



City of Prescott

City Council - Study Session

September 12, 2023 | 1:00 PM
201 N Montezuma Street
City Council Chambers, 3rd Floor
Prescott, AZ 86301

MINUTES

1. CALL TO ORDER

Mayor Goode called the meeting to order at 1:00 p.m.

2. ROLL CALL

Phil Goode - Mayor
Brandon Montoya - Mayor Pro Tem
Connie Cantelme - Councilwoman
Eric Moore - Councilman
Cathey Rusing - Councilmember
Steve Sischka - Councilman
Clark Tenney - Councilman

3. DISCUSSION

- A. Presentation & Discussion Regarding Proposed Amendments or Revisions to the Following City Ordinances: Prescott City Code Sections 5-2, 5-3, 5-4 and 5-7.
Mayor Goode introduced the item and admonished the audience there will be a civil discussion and no demonstrations will be tolerated.

City Attorney Joseph Young continued stating that staff is in the process of updating a number of outdated city ordinances. He stated that the first two ordinances for discussion today are related to animals and noise and Prosecutor Alane Moore will be doing a presentation on this.

Ms. Moore continued regarding the hybrid dog/hybrid cat ordinance related to license fees, rabies control and dangerous animals. She stated that staff would like direction from the Council on potential revisions to these ordinances.

Mayor Goode asked what a hybrid dog and cat are.

Ms. Moore responded that it is a domestic species mixed with a wild species. Currently, the City of Prescott charges \$6 for an altered animal and \$30 for unaltered on an annual basis with prorated rates if done in the middle of the year.

Questions for the Council:

- * Fee changes
- * Should there be a limit on the number of dogs or animals a person can own
- * Should there be changes to the limits of certain breeds
- * Should we change the process for handling dog biting cases
- * Should we add a section to include biting animals

- * Should we change how nuisance citations are handled
- * Should we add an anti-tethering ordinance (length of chain or rope and where it is connected)
- * Should we add an animal cruelty section

Comparative Fees:

- * Prescott Valley - \$10 altered and \$36 unaltered
- * Chino Valley - \$8 altered and \$36 unaltered
- * Sedona - \$10 altered and \$30 unaltered
- * Phoenix - \$16 altered \$40 unaltered
- * Maricopa County - \$22 altered and \$55 unaltered

Mayor Pro Tem Montoya asked about tags expiring at the end of the calendar year versus aligned with a rabies vaccination renewal and if changing that would be possible.

Ms. Moore responded that licenses are pro-rated at the time it is purchased and then runs until the end of the calendar year.

Animal Control Officer Shannon Gray added that she is looking into the option of a license that would come at the end of the rabies vaccination.

Ms. Moore continued that the suggestion from staff is to increase the license fee to \$10 altered and \$40 unaltered. Currently there are two separate statutes with different types of regulations based on the animal. Staff feel it might make sense to combine the two for all animals within the city.

Regulation of dogs, cats, other animals:

- * Prevent hoarding situations
- * Prevent nuisances due to noise, smell, etc.
- * Additional requirements or limitations - minimum property requirement to house specific animals, shelter requirement or distance away from neighboring parcels

Current process for Dog Bite Cases:

- * First bite or physical attack- animal declared dangerous, civil sanction, general liability policy may be required, dangerous animal may be required to comply with all requirements set for in 5-2-7
- * Second bite or physical attack - civil sanction, general liability policy required, animal required to comply with all requirements in 5-2-7
- * Third bite or physical attack - civil sanction, dangerous animal ordered to be humanely destroyed

Councilman Sischa asked if Animal Control has discretion with first bite.

Ms. Gray responded that there is some discretion on that and typically Animal Control will look for whether the dog is running loose and attacking in a vicious manner.

Ms. Moore added that there are a total of six exceptions in the current ordinance including those for puppies and provoked animals.

Mayor Pro Tem Montoya asked if there are other incidents with animals biting people, besides dogs.

Ms. Gray responded there isn't a big issue with that and also informed Council that there is always a quarantine period following a bite.

Councilmember Rusing asked whether wild animals can be kept in cages within city limits.

Ms. Moore responded they cannot, and stated that there is also a state statute prohibiting this.

Mr. Young concurred. Under the city ordinance, only swine and roosters are prohibited. The state addresses what animals are prohibited as well.

Mayor Pro Tem Montoya asked how often it is that if a dog goes through the first two levels, they then have a third incident.

Ms. Gray responded that it doesn't happen often but it does happen.

Ms. Moore concurred, and added that we are giving animal owners an opportunity to put in place restrictions on a dog.

Mr. Young added that staff would suggest liability insurance be added at the first bite step, but not euthanasia any earlier.

Councilwoman Cantelme asked if there is anything that differentiates between breeds. For example, a Pitbull or a German Shepard's bite can be worse than a poodle.

Mr. Young responded that we are limited to treating breeds differently, but if a breed has a bite that can be more dangerous, there can be more restrictions based on evidence and fact.

Ms. Gray added that this would be a breed specific legislation, and the lineage of the animal would have to be proved.

Councilmember Rusing asked if there are code provisions for when a dog kills.

Ms. Moore responded that there is not currently anything in the ordinance addressing that but it could be added. She added that a hearing could be requested at any time in the process by the prosecutor.

Nuisance:

- * Does Council desire any changes
- * Current violation is a petty offense
- * First violation could be a civil matter with citation, and criminal offense with multiple findings of a violation

Councilwoman Cantelme commented that there should be some strengthening of civil matters up to criminal level for people that are repeatedly offending.

Mr. Young responded that, from a prosecution standpoint, it is easier to track and enforce if things begin as a misdemeanor, but doing things for that reason is bad practice. He believes a civil offense first and then changing it after that.

Ms. Gray commented that she does not recommend people record when there is a barking dog incident. Animal control will observe for the "five minute rule" when complaints are received and keep track of it. Additionally, if it is a criminal offense, the complainants have to aid in prosecution of that.

Councilman Sischka asked what a perfect ordinance would look like for Animal Control.

Ms. Gray responded that they would like for the first violation to be a civil offense.

Ms. Moore continued with the option for a potential animal cruelty section to be added to city code. This would be a policy/procedure for the seizure of animals subjected to cruelty as well as the disposition of those animals. And could include an anti-tethering ordinance and what that would look like (length of chain, type of restraint, type of shelter provided, etc).

Councilman Sischka asked what would make the job more effective.

Ms. Gray stated that more guidelines would be helpful for their staff.

Councilwoman Cantelme stated she is all for adding the cruelty section and it should apply to all animals. She is in favor of no chains and did ask if there should be a time-limit and if that is allowed.

Mr. Young responded that the suggestion from staff would be a tethering rule, none allowed at night etc. and during the day it would be a certain length with water and shelter or shade.

Councilman Moore stated his thoughts on these ordinances: he feels all animals should be combined into one ordinance, similar rules for cat owners and dog owners, and commented on issues with dogs off leash on city-owned property like trails and at the lakes, he feels this should also be addressed.

Mayor Pro Tem Montoya asked if the state statute addresses most of these is a city ordinance necessary, as well as if there is anything contemplated for animals left in cars.

Ms. Moore responded that state statutes provide minimum standards, so the city ordinances would be an increase over that.

Mr. Young stated that the statute is accurate, but in tethering it is slightly lacking, so they would like to add to that.

Mayor Goode commented that he feels more effective barking dog ordinances would be important, as well as issues related to dogs off leash.

Mr. Young added that limits on animals would also be something they would like guidance on, particularly in hoarding situations. Something like five animals for a half-acre etc. would be appropriate to eliminate these issues with exemptions for newborn litters of dogs or cats. The city has jurisdiction over anything related to health and safety as well as animal cruelty, so that is all something to take into consideration.

Mr. Young continued with a discussion regarding the unnecessary noise ordinance. There are currently no benchmarks included, which makes it difficult to enforce and doesn't address the main complaints that staff receives (music at night, restaurants, bars, parties, construction noise). He continued with a comparison of statutes for the city versus state. It is also very similar to the state's disorderly conduct statute, so staff would like guidance regarding any changes they would like to see to make that different.

Councilmember Rusing asked if language could be added regarding large vehicles with excessive noise.

Mr. Young responded that could be done, likely including specific hours.

Councilwoman Cantelme echoed Councilmember Rusing's comments and stated that she feels the city needs a decibel restriction too.

Mr. Young stated that is something that staff can look into.

Councilman Moore concurred this is an issue, there needs to be a vehicle noise ordinance.

Mr. Young continued with a discussion regarding the provisions related to construction noise and additional provisions that could be added to the noise ordinance.

Options:

- * Decibel limits - specific limits, exempt aircraft usage or other important matters, "c weighted" restrictions to address loud bass noise, time frame for measuring, distance from the sound source (edge of property or at complaining parties' property line)

- * Increased covered types of construction

- * Nuisance party

Staff would suggest exploring decibel levels, including vehicle noise and beeping in construction.

Mayor Pro Tem Montoya asked if special events are exempt from noise ordinances because he has received comments from constituents regarding that.

Mr. Young responded that special events do have special privileges and are

exempt but would have specific requirements. He would suggest that it be left exempt but tighten up internal policies regarding these things. Along with the ordinance, staff can bring forth a policy that would address those issues.

Councilmember Rusing asked if this ordinance would apply to the rodeo grounds.

Mr. Young responded that outdoor speakers are generally prohibited, with exceptions for those that are grandfathered in and special events. The city owns the fairgrounds and approves special events so we can establish policies that address these issues. Construction beeping would be added to the current construction ordinance prohibited during specific hours, possibly with any extensions the Council might want.

Councilman Tenney echoed that there should be reasonable limits even on exempt events.

Mayor Goode commented on restrictions not only on hours but also on the duration of a project.

Mr. Young continued with a discussion regarding the Sexually Oriented Businesses ordinance. He stated that there have been additional revisions based on feedback he has received and the proposed ordinance is still not finalized. Some of the language has been simplified and gotten more in line with state statute so it does not become further outdated. The purpose of this was to address some gaps that existed in the current ordinance.

Currently Regulated:

- * Adult arcades
- * Adult bookstores
- * Adult cabarets
- * Adult motels
- * Adult motion picture theaters
- * Adult theaters
- * Escort Agencies
- * Nude model studios
- * Sexual encounter centers

Newly Added Regulated Businesses:

- * Adult entertainment entity
- * Bath houses
- * Body paint studios
- * Massage parlors

Primary Purpose:

- * Require licensing along with background checks
- * Require qualifying businesses to only locate in certain areas
- * Limits entry of minors

Definition Changes:

- * Change from requiring that the business be a primary part of the purpose of the

business to any part of the business

* Semi-nudity to include both female breasts and prosthetic breasts and to also include buttocks

Councilman Tenney commented that there are some constituents who would like to see the banning of this type of business in the city of Prescott, and asked what the legality is of something like that.

Mr. Young responded that the question comes down to conduct versus speech and creating enforcement authority would allow oversight for the city to ensure there is no criminal sexual activity taking place and to protect minors. Minors are not allowed in sexually oriented businesses. Covering as much as we can cover based on the protection of free speech.

Mayor Goode commented that he received calls from people who were concerned that the Council was trying to ban this type of entertainment, but there is the ability to limit the exposure to minors and regulate that, which is what the Council is trying to do.

Member of the public Sherrie Hanna addressed Council regarding a report from Dr. Jeffrey Hansen who is a pediatric, adolescent and adult psychologist. She thanked the City Attorney for working on this to protect minors and requested that the revisions be as strict as possible.

Member of the public James Downey addressed Council regarding the fact that the ordinance does not discriminate against anyone's rights or behavior. There is content that belongs behind closed doors. This ordinance is a step forward and defines what kind of community we want to be. The agenda being pushed affects children.

Member of the public Roslyn Mae Hall addressed Council as a lifetime resident of Prescott. She stated that there are entertainers that cater to adults only. Any of the House of Hues events are restricted to anyone under 18, being performed in private spaces and strictly enforced. Events that are family friendly are done in order to provide a safe space for the LGBTQ+ community, particularly the youth who often feel unwelcome and as if they don't have a safe space.

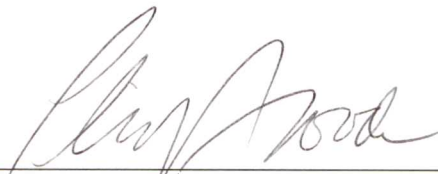
Member of the public Cathy Davis stated that it is important to her that Prescott is a safe, welcoming town in which people feel safe. Children are killing themselves and moving away because they don't feel safe or welcome here.

Member of the public Rebecca Horniman addressed Council and asked that these Study Sessions are representative of our community as a whole. It is difficult for working people or teens who want to participate to be a part of these discussions. We don't have strip clubs in Prescott, there are local fundraisers where there is dancing and entertainment but anything that is adult based are confined to those over eighteen years old.

This item was for discussion only, no formal action was taken.

4. ADJOURNMENT

There being no further business to discuss, Mayor Goode adjourned the meeting at 2:38 p.m.



PHILIP R. GOODE, Mayor

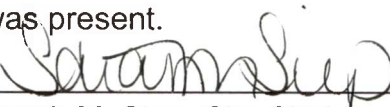
ATTEST:



SARAH M. SIEP, City Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Voting Meeting of the City Council Voting Meeting of the City of Prescott, Arizona held on September 12, 2023. I further certify the meeting was duly called and held and that a quorum was present.



Sarah M. Siep, City Clerk

