unsubstantiated fears of the community, or vague assertions.

A quasi-judicial decision is not a popularity contest. It is a decision constrained by the standards in the ordinance and based on the facts presented. If you will be speaking as a witness, please focus on the facts and standards, not personal preference or opinion.

* Participation is limited. This meeting is open to the public. Everyone is welcome to watch. Parties with standing have rights to participate fully.

Parties may present evidence, call witnesses, and make legal arguments. Parties are limited to the applicant, the local government, and individuals who can show they will suffer special damages. Other individuals may speak as a witness, however, they will not be allowed to participate fully as a party, such as by questioning other witnesses, or by calling other persons to testify.

General witness testimony is limited to facts, not opinions. For certain topics, this board needs to hear opinion testimony from expert witnesses. These topics include projections about impacts on property values and projections about impacts of increased traffic. Individuals providing expert opinion must be qualified as experts and provide the factual evidence upon which they base their expert opinion. In

evaluating expert testimony, mere conclusory testimony without providing the foundation of the expert's opinion will not sufficient to establish the existence or nonexistence of a fact or conclusion.

Generally speaking, evidence that is presented, that is not objected to, may be considered by the Board. However, even if certain evidence is not objected to, it MAY NOT be considered by the Board unless presented by an expert witness:

1. The use of property in a particular way would affect the value of other property.
2. The increase in vehicular traffic resulting from a proposed development would pose a danger to the public safety.
3. Matters about which only expert testimony would generally be admissible under the rules of evidence.

I want to remind the Board that even though the Board may rely on other evidence if it is not objected to, the Board should rely on competent, reliable evidence in making its decision. Even if incompetent evidence is admitted in the hearing, what is important is the evidence that is actually relied upon by the Board.

Witnesses must swear or affirm their testimony. Tonight all witnesses will be sworn or affirmed, however they will be sworn or affirmed as they come up to testify, rather than in a group.

Identification of Parties

The Board will recognize the applicant as a party. Are there other persons who believe they have standing to participate fully as a party? [Have them come forward and state the reasons why they believe they should have standing. Usually, an adjacent property owner will have standing. Otherwise, they must provide a reason that the proposed subdivision will affect them differently from the rest of the community.]

Identification of Witnesses

Will each party tell me the witnesses they intend to call?

Are there other persons who don't qualify to be a party but who would like to testify?

Disclosure

The parties to this case are entitled to an impartial board. A board member may not participate in this hearing if she or he has a fixed opinion about the matter, a financial interest in the outcome of the matter, or a close relationship with an affected person. Does any board member have any partiality to disclose or conflict of interest to offer at tonight's meeting?

PAUSE

IF THERE IS A RECUSAL

It is the policy of this board that a recused member shall step down from the dais and be excused from the room. The board member may return for the next matter.

PROCEED TO EX PARTE COMMUNICATION

"The parties to this case have rights for any ex parte communication to be disclosed. Ex parte communication is any communication about the case outside of the hearing. That may include site visits as well as conversations with parties, staff, or the general public. Does any board member have any ex parte communications or site visits to disclose?"

PAUSE

Based on the disclosures we've heard from the board concerning partiality and ex parte communications, does any member of the board or any party to this matter have an objection to a board member's participation in this hearing?"

PAUSE

IF NOT, PROCEED WITH HEARING

IF A PARTY RAISES AN OBJECTION

"_____ [insert party] has objected to _____'s [insert board member's name] participation in the hearing based on _____ [insert basis of objection]. When there is an objection to a board member participating in a quasi-judicial decision, the dispute is resolved by a majority vote of the remaining members of the board. I'll now ask the remaining members of the board for a motion as to whether _____ [insert board member's name] may participate in this hearing."

Staff Update:

I'd like to call on planning staff for the presentation of their staff report.

Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

Applicant Presentation of Evidence

Applicant, do you want to speak or testify? [OR] Do you want to call your first witness?

[SWEAR EACH WITNESS]

Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

“Before you begin, please state for the record your name, address, and relation to the case.

TESTIMONY

“Does the board have questions for the witness?”

PAUSE

“Does any party have additional questions for the witness?”

PAUSE

“_____ [insert applicant name], do you wish to call any other witnesses to speak on behalf of your case?”

APPLICANT MAY CALL ADDITIONAL WITNESSES

[SWEAR THE WITNESS]

Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

“Before you begin, please state for the record your name, address, and relation to the case.

TESTIMONY

“Does the board have questions for the witness?”

PAUSE

“Does any party have additional questions for this witness?”

PAUSE

Other Parties with Standing Testimony

SWEAR WITNESS

Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

"Before you begin, please state for the record your name, address, and relation to the case.

PAUSE

TESTIMONY

"Does the board have questions for the witness?"

PAUSE

"Does any party have additional questions for the witness?"

PAUSE

PARTY MAY CALL ADDITIONAL WITNESSES

SWEAR WITNESS

Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

"Before you begin, please state for the record your name, address, and relation to the case.

PAUSE

TESTIMONY

"Does the board have questions for the witness?"

PAUSE

"Does any party have additional questions for this witness?"

PAUSE

OTHER WITNESSES - CALL THEM AND GO THROUGH SAME PROCEDURE.

RESPONSE

“Parties with standing have an opportunity to offer rebuttal or closing argument. As a reminder, please focus your response on legal arguments and new or clarifying evidence. Please avoid mere repetition of the evidence we already heard. We will begin with the applicant. Then, I will call any other parties with standing.”

CALL APPLICANT

If not already sworn: Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

CALL OTHER PARTIES

If not already sworn: Do you solemnly swear or affirm that the evidence you shall give to the board in this action shall be the truth, the whole truth, and nothing but the truth [so help you God]?

Closing Arguments

At this time, I will allow each party _____ minutes to make a closing argument. [Applicant can choose to go first or last.

Motion to Continue the Hearing

“In limited circumstances this board may decide to continue a hearing to a later meeting. This may be at the request of a party or on the board’s own motion. Does any party or a council member believe that a situation existed that warrants the continuance of this hearing? And is there a motion to continue?”

PAUSE

MOTION, SECOND, DISCUSSION, AND VOTE

WITH VOTE TO CONTINUE THE HEARING

“This hearing is continued to _____[state time and place for the continued hearing].”

NOTE: If the above happens and the issue is continued, then move to the next agenda item. If not, proceed with the following steps.

Deliberation

“Does the board have any more questions for the parties or witnesses before we move into deliberation?”

“Does any board member have personal knowledge of additional facts relevant to this case that should be entered into the record?”

PAUSE

“Hearing no additional questions or presentation of relevant facts, the board will now begin deliberation. The evidentiary hearing remains open so that the board may ask clarifying questions, if needed.

“As a reminder, this board is tasked with deciding if, based on the evidence presented at the hearing before this Board, this proposal meets the applicable standards. This decision cannot be based on the personal preference of board members. Rather a decision must be based on competent, material and substantial evidence in the record.

If the applicant meets their burden of producing competent, material and substantial evidence that the standards in the ordinance will be met, the burden shifts to the other parties opposing the application to show by competent material and substantial evidence that the standards in the ordinance will not be met. If both side present conflicting evidence as to a standard, the Board will have to weigh the evidence and determine which side’s evidence is correct. As an example the Board may determine that one side’s evidence is more credible, and more reliable.

If the applicant does not meet their burden of producing competent, material and substantial evidence that the standards in the ordinance will be met, the Board must deny the application.

The application as originally submitted was considered by the Planning Board and the Planning Board made a recommendation. Because this occurred outside of the hearing before this Board, nothing that occurred at the Planning Board level, including the Planning Board’s recommendation, is considered evidence that you can base your decision on. However, the Planning Board’s recommendation may be useful to the Board in identifying issues that this Board may want to consider and evaluate based upon the evidence that was presented at the hearing before this Board.

Board members are encouraged to reference the applicable standards and specific evidence in their deliberation so that staff and I will have enough information to prepare the written decision for the Board.

Motion and Vote

“Is there a motion regarding this request?”

MOTION, SECOND, DISCUSSION AND VOTE

Decision and Closing

“Staff will draft and I (or an authorized designee) will sign a final written decision to reflect the vote and reasoning for this decision. That written decision will be provided to the applicant and other parties with a right to such notice.

“Thank you to everyone attending the hearing regarding _____ [insert case name]. We welcome you to stay for the other items on the agenda. If you are leaving, please do so quietly at this time.”

ANIMAL SERVICES ADVISORY COMMITTEE

CHARTER AND RULES OF PROCEDURE

The Animal Services Advisory Committee (ASAC) shall assist the Hendersonville City Council by providing input on the operations and policies of the Hendersonville Police Department regarding the enforcement of the Animal Ordinance. This may include efforts such as collaborating with staff on operating procedures or providing expertise and recommendations regarding the Animal Ordinance. This Committee shall also hear dangerous dog appeals in a quasi-judicial format. The terms of the charter shall govern the activities of the Committee. However, to the extent that this Charter conflicts with North Carolina Law, North Carolina shall control.

ARTICLE I. NAME. Animal Services Advisory Committee (ASAC).

ARTICLE II. PURPOSE. The purpose of this Committee is to make recommendations to the City Council a staff regarding the Animal Ordinance, policies and procedures, and any other issues requested by the City Council. This Committee shall also hear dangerous dog appeals.

ARTICLE III. JURISDICTION. The Committee shall exercise its purpose with regards to matters and issues within the corporate limits of the City of Hendersonville.

ARTICLE IV. MEMBERSHIP AND DUTIES

Section 1. Membership and Appointment. All appointments shall be made by the City of Hendersonville City Council. The Committee shall consist of eight (8) members: Seven (7) members from the general public with various affiliations and diverse background and one (1) veterinarian. The City Manager shall appoint a staff liaison from the City of Hendersonville Police Department to the Committee who shall assist the Committee with carrying out their duties and responsibilities.

Section 2. Terms of Service. Committee members shall be appointed to staggered three-year terms by the City Council annually in June. No member shall serve more than two consecutive full three-year terms. Members shall serve without compensation.

Section 2. Attendance. Any member who misses more than three consecutive regular meetings or more than one-half the regular meetings actually held in a calendar year may be subject to removal by City Council.

Section 4. Vacancies and Reasons for Dismissal. All members serve at the pleasure of the City of Hendersonville City Council. Members may be dismissed for any reason, with or without cause. Vacancies shall be filled at the earliest convenience of the City Council. A vacancy of the chair or vice chair shall be elected by a majority of the Committee at the next regularly scheduled meeting. Notwithstanding the foregoing, at any meeting where both the Chair and Vice Chair are absent, the Committee shall elect from those members present a member to preside at that meeting.

Section 5. Resignations. Any member who feels they can no longer serve or otherwise fulfil the duties of a member may resign from the committee. Such resignation must be in writing and delivered to the secretary. The secretary shall promptly send a copy of the written resignation to the City Clerk.

Section 6. Compliance with Animal Ordinance. All members must comply with the City of Hendersonville Animal Ordinance, and local, state and federal law as applies to animals. Failure to comply with this provision may result in the immediate dismissal from the Committee by City Council.

ARTICLE V. MEETINGS

Section 1. Meetings to Be Open to the Public. All meetings of the Committee shall be open to the public, and any person may attend its meetings. Except as permitted below, all meetings of the Committee shall be open to the public and any person may attend its meetings. For purposes of these rules, a meeting of the Committee occurs whenever a majority of the Committee's members gather, either in person or simultaneously by electronic means, to conduct hearings, deliberate, vote, or otherwise transact public business within the Committee's real or apparent jurisdiction. The term "majority" as used here and elsewhere in these rules means, unless otherwise specified, a simple majority, that is, more than half. No meeting shall occur except as part of a duly called and advertised meeting. For the avoidance of doubt informal gatherings of a majority of the members where business of the committee is discussed are strictly prohibited.

Section 2. Closed Session. The Committee may enter a closed session from which the public is excluded on any of the grounds listed in G.S. 143-318.11(a).

- a) **Motion to Enter Closed Session.** The Committee may hold a closed session only upon a motion duly made and adopted in open session. The motion to enter closed session shall cite one or more of the permissible bases listed in G.S. 143-318.11(a) for closed sessions. For a closed session held under G.S. 143-318.11(a)(1) (prevent disclosure of privileged or confidential information or information not considered public record), the motion shall name or cite the law that renders the information confidential or privileged. For a closed session called pursuant to G.S. 143-318.1 (a)(3) (attorney consultation and preservation of attorney-client privilege), the motion shall name the parties to any pending lawsuit that the Committee's attorney plans to discuss in the closed session.
- b) **Closed-Session Participants.** Aside from the Committee members themselves, only those individuals invited by the Committee may participate in a closed session. The Committee will invite only those individuals whose presence is reasonably necessary to aid the Committee in its closed-session deliberations.
- c) **Motion to Return to Open Session.** Upon completing its closed-session business, the Committee shall return to open session.

Section 3. Regularly Scheduled Meetings. The Committee shall hold regular meetings at least quarterly of the Animal Services Advisory Committee. The Committee shall annually adopt a regular meeting schedule showing the dates, times and places of its regular meetings for the year.

- a) **Notice of Regular Meeting Schedule.** The Committee shall ensure that a copy of its current regular meeting schedule, complete with the date, time, and place of each regular meeting, is filed with the City Clerk and posted on the City's website, and the Committee's webpage if they have one.
- b) **Change to Regular Meeting Schedule.** The Committee may revise its regular meeting schedule to change the date, time or place of a particular regular meeting or all regular meetings within a specified period. The Committee shall ensure that the revised regular meeting schedule is filed with the City Clerk at least seven (7) consecutive calendar days before the first meeting held pursuant to the revised schedule. The Committee shall also have the revised schedule posted on the City's website and the Committee's webpage if they have one.

Section 4. Special Meetings. The chair or the majority of the members of the Committee may at any time call a special meeting of the Committee by signing a notice stating the date, time and place of the special meeting and the subjects to be considered. Alternatively, a special meeting may be called by vote of the

Committee in open session during a regular meeting or another duly called special meeting if on the special meeting agenda.

- 1) **Notice to the public.** At least 48 hours before a special meeting, the Committee shall cause written notice of the meetings date, time, place and purpose(s) to be:
 - i Posted on the Committee's principal bulletin Committee or, if the Committee has no such bulletin Committee, at the door of the Committee's usual meeting room.
 - ii Mailed or delivered to each newspaper, wire service, radio station and television station and person who has filed a written request for notice with the secretary;
- 2) **Notice to Committee Members.** For all meetings called by the chair, or a majority of the members, notice of the meeting date, time, place and purpose(s) shall be mailed, emailed, or delivered to all members of the Committee at least 48 hours before the meeting. If the special meeting was called at another duly held meeting of the committee, and one or more members were absent, the chair shall ensure that notice of the meeting's date, time, place, and purpose(s) is mailed, emailed, or delivered to any absent member(s) a minimum of forty-eight hours in advance of the special meeting.
- 3) **Business Conducted at a Special Meeting.** Only the business that is specified in the notice of the meeting may be transacted during a special meeting.

Section 5. Organizational Meeting. On the date and at the time of the regular meeting in January, the committee shall elect a chair and vice chair as its first order of business. The second order of business shall be to adopt an annual scheduled of meetings for the upcoming calendar year. Newly appointed and reappointed members must have taken their oath prior to the start of the organizational meeting.

Section 6. Electronic Committee Meetings and Member Participation. No member who is not physically present may participate in a meeting of the Committee by electronic means except in accordance with this rule.

- 1) **Electronic Meetings Generally.** Provided a quorum is present, in person, at a meeting, Committee members may participate in a meeting electronically provided the meeting does not involve a quasi-judicial matter. All members participating in a quasi-judicial hearing must attend in person. Any member wishing to participate electronically in a meeting not involving a quasi-judicial matter shall be required to give the Chair and the Secretary at least thirty-six (36) Hours before the start of the meeting. When one or more members are participating remotely, the following rules shall apply:

(a) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:

- i when roll is taken or the meeting begins;
- ii before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
- iii before voting.

(b) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member

- i to hear what is said by other Committee members and any person who addresses the Committee and
- ii to be heard by other Committee members.

(c) *Voting.* The Committee shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Committee maintains electronic communication with that member.

(d) *Minutes.* The minutes shall which members took part electronically, and when such members joined or left the electronic meeting.

2) **Electronic Meetings During a State of Emergency Declared by the Governor or General Assembly.** During any state of emergency declared by the Governor or General Assembly pursuant to G.S. 166A-19.20, a meeting of the Committee shall comply with the requirements of this paragraph if the Committee falls within the emergency area and at least one Committee member attends the meeting by conference call, conference video, or other electronic means.

(a) *Notice.* The public notice for any regular, special, emergency, or recessed meeting that is subject to this paragraph shall specify how the public can access the electronic meeting in real time.

(b) *Member Identification.* Each member who attends by electronic means shall identify himself or herself in each of the following situations:

- i when roll is taken or the meeting begins;
- ii before taking part in deliberations, including making any motions, proposing any amendments, or raising any points of order; and
- iii before voting.

(c) *Meeting Materials.* All documents considered during the meeting shall be furnished to each Committee member.

(d) *Method of Electronic Participation.* Any member who attends electronically shall use a means of communication that enables the member

- i to hear what is said by other Committee members and any person who addresses the Committee and
- ii to be heard by other Committee members.

(e) *Quorum.* A member who attends by electronic means counts as present for quorum purposes, but only while the Committee maintains electronic communication with that member.

(f) *Voting.* The Committee shall conduct all votes by roll call. It may not vote by secret or written ballots. The votes of any member who attends by electronic means shall be counted as if the member were physically present, but only while the Committee maintains electronic communication with that member.

(g) *Acting by Reference.* The Committee shall not deliberate, vote, or otherwise take action on any matter by reference to the agenda or any other document unless copies of the agenda or document are available for public inspection at the meeting and so worded that persons in attendance can understand what is being deliberated or acted upon.

(h) *Minutes.* The minutes shall indicate that the meeting was conducted by electronic means, which members took part electronically, and when such members joined or left the electronic meeting.

(i) *Live Streaming.* The meeting shall be streamed live online so that live audio (and video, if any) are available to the public. If the Committee meets by conference call, the public shall have an opportunity to dial in or stream the audio live and listen to the electronic meeting.

(j) *Public Hearings.* Although it may conduct any public hearing mandated or permitted by law, the Committee shall allow the public to submit written comments on the hearing's subject matter between the publication of any required notice and twenty-four hours after the hearing.

Section 7. Cancellation of Meetings. Whenever there is no business for the committee the chair may cancel a meeting by giving reasonable notice to all members before the time set for the meeting. However, in the case of a special meeting called by a majority of the Committee, the chair may cancel the meeting only upon the concurrence of a majority of the Committee. The majority concurring in the cancellation need not be the same majority that called the special meeting.

Section 8. Recessed Meetings

(a) *Calling Recessed Meetings.* When conducting a properly called regular, special, or emergency meeting, the Committee may recess the meeting to another date, time, or place by a procedural motion made and adopted in open session, as provided in Article XI, Section 5 (Motion 3). The motion shall state the time (including the date, if the meeting will resume on a different day) and place at which the meeting will resume.

(b) *Notice of Recessed Meetings.* If the Committee's website is maintained by one or more Committee employees, notice of the recessed meeting's date, time, and place shall appear on the website prior to the meeting. No further notice of a properly called recessed meeting is required.

Section 9. Order of Business Items shall be placed on a regular-meeting agenda according to the order of business. The usual order of business for each regular meeting shall be as follows:

- adoption of the agenda,
- approval of the previous meeting minutes,
- public comment,
- public hearings,
- administrative reports,
- committee reports,
- unfinished business, and
- new business.

Without objection, the chair may call agenda items in any order most convenient for the dispatch of business.

Section 10. Agenda Items from Members of the Public. If a member of the public wishes to request that the Committee include an item on its regular-meeting agenda, the individual shall submit the request in writing to the Committee's secretary at least five working days before the meeting date. The committee shall decide whether or not to add any agenda items submitted by the public at the adoption of the agenda. The committee is not obligated to place an item on the agenda merely because such a request has been received.

Section 11. Meeting Minutes. Minutes Required for All Meetings. The Committee shall keep full and accurate minutes of its meetings, including any closed sessions. To be "full and accurate," the minutes must record all actions taken by the Committee, as well as the Committee's compliance with any applicable procedural requirements. The minutes should set out the precise wording of each motion and make it possible to determine the number of votes cast for and against each motion. The minutes need not record Committee member discussions, though the Committee in its discretion may decide to incorporate such details into the minutes.

- a) Record of "Ayes" and "Noes." At the request of any member, the minutes shall indicate how each member voted by name on a particular matter.
- b) General Accounts of Closed Sessions. In addition to minutes, the Committee shall keep a general account of each closed session. The general account shall be sufficiently detailed to provide a person not in attendance with a reasonable understanding of what transpired. The Committee may combine the minutes and general account of a closed session into one document, so long as the document contains both a complete record of actions taken, and the level of detail required for a general account.
- c) Sealing Closed-Session Records. Minutes and general accounts of closed sessions shall be sealed until unsealed by order of the Committee or in accordance with instructions adopted by competent authority. The sealed minutes and general account of any closed session may be withheld from public inspection, so long as public inspection would frustrate the purpose(s) of the closed session.

Section 12. Public Input. Public input at all Committee meetings that are not quasi-judicial in nature shall have a three-minute limit per speaker. The Chair reserves the right to alert time limits for public comment periods.

Section 13. Broadcasting and Recording Meetings. Any person may photograph, film, tape-record, or otherwise reproduce any part of a Committee meeting that must take place in open session. Except as provided in paragraph (c) of this rule, any radio or television station may broadcast any such part of a Committee meeting.

- a) Advance Notice. Any radio or television station that plans to broadcast any portion of a Committee meeting shall so notify the secretary no later than twenty-four hours before the meeting. The failure to provide notice is not, by itself, grounds for preventing the broadcast of a Committee meeting.
- b) Equipment Placement. The Committee chair or an appropriate staff member may regulate the placement and use of camera or recording equipment in order to prevent undue interference with a Committee meeting, so long as he or she allows the equipment to be placed where it can carry out its intended function. If the Committee chair or staff member determines in good faith that the equipment and personnel necessary to broadcast, photograph, or record the meeting cannot be accommodated without undue interference to the meeting, and an adequate alternative

meeting room is not readily available, the chair or staff member may require the pooling of the equipment and the personnel operating it.

- c) **Alternative Meeting Site.** If the news media request an alternative meeting site to accommodate news coverage, and the Committee grants the request, the news media making the request shall pay the costs incurred by the local government unit in securing an alternative meeting site.

Section 14. VOTING

- a) **Duty to vote.** It is the duty of each member, including the chair, to vote unless otherwise excused. The Committee may excuse members from voting on any matter involving their own financial interest, official conduct, or when a member has indicated an inability to be impartial in any quasi-judicial matter before the Committee.
- b) **Abstentions.** Should a member fail to vote on any matter before the Committee, without having been excused from such vote, such abstention will count as an affirmative vote.

ARTICLE VI. QUASI-JUDICIAL HEARINGS

Section 1. Appeals. All quasi-judicial public hearings heard by the Committee pursuant to the Chapter 10 of the City of Hendersonville Code, Article III, Dogs, Section 10-110, Dangerous/Potentially Dangerous Dogs Restricted, shall be conducted in accordance with the Rules provided below. All such hearings shall be scheduled as special-called meetings and shall be held within ten (10) days of receipt of the written appeal.

Section 2. Conduct of Quasi-judicial (Evidentiary) Hearing.

- a) **Appearance of the Parties.** Any party may appear in person or by agent or by attorney at the hearing. The Committee shall not permit the unauthorized practice of law by a non-lawyer or not properly licensed lawyer at the hearing.
- b) **Order of Business for the Hearing.** The order of business for hearing shall be as follows:
 - i. The Chair, or such other person as the Chair may direct, shall give an opening statement regarding the nature of the hearing and the process to be followed.
 - ii. The Chair, or such other person as the Chair may direct, shall poll all Committee members participating regarding any ex parte communications, bias, or conflicts of interest.
 - iii. All participants in the hearing shall be identified. Issues regarding standing, permitted level of participation of the participants and other jurisdictional issues shall be addressed. (Only persons who have standing will be recognized as a party to the hearing. Other interested persons who do not have standing may testify, but will not be allowed to offer opening or closing statements, call witnesses, cross examine witnesses.)
 - iv. All persons who will testify must be placed under oath before testifying.

- v. City staff shall present an overview of the matter, including a summary of the facts and relevant ordinance provisions. Staff shall also present the application, supporting materials, staff report, and any other written materials received and distributed prior to the hearing for introduction into the hearing record
- vi. The Committee shall permit the parties (not other interested persons) to offer opening statements.
- vii. The party(ies) bearing the burden of proof or production shall present evidence in support of the relief requested from the Committee.
- viii. The opposing party(ies) shall present evidence in support of their position to the Committee.
- ix. Other interested persons who have been identified may present relevant evidence.
- x. The party(ies) bearing the burden of proof or production may present rebuttal evidence. Surrebuttal may be permitted at the Committee's discretion. Only parties (not other interested persons) will be permitted to introduce rebuttal and surrebuttal evidence.
- xi. Closing statements and arguments may be made by parties to the case.
- xii. The Committee shall deliberate on and make a determination of the case.

c) Rules Governing Conduct of the Hearing.

- i. Witness may be called and factual evidence may be submitted.
- ii. The Chair must recognize witnesses before they are heard and confirm that they are under oath.
- iii. The Chair shall allow all witnesses to be heard, but may limit testimony or evidence that is irrelevant, repetitive, incompetent, hearsay, or inadmissible opinion testimony.
- iv. The Chair shall allow the parties to the case to make direct and cross-examination of witnesses and to present rebuttal evidence.
- v. The Chair may establish reasonable procedures to assure that the hearing is conducted in a fair, impartial and efficient manner.
- vi. Committee members may ask questions of any witness.
- vii. The Committee shall not be limited to such evidence as would be admissible in a court of law (except such evidence requiring expert opinion), but all decisions

must be based on competent, material, and substantial evidence properly placed in the hearing record.

- viii Committee members are discouraged from viewing the premises at issue before the hearing, but if they do so, any key facts observed by members shall be disclosed at the hearing and made part of the record.
- ix Upon completion of the presentation of evidence, Committee members shall discuss the case among themselves in open session and may recall any witness to ask further questions and otherwise deliberate among themselves.
- x Committee members shall not discuss the case or give opinions on the evidence until presentation of the case is completed.

d) Decisions. The Committee shall make a writing decision within a reasonable period of time from completion of the evidentiary hearing. The required majority to make a decision shall such as is required by law or ordinance for the matter being considered by the Committee. All decisions shall be reduced to writing, and such contain such findings of fact and conclusions of law sufficient to support the decision made by the Committee. Decisions shall be effective the date the written decision is filed with the Secretary to the Committee, unless otherwise provided by law or ordinance.

ARTICLE VII. Public Hearings

Section 1. Calling Public Hearings. The Committee may hold public hearings to solicit the public’s input on specific issues. The Committee may schedule its public hearings or delegate that responsibility to staff members, as appropriate.

- a) **Public Hearing Locations.** The Committee may hold public hearings anywhere within the area served by the Committee.
- b) **Notice of Public Hearings.** Any public hearing attended by a majority of members shall be considered part of a regular or special meeting of the Committee. Consequently, the relevant notice and related requirements of the open meetings law, as set out in Article V apply to such hearings. If a hearing’s subject matter triggers additional notice requirements under state law or local rules, the Committee shall see that they are also satisfied.
- c) **Rules for Public Hearings.** The Committee may adopt reasonable rules for public hearings that, among other things,
 - i fix the maximum time allotted to each speaker;
 - ii provide for the designation of spokespersons for groups supporting or opposing the same positions;
 - iii provide for the selection of delegates from groups supporting or opposing the same positions when the number of persons wishing to attend the hearing exceeds the capacity of the meeting room (so long as arrangements are made, in the case of a

hearing subject to the open meetings law, for those excluded from the meeting room to listen to the hearing); and

iv provide for the maintenance of order and decorum in the conduct of the hearing.

- d) Continuing Public Hearings. The Committee may continue any public hearing without further advertisement, provided the time (including the date, if the hearing will resume on a different day) and place of the continued hearing are announced in open session. Except for hearings conducted pursuant to paragraph (f) of this Section, if a quorum of the Committee is not present for a properly scheduled public hearing, the hearing shall be continued until the Committee's next regular meeting without further advertisement.
- e) Conduct of Public Hearings. At the time appointed for the hearing, the chair shall call the hearing to order and proceed to allow public input in accordance with any rules adopted by the Committee for the hearing. Unless the Committee votes to extend the hearing, when the time allotted for the hearing expires, or when no one wishes to speak who has not already done so, the chair shall declare the hearing closed, and the Committee shall resume the regular order of business.
- f) Public Hearings by Less Than a Majority of Committee Members. Unless inconsistent with state law or local rules, the Committee may appoint a member or members to hold a public hearing on its behalf. The notice provisions in paragraph (b) of this Section apply when the Committee appoints more than one member to conduct such a hearing.
- g) Public Comment. The Committee may hold a public comment period at any regular meeting or special meeting called, at least in part, for that purpose. During the public comment period, members of the public may speak on any matters within the Committee's real or apparent jurisdiction. The provisions in paragraphs (c) and (e) of this Section apply to the Committee's public comment periods.

ARTICLE VIII. REQUIRED OFFICERS

Section 1. Presiding Officer. The presiding officer of each meeting of the Committee shall be the chair of the Committee. In situations where the chair is unavailable or unable to participate in the meeting or any particular matter before the Committee, the vice chair shall preside. In the event that neither the chair nor the vice chair is available, the members of the Committee, by affirmative vote of the majority, may appoint an acting chair who shall have all powers of the chair while acting as presiding officer.

Section 2. Selection of the Chair and Vice Chair. The chair shall be selected by majority vote of the Committee unless the City Council indicates to the Committee that the City Council will appoint said chair, in which case the appointment shall be made by the City Council. The vice chair shall be elected by a majority vote of the Committee.

Section 3. Powers and Duties of the Chair and Vice Chair. The chair shall preside at all meetings of the Committee but shall also have the right to engage in discussion and vote on any matter before the Committee unless otherwise excused. The chair shall have the power to call a special meeting, rule on procedural matters during a meeting, call a brief recess of a meeting at any time, and adjourn a meeting in an emergency. At any other time, adjournment shall be by motion, duly approved. The vice chair shall have all powers and perform all the duties of the chair in his or her absence.

Section 4. THE CHAIR

- (a) Presiding Officer. The chair shall preside at meetings of the Committee.
- (b) Voting by the Chair. The chair has the same duty to vote as other members, though in no event may the chair break a tie on a motion on which he or she has already voted.
- (c) Recognition of Members. A member must be recognized by the chair (or other presiding officer) in order to address the Committee, but recognition is not necessary for an appeal pursuant to Article XI, Section 5 (Motion 1).
- (d) Powers as Presiding Officer. As presiding officer, the chair is to enforce these rules and maintain order and decorum during Committee meetings. To that end, the chair may
- (1) rule on points of parliamentary procedure, to include ruling out of order any motion clearly offered for obstructive or dilatory purposes;
 - (2) determine whether a member or other speaker has gone beyond reasonable standards of courtesy in his or her remarks and entertain and rule on objections from other members on this ground;
 - (3) entertain and answer questions of parliamentary procedure;
 - (4) call a brief recess at any time; and
 - (5) adjourn in an emergency.
- (e) Appeals of Procedural Rulings. A member may appeal a decision made or an answer given by the chair under subparagraph (d)(1), (2), or (3) of this rule in accordance with Article XI, Section 5 (Motion 1).

Section 5. Duties of the Secretary. The City Manager shall assign a staff person to the Committee who shall serve as the secretary of the Committee and shall perform the following:

- a) The secretary shall ensure that all meetings of the Committee are properly noticed.
- b) The secretary shall maintain the sunshine list that is a list of those persons or entities that have filed a written request indicating a desire to receive notice of all special meetings of the Committee.
- c) The secretary shall take and record the actions of the Committee and draft minutes of the meetings accordingly. Minutes shall be sent to Committee members prior to their next regularly scheduled meeting. The secretary shall also forward a copy of the minutes as they are approved to the Clerk to the City Council and post on the City's website
- d) The secretary shall be responsible for maintaining an accurate list of members of the Committee, submitting to the City Clerk a quarterly attendance report for its members and notifying the City Clerk of any resignations of any of its members, or any other change in membership of the Committee.

Section 6. Schedule for Elections. of the Chair, and Vice-Chair shall take place annually at the organizational meeting of the committee.

ARTICLE IX. REFERENCE TO ROBERT’S RULES OF ORDER NEWLY REVISED. The Committee shall refer to *Robert’s Rules of Order Newly Revised* for guidance when confronted with a procedural issue not covered by these rules or state law. Having consulted *Robert’s*, the presiding officer shall make a ruling on the issue subject to appeal to the Committee under Article XI, Section 5 (Motion 1).

ARTICLE X. REPORTS.

Section 1. Annual Report. The Committee shall make a report to the City of Hendersonville City Council at least annual. This report must be submitted no later than December 31st of each year.

Section 2. Public Records Law. The Committee shall abide by North Carolina Public Records Law N.C.G.S. Chapter 132.

ARTICLE XI. ACTION BY THE COMMITTEE.

Section 1. Quorum. A majority of the members shall constitute a quorum for any meeting which does not involve a quasi-judicial matter. For purposes of conducting a quasi-judicial hearing, however, four (4) members shall constitute a quorum. No other business may be conducted during a meeting at which a quasi-judicial hearing is held unless a majority of the members are present. No action of the Committee may be taken at any meeting where less than the required quorum is present, except to adjourn the meeting. For non-quasi-judicial matters, once a quorum has been established, it will not be defeated if members leave.

Section 2. Motions and Voting. Action of the Committee may be taken upon a motion made by any member, including the chair, without the need for a second. A motion shall be adopted if approved by the affirmative vote of a majority of the members present and not excused after full discussion of the motion by the members.

Section 3. Withdrawal of Motion

The member who introduces a motion may withdraw the motion unless the motion has been amended or put to a vote.

Section 4. Substantive (or Main) Motions

A substantive motion is not in order when any other motion is pending. Once the Committee disposes of a substantive motion, it may not take up a motion that presents essentially the same issue at the same meeting unless it first adopts a motion to reconsider pursuant to Article XI, Section 5 (Motion 13).

Section 5. Procedural Motions

(a) **Certain Motions Allowed.** The Committee may consider only those procedural motions listed in this rule. Unless otherwise noted, each procedural motion may be debated and amended and requires a majority of votes cast, a quorum being present, for adoption.

(b) **Priority of Motions.** The procedural motions set out in this paragraph are listed in order of priority. A procedural motion is not in order so long as another procedural motion of higher priority is pending, except that

- any procedural motion other than an appeal under Motion 1 is subject to amendment as provided in Motion 11 and
- a motion to call the question (end debate) may be made with regard to any procedural motion in accordance with Motion 8.

When several procedural motions are pending, voting shall begin with the procedural motion highest in priority, except that a motion to amend or end debate on the highest-priority motion shall be voted on first.

Motion 1. To Appeal a Ruling of the Presiding Officer. Any member may appeal the presiding officer's ruling on whether a motion is in order or on whether a speaker has violated reasonable standards of courtesy. The presiding officer's response to a question of parliamentary procedure may also be appealed by any member. An appeal is in order immediately after the disputed ruling or parliamentary response and at no other time. The member who moves to appeal need not be recognized by the presiding officer, and if timely made, the motion may not be ruled out of order.

Motion 2. To Adjourn. This motion may be used to close a meeting. It is not in order if the Committee is in closed session.

Motion 3. To Recess to a Time and Place Certain. This motion may be used to call a recessed meeting as permitted under Article V Section 8. The motion must state the time (including the date, if the meeting will reconvene on a different day) and place at which the meeting will resume. The motion is not in order if the Committee is in closed session.

Motion 4. To Take a Brief Recess.

Motion 5. To Follow the Agenda. This motion must be made at the time an item of business that deviates from the agenda is considered; otherwise, the motion is out of order as to that item.

Motion 6. To Suspend the Rules. To be adopted, a motion to suspend the rules must receive affirmative votes equal to two-thirds of the Committee's actual membership, excluding any vacant seats. The Committee may not suspend provisions in these rules that restate state law requirements.

Motion 7. To Defer Consideration. The Committee may defer its consideration of a substantive motion, and any proposed amendments thereto, to an unspecified time. A motion that has been deferred expires unless the Committee votes to revive it pursuant to Motion 12 within 100 days of deferral. A new motion having the same effect as a deferred motion may not be introduced until the latter has expired.

Motion 8. To End Debate (Call the Previous Question). If adopted, this motion terminates debate on a pending motion, thereby bringing it to an immediate vote. This motion is not in order until every member has had an opportunity to speak once on the pending motion.

Motion 9. To Postpone to a Certain Time. This motion may be employed to delay the Committee's consideration of a substantive motion, and any proposed amendments thereto, until a designated day, meeting, or hour. During the period of postponement, the Committee may not take up a new motion raising essentially the same issue without first suspending its rules pursuant to Motion 6.

Motion 10. To Refer a Motion to a Committee. The Committee may vote to refer a substantive motion to a committee for study and recommendations. While the substantive motion is pending before the committee, the Committee may not take up a new motion raising essentially the same issue without first

suspending its rules pursuant to Motion 6. If the committee fails to report on the motion within sixty days of the referral date, the Committee shall take up the motion if asked to do so by the member who introduced it.

Motion 11. To Amend

- (a) Germaneness. A motion to amend must concern the same subject matter as the motion it seeks to alter.
- (b) Limit on Number of Motions to Amend. When a motion to amend is under consideration, a motion to amend the amendment may be made; however, no more than one motion to amend and one motion to amend the amendment may be pending at the same time.

Motion 12. To Revive Consideration. The Committee may vote to revive consideration of any substantive motion that has been deferred pursuant to Motion 7, provided it does so within 100 days of its vote to defer consideration.

Motion 13. To Reconsider. The Committee may vote to reconsider its action on a matter, provided the motion to reconsider is made (1) at the same meeting during which the action to be reconsidered took place and (2) by a member who voted with the prevailing side. For purposes of this motion, “the same meeting” includes any continuation of a meeting through a motion to recess to a certain time and place (Motion 3). The motion is not in order if it interrupts the Committee’s deliberation on a pending matter.

Motion 14. To Rescind. The Committee may vote to rescind an action taken at a prior meeting, provided rescission is not forbidden by law.

Motion 15. To Prevent Reintroduction for Six Months. This motion may be used to prevent the reintroduction of a failed substantive motion for a time, but it is in order only when made immediately following the substantive motion’s defeat. To be adopted, this motion must receive affirmative votes equal to at least two-thirds of the Committee’s total membership, excluding vacant seats. If this motion is adopted, the ban on reintroduction remains in effect for six months or until the Committee’s next organizational meeting, whichever occurs first.

Section 6. Debate

The presiding officer shall state the motion and then open the floor to debate, presiding over the debate according to the principles listed below.

- The maker of the motion is entitled to speak first.
- A member who has not spoken on the issue shall be recognized before a member who has already spoken.
- To the extent practicable, debate shall alternate between proponents and opponents of the measure.

Section 7. Adoption by Majority Vote

A motion is adopted if supported by a simple majority of the votes cast, a quorum being present, except when a larger majority is required by these rules or state law.

Section 8. Changing a Vote

A member may change the member's vote on a motion at any time before the presiding officer announces whether the motion has passed or failed. Once the presiding officer announces the result, a member may not change a vote without the unanimous consent of the remaining members present. A member's request for unanimous consent to change a vote is not in order unless made immediately following the presiding officer's announcement of the result.

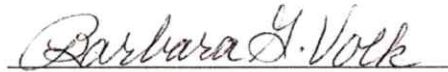
Section 9. Staff Support. City staff shall be assigned to the ASAC, acting as the Secretary and liaison between the ASAC, City Departments, and the City Council and shall have the charge of correspondence, minutes, notifying members of meetings, and other information.

Section 10. Appointing Sub Committees. Subcommittees may only be appointed by vote of the committee members at a regular meeting. The Committee by vote shall also establish the purpose of which subcommittees are established and the subcommittee should only conduct business that is within the purpose so adopted. All meetings of subcommittees shall be considered special meetings and shall be conducted in accordance with Article 5, Section 4. Special Meetings.

ARTICLE XII. AMENDMENTS. The Committee may amend these bylaws by action of the Committee; provided however, that amendments shall not be effective until they are approved by the Hendersonville City Council.

Originally approved by the City Council on this sixth day of February 2020.

Amended by the City Council on the 4th day of February, 2021.


Barbara G. Volk, Mayor
City of Hendersonville

Attest:

Angela Reece, City Clerk

STATE OF NORTH CAROLINA
COUNTY OF HENDERSON

BEFORE THE ANIMAL SERVICES ADVISORY COMMITTEE
FOR THE CITY OF HENDERSONVILLE

In Re Appeal of Lora Hipp –Dangerous Dog Determination: Turbo	ORDER AFFIRMING DANGEROUS DOG DETERMINATION
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THIS MATTER, coming before the ANIMAL SERVICES ADVISORY COMMITTEE (“ASAC”) for the City of Hendersonville on January 19, 2024 and January 29, 2024 for a quasi-judicial public hearing to consider the appeal submitted by LORA HIPPI, appealing the determination given by the City of Hendersonville Chief of Police that the dog in question meets the definition of a dangerous dog.

1. The following ASAC members were present at the hearing: Angela Prodrick (Vice-Chair), Jean Greeson, Katie Weibel, and Melissa Vazquez.
2. The following persons were present at the hearing: Lora Hipp, appellant; Vicky Copeland; Otto Kurt Gratzol; Teresa Hunter; C. Blair Myhand, Hendersonville Chief of Police; Alexis Barker; Animal Services Officer for the Hendersonville Police Department; Angela S. Beeker, Hendersonville City Attorney; Daniel Heyman, Staff Attorney for the City of Hendersonville; Melissa Justus, Administrative Assistant III for the Hendersonville Police Department.
3. The record for the administrative hearing consists of the following:
 - a. Testimony of Otto Kurt Gratzol, Police Chief C. Blair Myhand, Animal Services Officer Alexis Barker, Appellant Lora Hipp, and Vicky Copeland.
 - b. Appeal letter dated 01/09/2024 submitted by Lora Hipp,
 - c. Photograph of Turbo,
 - d. Photographs of victim animal, Gigi,
 - e. Records of Gigi from Upstate Vet Emergency & Specialty Care,
 - f. Aerial image of Chadwick Square Court, Hendersonville, NC,
 - g. Dangerous dog determination letter dated January 5, 2024 signed by Police Chief C. Blair Myhand, and
 - h. Certified copy of Chapter 10 of the Code of Ordinances for the City of Hendersonville (“City Code”).
4. As a preliminary matter, Hendersonville City Attorney Angela S. Beeker made a disclaimer that she was present to represent ASAC, that she had no prior involvement in the matter, and that she had not discussed the matter with Staff Attorney Daniel Heyman or any others.

FINDINGS OF FACT

Based on the evidence submitted, the ASAC makes the following findings of fact:

1. The Appellant Lora Hipp is the owner of a dog named Turbo, a German Shepherd Dog (“Turbo”).
2. Otto Kurt Gratzol is the owner of a dog named Gigi, a Maltese (“Gigi”).

3. Ms. Hipp and Mr. Gratzol are residents of the Chadwick Square Court apartments in Hendersonville, NC.
4. Mr. Gratzol was walking Gigi in the parking lot of 100 Chadwick Square Court, an office building adjacent to the Chadwick Square Court apartments, on December 19, 2023.
5. Ms. Hipp was present in the same location at the same time with Turbo near her vehicle, a tan sedan.
6. As Mr. Gratzol and Gigi passed by them, Ms. Hipp attempted to put Turbo in her vehicle. However, Turbo leapt out of the driver's side door and attacked Gigi.
7. Turbo's attack ended when Ms. Hipp restrained him and put him in her vehicle.
8. Ms. Hipp does not own or have an interest in 100 Chadwick Square Court.
9. As a result of the attack, Gigi suffered chest punctures, broken ribs, a broken leg, and her eyeball was injured.
10. Gigi was treated at Upstate Vet Emergency & Specialty Care in Greenville, SC. She had thoracic surgery, a portion of her lung permanently removed, and her eyeball permanently removed.
11. Animal Services Officer Alexis Barker responded to the incident on December 19, 2023, and subsequently conducted an investigation.
12. Police Chief C. Blair Myhand issued a written determination that Turbo is a Dangerous Dog according to the definition contained in the Code of Ordinances for the City of Hendersonville.
13. Ms. Hipp submitted a written appeal of Chief Myhand's determination.

CONCLUSIONS

1. All parties and other persons entitled to notice were given proper notice of the hearing and afforded the right to be heard, to present evidence, to call and cross-examine witnesses, and to inspect the documents and evidence presented.
2. Section 10-2 of the City Code states that the term "dangerous dog" means, in pertinent part:

Is determined by the chief of police, their designee, or the animal services advisory committee to have engaged in one or more of the following behavior... Has killed or inflicted severe injury upon a domestic animal when not on the owner's real property...
3. The term "severe injury" is defined in NCGS 67-4.1(a)(5) as "any physical injury that results in broken bones or disfiguring lacerations or required cosmetic surgery or hospitalization."
4. The injuries Turbo inflicted on Gigi were unprovoked.
5. The injuries she sustained as a result of the attack by Turbo constitute disfiguring lacerations because the injuries required surgery, the loss of Gigi's eye, resulted in visible scarring, and required Gigi to be hospitalized.
6. The injuries sustained by Gigi as a result of the attack constitute severe injury because the injuries resulted in disfiguring lacerations and hospitalization as described herein.

- 7. Gigi is a domestic animal.
- 8. The attack by Turbo occurred on real property that is not owned by Lora Hipp.
- 9. Turbo is a dangerous dog pursuant to Section 10-2 of the City Code.

Based on the foregoing FINDINGS OF FACT and CONCLUSIONS it is ORDERED:

- 1. The Animal Services Advisory Committee hereby AFFIRMS Police Chief C. Blair Myhand's determination that the dog, a German Shepherd Dog owned by Lora Hipp named "Turbo," is a dangerous dog as defined by the Code of Ordinances for the City of Hendersonville.
- 2. Any person owning, keeping, harboring, possessing or acting as custodian, however, temporarily, of Turbo is required to comply with the provisions of Section 10-185 of the City Code related to the keeping or transferring of a dangerous dog.
- 3. Pursuant to Section 10-184(4) of the City Code, the owner of Turbo has the right to appeal this determination to the Superior Court of Henderson County.

This the ____ day of _____ 2024

**CITY OF HENDERSONVILLE
ANIMAL SERVICES ADVISORY COMMITTEE**

BY: _____
Angela Prodrick, Vice-Chair

Animal Services Advisory Committee

New Appointee Orientation

1. Overview of bylaws and charter.
 - a. Review of our history and founding documents.
 - b. When and why our committee was established.
 - c. Committee member rolls, responsibility, and expectations.
 - d. How our committee supports the work of and reports to Hendersonville City Council.
 - e. Public meeting notices and general rules for conducting municipal business in the State of North Carolina.
 - f. Parliamentary procedure.

2. Quasi Judicial Hearings. **Four** opportunities for training.
 - a. **Training by group XYZ in Asheville**
 - b. **Online Module**
 - c. **Video training by Angela Beeker**
 - d. **Group training in regular or special called meeting.**

*Committee members are encouraged to attend a Quasi Judicial Dangerous Dog Appeal hearing conducted by Henderson County Animal Services Advisory Committee.

3. Ordinance review.
 - a. Explanation and understanding of our current animal ordinance for the City of Hendersonville.
 - b. Intent of educational basis vs. penalization.
 - c. Enforcement and implementation of ordinances. (Animal Control Officer)
 - d. Empirical Observations: Stories of an Animal Control Officer and survey anecdotes from citizens.

***Preferable presentation at first scheduled meeting after the beginning of the new fiscal year (July 1).**