

# After Agenda

Board of Commissioners of Spalding County  
Work Session  
Monday, March 24, 2014  
8:00 AM  
Meeting Room 108, Courthouse Annex

The Spalding County Board of Commissioners held a Work Session in Room 108 in the Courthouse Annex, Monday, March 24, 2014, beginning at 8:00 a.m. with Chairman Samuel Gardner presiding. Commissioners Raymond Ray, Rita Johnson, Gwen Flowers-Taylor and Bart Miller were present. Also present were Community Development Director, Chad Jacobs, Attorney, Jim Fortune, and Executive Secretary, Kathy Gibson to record the minutes.

- I. **OPENING (CALL TO ORDER)** – Chairman Samuel Gardner called the meeting to order at 8:16 a.m.
- II. **INVOCATION** – led by Commissioner Gwen Flowers-Taylor.
- III. **PLEDGE TO FLAG** – led by Commissioner Bart Miller.
- IV. **AGENDA ITEMS:**

1. Commissioner Flowers-Taylor requested that the Agenda be amended to include Citizens Comment on the Agenda.

***Motion/Second by Flowers-Taylor/Rita Johnson to amend the agenda to include Citizens Comment. Motion carried unanimously.***

#### **CITIZENS COMMENTS:**

##### **Calvin Bearden - 27 Woodland Drive, Griffin, Georgia**

Stated that he is currently retired, has lived on Woodland Road for the past 35 years and has never had a problem until the current residents moved in next door. He stated that:

- Woodland Road is only 3/10<sup>th</sup> of a mile in length and at the present time there are more dogs than residents on the street.
  - He has been forced to sleep in his living room, in a chair with cotton in his ears because the dogs on his neighbor's property bark continuously all night long.
  - In addition to the animals, the neighbors are selling dog food out of the location which is causing a rat problem for the other properties in the area.
- Mr. Bearden asked for assistance from the board for relief from these intolerable living conditions.

##### **Daryl Williams – 834 Dusky Sap Court, Sun City, Georgia**

Mr. Williams stated that he feels the matter that the Board is discussing today is only a symptom of a much larger problem. The problem being the overpopulation of dogs in Spalding County and until that issue is addressed, we are going to continue to have the problem of too many animals on residential properties. While he agrees with the initial

goals of this work session, he feels it is going to be difficult to implement the changes. He stated that until we deal with the overpopulation of dogs, we are going to continue to have these problems.

2. Discuss limitations of domestic animals in residential zoning districts.

Chad Jacobs stated that the Agenda Packets received by the Board included the research information from several departments. Research on how the surrounding counties addressed the topic of animal population control and on the potential health risks for the people living on the overpopulated property, for contamination of streams from water running off the property and risks to future inhabitants of the property.

Mr. Jacobs then reviewed the approach that several counties adjacent to Spalding County use to address this problem. He stated that every county handles this problem in a different way and it varies from community to community. There really is no universal way that this issue is approached. Three counties similar in makeup to Spalding County are Henry County, Fayette County and Coweta County.

Mr. Jacobs then addressed how each county handles limiting domestic animals.

1. Coweta County does not limit the number of animals with respect to acreage. The number of animals is addressed on a case by case basis. If a resident wants to operate a kennel, they ask for a conditional use permit, which would be similar to our special exception process for a kennel. Basically, what Coweta County has on their books is very similar to what Spalding County has, they do not address numbers or tie it to acreage.
2. Henry County allows no more than four domestic pets per property and that is it. If a resident wants to have more than four pets and they are located in an AR Zoning district, they can apply for a non-commercial kennel permit as a Special Exception Permit. Henry County's Ordinance has been included as part of the packet. Non-commercial kennels are limited to no more than ten animals with a permit approval. Nothing could be located within the ordinance that tied the number of animals to specific acreage. It simply stated no more than four domestic animals are allowed per parcel of property and if more animals were wanted then the property had to be zoned Agricultural and there had to be a non-commercial kennel license acquired.

Jim Fortune asked if there were any minimum set-backs to the adjacent residential areas or property lines. Mr. Jacobs stated that for Henry County's non-commercial kennel safety rules the minimum set-backs for any residential zoning districts for structures to house the animals is 50 feet. Minimum set-backs on outdoor runs for residential zoning districts is 50 feet and the outdoor runs require fencing around the parameter of the site. In addition there has to be a drain that is connected to an approved sanitary facility.

Commissioner Flowers-Taylor asked for a definition of a non-commercial kennel. Mr. Jacobs explained that a non-commercial kennel would accommodate hunting dogs or animals being raised by a resident for their personal enjoyment, or this kennel could be for rescue animals, not for profit. Spalding County's commercial kennel definition is the raising of four or more domestic animals for profit, where

you are selling the animals for some type of income.

3. Fayette County allows three domestic pets for residential property; however, they will allow a new litter to remain on the property for no more than six months. Fayette restricts the breeding and sale of no more than 30 animals in the AR zone. In excess of 30 animals, they are considered commercial kennels and must comply with the kennel ordinance which is very similar to Spalding County's.

The Board asked that research be done within the surrounding counties to see what type of penalties are assessed when these ordinances are violated.

Commissioner Ray commented that we are currently looking at property containing one acre or less so we are not imposing on larger pieces of property within the County. The matter currently before the Board is the matter of a neighbor who simply does not care about the people around him. When you have one dog in neighborhood barking at night it is bad, two dogs is worse, but when you have 15 to 17 dogs located in a residential area on one acre or less it has become overbearing for the neighbors. We need to not only be considerate of our neighbors, but we also need to be considerate of other property owners and the dog owners who are being responsible.

Commissioner Ray stated that he felt we should limit the number of animals per household, along the same lines as the Fayette County ordinance, and then ask for a non-commercial kennel license. The Board wouldn't be trampling on anyone's toes, while maintaining control when one neighbor has no consideration for the other neighbors. As in the case currently before the Board, we not only have the number of dogs to consider, but the noise and the smell. Additionally, families have expressed concern for their children due to the nature of the breed involved. This particular neighbor is also running a business of selling dog food out of the home in the evenings.

Chairman Gardner asked if the Board wanted to restrict this ordinance to one acre or less, or to increase it to encompass a couple of acres. Should the Board look at zoning districts? If we deal with the immediate need of one acre lots, are we going to have to come back in a month or so and deal with lots of two acres?

Mr. Fortune advised that every citizen has a private right of action for a public nuisance. I would appear from the citizens who came before the Board at the last meeting, that this location would be considered a personal nuisance due to the odor and the noise level. There have been cases that have gone to court here in Spalding County where private citizens have filed suit regarding neighboring dogs and the owner of the dogs have been ordered to remove the dogs from the premises.

Commissioner Flowers-Taylor stated that she agrees with what Mr. Williams had to say about overpopulation. We have people who breed animals and sell them. We do not have the staff to monitor this type of activity, so it doesn't come to the forefront until someone complains. There are no ordinances on the books that regulate people being able to sell litters out of their homes, on the internet, or in shopping center parking lots. At this point, it appears that we are putting a band-aid on something when we really need to get an ordinance with some teeth to it that will stop some of the behaviors leading to a problem like this.

Commissioner Flowers-Taylor stated that when we make these types of changes that

we need to educate the public. People need to know that they have a right to live in their house and not have to listen to dogs barking all night and not have to smell animal feces.

Commissioner Ray stated that he doesn't see this as a band-aid, he sees this as a stepping stone to where we need to go. At this point, we have citizens who are suffering because of the absence of responsibility and the absence of neighborhood awareness and when this happens is it prevalent upon the Board to take action.

Chairman Gardner stated that whether it is called a band-aid or a step in the right direction, this ordinance is going to be changed and adjusted as we move forward through time. When you live in a community such as Spalding County that contains both urban and rural areas you are going to have issues like this that are going to occur as the county is transitioning and any ordinance adopted will have to adapt. It is the Board's job during these transition periods to create new ordinances or adjust the current ordinances to meet the needs at that time. The demographics of the county and the population density are going to be changing over time and we have to do something to address the issues as they are presented to us.

Commissioner Flowers-Taylor expressed her concern over limiting the total number of animals within a household. She stated that it would be wrong to penalize responsible pet owners for the actions of pet owners who are not responsible. She asked that the Board consider limiting the number of pets that are housed outdoors not the total number of pets per household. This would address the current matter before the Board since the nuisance is outside. Additionally, she requested that the Board address the proximity of where the animals' dwellings can be located on the pet owner's property.

Commissioner Gardner asked for a consensus of the Board as to the size of the lot, one acre versus two acres. Consensus from four members of the board is that two acres and under be the lot size for consideration in this ordinance. He then requested a consensus on the number of outside animals to be considered. The consensus by the entire Board was that four outside animals would be the maximum number considered for this ordinance. The ordinance is to apply county-wide.

Discussion surrounding a noncommercial kennel exception was discussed to accommodate citizens who are responsible and who own more than four dogs or for the people who handle rescue dogs. Chad Jacobs suggested that this exception be handle the same way as a Amplification Permit, the home owners would have the opportunity to apply for the Permit. The Permit would go through the proper channels to make sure that he applicants are complying with set-backs and housing required for non-commercial kennels. Then it would come before the Board for presentation and approval. This would be a non-profit arrangement where the dogs are for the personal enjoyment of the owners or are being handled by rescue workers.

In summary, Mr. Fortune stated that we are going to amend our Ordinance to state that if you have two acres of land or less, the maximum number of outdoor animals (restricted to dogs and cats) will be a cumulative total of four and that they must have adequate shelter. We are going to have an exception for non-commercial kennels. The pet owner seeking a non-commercial kennel permit will have to have their contiguous neighbors sign a statement that they have no problem with the neighbor having a non-

commercial kennel. There will be set backs of 50' from any property line for the housing enclosures. This ordinance will not have any effect on any other part of the code that is not specifically addressed or modified by this ordinance.

Commissioner Miller stated that Mr. Williams brought up the matter of overpopulation. He asked if there was anything that can be done about the citizens who continue to allow their animals to have litters one right after another and do not care for the animals. Commissioner Miller stated that this issue should also be addressed.

Vickie Henessey, 208 Seminary Ridge, Griffin, Georgia, representing the Animal Care and Control Advisory Committee was asked to speak regarding the overpopulation of animals in the County. Ms. Henessey stated that ACCAB has been looking into a breeding permit fashioned after the Breeding permit required in Clayton County.

Clayton County has adopted a breeding permit that covers any animals within the County. If you are going to breed an animal you are required to get a permit. Clayton County's permit reads:

- a) "The Board of Commissioners deems it in the best interest of the county to encourage pet owners to spay and neuter their pets to control the production of unwanted animals. To encourage the adoption of available animals from the county's kennel and to promote the health and wellbeing of our citizens and their pets.
- b) It is unlawful and a violation of this code section for a pet owner to allow by omission or commission their pet dog or cat to become pregnant without first securing a breeding permit from the county's animal control unit.
- c) The animal control unit shall issue a breeding permit at the request of the pet owner. The first permit issued in a calendar year to the owner or for a particular animal shall cost \$25.00. A second permit issued in a calendar year to the owner or for a particular animal shall cost \$50.00. A third permit issued in a calendar year shall cost \$100.00 and be prima facie proof that the requester is operating as a professional breeder and will require a county business license and a professional breeder permit issued by the county's animal control unit....."
- f) .....The pet owner must comply with all state laws regulating animal breeding.
- g) Other than an animal establishment, humane society, commercial kennel, animal shelter, or animal breeder licensed by the county or state, it shall be unlawful for any person or entity to have for sale within this county any dog, cat or kitten without having first obtained a breeding permit from the animal control unit."

If we adopt this ordinance, then anyone who is out in the parking lot of a Walmart or other business establishment selling or giving away puppies, if they do not have a breeding permit, they are fined.

Ms. Henessey stated that a responsible pet owner will not have a problem with this ordinance. If a pet owner is responsible, they will spay and neuter their animals. Ms. Henessey further stated that the county has a vet available for spay and neutering of animals that comes to the Animal Shelter every week and she has very affordable

pricing for these services.

The Board requested that Mr. Fortune also draft an ordinance to address the breeding of cats and dogs as well.

**V. ADJOURNMENT**

***Motion/Second by Johnson/Flowers-Taylor to adjourn at 9:55 a.m.  
Motion carried unanimously by all.***