Politics and Points of View: Animal Control Issues Affecting Cities

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Politics and Points of View

"You're going to find that many of the truths we cling to depend greatly on our own point of view"

Obi Wan Kenobi –

Star Wars Episode VI:
Return of the Jedi

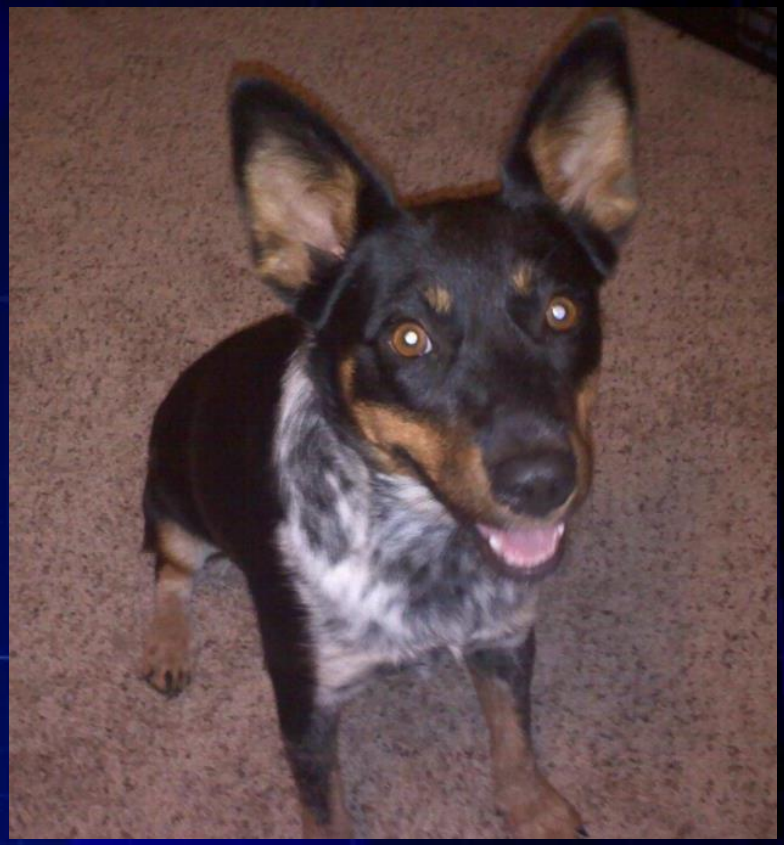
Politics and Points of View

Most issues related to animal control by cities are practical issues and not legal issues.

I. Dangerous Dogs
II. Zoning and Nuisance Ordinances
III. Animal Shelters

Politics and Points of View

I. **Dangerous Dogs**
   A. Definition
   B. Procedure
   C. Requirements
   D. Point of view: Breed specific bans



I. Dangerous Dogs

H & S Code 822.041: A dog is dangerous if it:

"(A) makes an ***unprovoked attack on a person that causes bodily injury*** and occurs in a place other than an enclosure in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own; or

(B) commits ***unprovoked acts*** in a place other than an ***enclosure*** in which the dog was being kept and that was reasonably certain to prevent the dog from leaving the enclosure on its own ***and those acts cause a person to reasonably believe that the dog will attack and cause bodily injury to that person***."

I. Dangerous Dogs

Point of view matters in the determination of whether a dog is dangerous.

- What constitutes provocation?
- What is a "reasonable" belief that a dog is going to attack a person?
- Dog on dog?

I. Dangerous Dogs

B. Procedure for determination

H & S Code Chapter 822

1. Initial determination that a dog is dangerous made by animal control.
2. Determination may be appealed to a municipal, justice, or county court for a de novo review.
3. Court's decision may be appealed in the same manner as other cases before the court.

I. Dangerous Dogs

C. Requirements for dangerous dog owner
H & S Code 822.042

The owner of a dangerous dog must…

1. Register the dog with the city.
2. Keep the dog restrained at all times.
3. Obtain $100,000 in liability insurance.
4. Comply with any other city rules.

…or else

The dog must be surrendered, or it may be seized, and it will be ordered humanely destroyed.

. Dangerous Dogs

D. Breed specific bans –

Some communities want to ban Pit Bulls because they are viewed as inherently dangerous

. Dangerous Dogs

H & S Code 822.047:
A city may adopt more stringent regulations regarding dangerous dogs, provided that regulations are not breed specific.

Politics and Points of View

II. Zoning and Nuisance Ordinances

II. Zoning and Nuisance Ordinances

Basic regulation of animals within a city can be done through zoning or nuisance regulations, and often the same issues can be addressed in either manner.

A. Zoning regulations
B. Nuisance regulations
C. Politics: Intact dog permit
D. Politics: Trap neuter release programs

II. Zoning and Nuisance Ordinances

A. Zoning regulations

- Agricultural districts: more animals allowed per property, livestock permitted, fencing requirements
- Residential: restrictions on number/type of animals
- Multi-family: restrictions on number/type/size of animals

II. Zoning and Nuisance Ordinances

A. Zoning Regulations Point of View

- Green zoning – this is a new trend to allow certain uses historically limited to agricultural zones in residential districts for personal use. Examples include:
  - ❖ Bee keeping
  - ❖ Chicken coops
  - ❖ Livestock for home use
- These uses are beneficial to the property owner, but can be detrimental to neighbors.

II. Zoning and Nuisance Ordinances

A. Zoning Regulations

Bee Keeping

II. Zoning and Nuisance Ordinances

A. Zoning Regulations

Chicken Coops

II. Zoning and Nuisance Ordinances

A. Zoning regulations???

- Animal Hoarding – for many cities, zoning restrictions on the number of animals permitted is the tool to combat hoarders

II. Zoning and Nuisance Ordinances

B. Nuisance Ordinances: Loc. Gov't Code Ch. 217

Both Type A and Home Rule cities can define conduct that constitutes a nuisance.

The nuisance can be abated by the city and/or the person responsible can be fined.

II. Zoning and Nuisance Ordinances

B. Nuisance Ordinances: Typical nuisances

- Excessive Barking –
  - What is excessive?
  - Any warnings given?
  - Due process concerns?

II. Zoning and Nuisance Ordinances

B. Nuisance Ordinances: Typical nuisances

- Leash laws – It shall be a nuisance for a pet owner to allow their pet to be unrestrained within the city.
  - At all times or just off your property?
  - Exception for outdoor cats?
  - Are electric fences and/or shock/spray collars sufficient?

II. Zoning and Nuisance Ordinances

B. Nuisance Ordinances: Typical nuisances

- Curbing – must pick up waste

II. Zoning and Nuisance Ordinances

B. Nuisance Ordinances: Typical nuisances

- Cruelty ordinances – some cities will specifically define practices that constitute cruelty, some examples include:
  - Tethering
  - Lack of water supply
  - Pets in locked cars

II. Zoning and Nuisance Ordinances

C. Politics: Intact Dog permit

- Some cities are requiring owners of intact dogs to get a special permit
- Purpose: dangerous dogs, overpopulation
- Exception: breeders

II. Zoning and Nuisance Ordinances

D. Politics: TNR programs

- Trap neuter release programs – Cat traps are set, captured cats are fixed, cats are released
- Does it help?
- In cities with leash laws, they are arguably illegal.
- In cities without leash laws, there is a risk of neutering outside cats.

Politics and Points of View

III. Animal Shelters

A. Related laws

B. Point of View: Goals

C. Politics: Breed specific bans

III. Animal Shelters

A. Laws related to animal shelter operation

- H & S Code Ch. 823
  - If a shelter exists (public or private) the city must create an advisory board
- H & S Code 826.031-034
  - City may require that all animals be restrained
  - Animals found at large impounded for a period set by ordinance

III. Animal Shelters

A. Laws related to animal shelter operation

- State Certification: H & S 829.007
  - Required training
  - Inspection
- Sterilization Requirement: H & S Ch. 828; 24 TAC Ch. 573
  - All pets adopted from a public shelter must be sterilized and tattooed.

III. Animal Shelters

A. Laws related to animal shelter operation

- Rabies Control: H & S Ch. 826, 25 TAC Ch. 169
  - Designate rabies control authority
  - Rabies control facility
  - Registration of animals

III. Animal Shelters

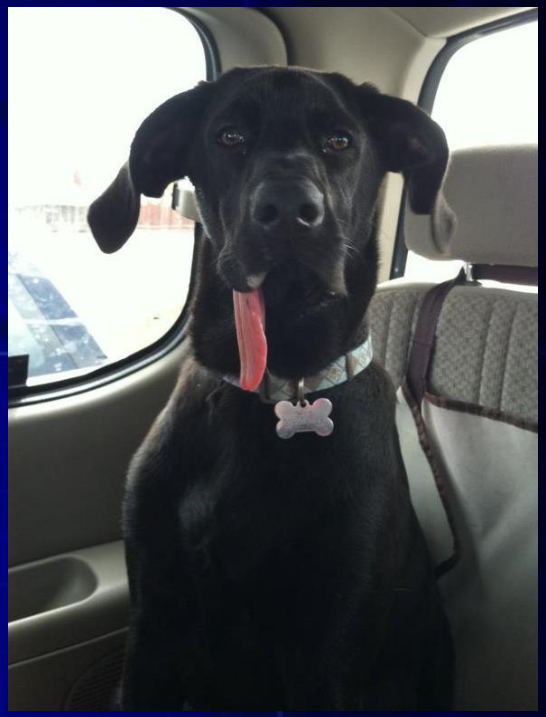
A. Laws related to animal shelter operation

- *Medlen v. Strickland*, 353 S.W.3d 576 (Tex. App.—Fort Worth 2011, pet. filed). A family dog was put down despite a "hold for owner" tag and the family sued for intrinsic/sentimental value.
  overturned by…
- Strickland v. Medlen, --- S.W.3d ----, 2013 WL 1366033 (Tex.), 56 Tex. Sup. Ct. J. 470 (Tex. 2013). The Court held that to allow for this kind of damages would have dramatic impact on animal welfare and animal control, and so the prior precedent was upheld.

III. Animal Shelters

B. Point of View: Cost vs. Euthanasia Rate

- It is significantly cheaper to run a shelter that does not allow adoptions
- Lowering euthanasia rate requires added expense



III. Animal Shelters

B. Point of View: Cost vs. Euthanasia Rate

- Costs of Adoption
  - Staff
  - Vaccinations
  - Records
  - Facilities, equipment, consumables

III. Animal Shelters

B. Point of View: Cost vs. Euthanasia Rate

- Resource allocation:
  ACOs vs shelter personnel;
  domestic vs wild/livestock

III. Animal Shelters

C. Politics: Pit bull bans

Some shelters will refuse to adopt out pit bulls arguing that they are more dangerous and therefore categorically less "adoptable". They are euthanized to make room for other breeds.

III. Animal Shelters

Pit Bull – not a breed. Pit Bull is just a commonly used term that encompasses several breeds, and a lot of hybrids of those breeds.

III. Animal Shelters

English Bull Terrier

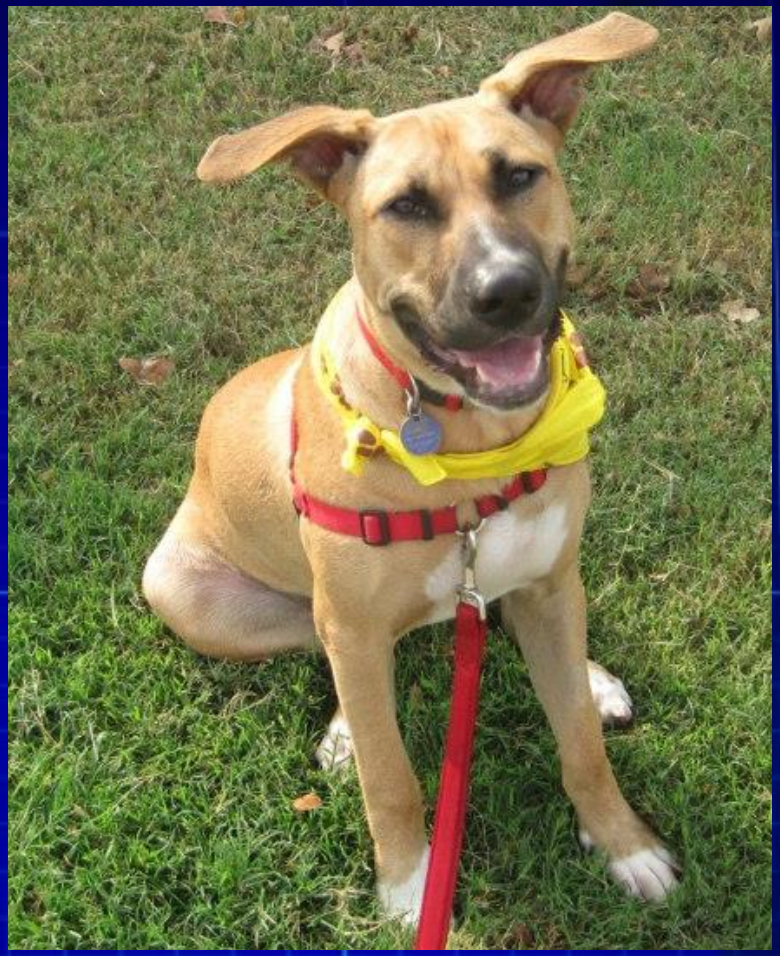
Staffordshire Bull Terrier

III. Animal Shelters

Black Mouth Cur (mix)

Boxer

III. Animal Shelters



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The End