



Commission on the Humane Treatment of Animals

Minutes of Thursday, July 31, 2008 Meeting

Present: Representative Carla Skinder, Maureen Prendergast, Elin Phinizy, Sheriff Wayne Estes, Michael Hughes, Steve Sprowl, Lisa Hall, Dick Wentzell, Trish Morris, George Cook, Roni McCall, Joanne Bourbeau, Jeri Zezula, Joyce Matott, Sheila Presby, Chief Andy Shagoury, Susan Morrell State Veterinarian Stephen Crawford and Deb Simson.

Also in attendance were Jean Slepian, Joyce Arivella, Chris Miller and Sherry Bezanson.

Welcome New Members

Sheila Presby, Chairperson opened the meeting at the Attorney General's Conference room by introducing the newest member to the Commission.

Wayne Estes has joined the Commission representing the Sheriff's Department. Sheriff Estes is from Strafford County.

Also some current members have had representative assignments changes:

Lisa Hall, Roni McCall and Jeri Zezula are now public members of the Commission.

Approval of last meeting minutes

The minutes were approved with no changes.

Cruelty case costs report:

There was a long discussion on the cost report. The members feel the report is not yet completed and needs some additional information. One suggestion was that the report stays consistent and uses the term animal cruelty rather than animal abuse in the text.

George Cook stated that the information from pet-abuse was not consistent with our data and therefore should not be used.

Roni McCall stated that she was already working with Sheila Presby and her son Lee to prepare pie charts and graphs using our data.

Another suggestion was that the cost be broken down further into categories such as administrative fees, veterinary fee, shelter fee's, cost to town etc.

Roni pointed out that originally we targeted some 200 cases for the report but got only information for 61 cases. The information given was in a lump sum and it is doubtful that we can get the responders to provide the detailed data as some of them don't keep that kind of record.

Dr. Zezula questioned why we targeted the cases we did and where did the information come from.

Roni McCall stated that the original 200 cases came from The NHSPCA, The Bedford Animal Rescue League and from The National Animal Abuse Registry database for the period of 2003 thru 2007. There is currently no such law enforcement database to gather this information although there is legislation federally to have this information gathered and documented in the FBI's system.

Another suggestion was to include a category for felonies vs. misdemeanors. Some of this was documented in the report based on what was reported to us from the case.

The discussion concluded with another subcommittee to take over the next phase of this report as the previous informal subcommittee has gone as far as they can in gathering the data. Sheila also felt it was time to have other commission members become more involved in this process.

The data gathering subcommittee, consisting of Steve Sprowl, Maureen Prendergast, Roni McCall and Representative Skinder will now be replaced with the new subcommittee members consisting of Trish Morris, Jeri Zezula, George Cook, Steve Sprowl & Mike Hughes

Discussion on concerns from Dr. Crawford

1. I have some concern with the process that all e-mails must go through a single point for distribution to the group. This limits the interaction toward which this group should be striving, and has led to concerns with incorrect or edited messages being distributed to the group. It seems to me that members of this commission should be able to present their thoughts, ideas, opinions, etc. directly to the rest of the group in their own words.

Roni McCall addressed this issue as in the past we have had a somewhat less than professional behavior when members have disagreed with another members point of view. So much so that it became outright nasty. We could think of no other way to deal with this problem than to have the information sent to a central source and distributed. Also the emails were being sent to individuals who were on the notification list only for meetings and they did not and do not want their email addresses used for this purpose.

Representative Skinder also remarked that she does not want to receive fundraising emails and if the distribution list is to be used it must be used with the permission of the members. She was not happy that she received an email from Mr. Wentzell especially when it was for another political party.

2. May I have a copy of any proclamation that the commission is going to discuss as I have not yet seen it? If the commission's charge is, paraphrasing from the Executive Order, to evaluate statutes and rules; assess programs; and present recommendations on preventing and addressing animal cruelty, would we be better served to prepare a report covering all of these areas as was done last year rather than trying to present individual issues piecemeal? Is a report or proclamation going to be available for review and signatures by the Commission members prior to submission to the Governor? This has been customary in the other commissions on which I have had a seat. As well, as the commission appropriately deferred to the NHFHO to get their input prior to advancing the CRS out of a meeting (May 29 minutes excerpt below), I would request the same courtesy for this office; I would hope that the CRS discussions could occur at the anticipated July meeting. Thank you for your consideration.

Upon consensus of the members present the proclamation has been tabled until after the NH Federation Board meets on June 25th to get their input as to how and if they wish to proceed with a proposed ACRS program.

This issue was addressed by Sheila Presby as the proclamation was handed out at the May meeting of which Dr. Crawford was unable to attend. As stated above the discussion was tabled until the NHFHO votes on whether they wish to proceed with this venture.

*3. I would prefer to see a larger focus on public education which impacts 100% of the population rather than response efforts and prosecution ramped up for a few percent of the population. I appreciate and support the need for the recent efforts to educate enforcement officials, though it seems to me that prevention of the reports by minimizing the 'I didn't know that' cases from the response would help all parties, and based on this group's own statistics already has. The statistics (both from the research group and from NHSPCA) and discussion from the May 29 minutes seem to show that reported cases are not rising and may in fact be declining in some areas; reported cases to this office bear out a similar trend. In the face of the facts that this group has collected, why is the effect of public education discounted in this trend and a lack of training of enforcement entities blamed (when this has nothing to do with cases reported rather with cases prosecuted)? What is the goal of discounting our own facts? What the **stats do show is a decline in the reported cases**, I do not know why. The high of 21 was in 2004, then 19 in 2003, dropping to 7 in 2007. Ouch. That may lead one to believe the cruelty instances are decreasing, I would argue it's the **lack of prosecution, training and how to handle it**. We know the calls are coming into the NHSPCA but perhaps it is the lack of buy in from PDs, lack of ACO's etc! - statement by Dr. Crawford.*

Trish Morris addressed the issue regarding the stats - the casefiles we identified in January came from the National Animal Abuse Registry, from the NHSPCA and the Bedford Animal Rescue League along with survey results from past years requested by the Commission. The stats do not reflect a decline in cruelty instances only that no one is willing to give us the stats we have requested repeatedly (now for almost 4 years). This in no way reflects the accuracy of the increase in animal cruelty cases nor does it support a decrease in animal cruelty cases. What it does show is that there really is a need to have this kind of information available. How we are going to get the information is another problem.

4. Is the commission providing input on the open public seats? If so, who is involved in the process and what are the criteria? Have all of the seats been filled?

Sheila Presby addressed this by saying the Members are decided by the Governor and that this commission and its members are here at the pleasure of the Governor.

The following positions are vacant as of this meeting.

Animal Shelter Board, State Senator, and UNH Coop Ext. - Several attempts have been made to fill these positions but no one has come forward to fill these positions. Dick Wentzell would like to fill the Animal Shelter Board position but according to the Governor's office cannot until his shelter opens. As a result he remains a public member.

The animal control position is not open as of yet as we have not received confirmation that the current representative has or is resigning. Sheila Presby will contact the governor's office and report back concerning this.

5. I have not read through all of the CRS details, though a few thoughts relative to the minutes:

*Chief Shagoury pointed out it does already happen in NH with Child Advocacy Centers (CAC). Most are separate non-profit corporations (some are part of the county attorney office but Carroll County is not) which have trained forensic interviewers who are specially trained in interviewing children who are victims. **They do not enforce the laws per se but they work with law enforcement** and many times are the interviewer of the child.*

*Chief Shagoury example is correct, though I would offer that in the New Hampshire animal cruelty statute, NGOs currently have the ability to remove non-livestock animals without law enforcement involved. Excerpted from RSA 644:8: IV-a. (a) Except as provided in subparagraph (b) any appropriate law enforcement officer, animal control officer, or **officer of a duly licensed humane society may take into temporary protective custody any...** The same latitude goes for livestock with the addition of an opinion from a licensed veterinarian. I will defer to the Chief to correct my next statement, but I am not aware of any other scenarios in which NGOs have the legal authority to seize private property in this state or others. I think that this is one part of the animal cruelty investigation process where challenges occur as legal standards may or may not be abided. In most states where NGOs have such authority (e.g. MSPCA, NY), the 'officers' of the NGO must also be law enforcement certified so that they are beholden to the law rather than the mission statement of an individual organization. Perhaps the solution is to require that anyone seizing an animal in New Hampshire must be a certified law enforcement officer - my apologies if there is a*

better or more correct term than 'certified'; Steve Sprowl suggested a similar idea in the March meeting minutes relative to having such officers incorporated into the State Police or other law enforcement group.

*Chief Shagoury also went into background that animal abuse laws predated child abuse laws as a connection historically. One such issue with child abuse cases that led to CACs was inconsistent handling of the cases. The CACs make sure trained interviewers conduct the interviews. **Part of the problem we are hearing in NH is the inconsistent way cruelty/neglect investigations are handled.***

Is the concern how investigations are handled or whether they are handled? A number of complaints come to my office which the complainant claims were not investigated by some other entity - I believe that in many cases, this is a fishing expedition by a complainant who did not like the outcome though legal channels were used. If the concern is truly that investigations are not conducted according to a standardized form, it is my distinctly 'law-enforcement-naive' opinion that there is no efficient way to ensure that investigations will be handled the same way every time by everyone as budgets, staffing, familiarity with the particular species, desire to quell a complainant, etc. will always be considerations. For example, in most cases my office adopts an approach which will educate, though not often placate, the owner and the complainant; will improve the situation for the animal, which should be our ultimate goal; and will provide for rechecks to assure compliance with the modifications which we require -- saves our office time and money in prosecution; saves taxpayer money in court time; places the financial responsibility on the owner of the animals; and improves the situation for the animal. This is not the same approach that every other entity uses, though it is our best method. There are likely modifications that can be made to create more consistency in the system, though I will ask again if time and funds would be better spent focusing on public education.

Chief Shagoury addressed this issue with these thoughts: the CRS program should include the law enforcement community and it should help develop a program for the police academy.

Chief Shagoury also stated he brought the CRS program idea to Police Association and it was not warmly received. Trying to get a team approach to the problem is a problem, he stated.

Chief Shagoury also stated that the CAC model might be a model to help the CRS program if it was to be developed here in NH.

6. *Why were the photos of a single horse, as this was only one of five horses, seized from Acworth sent to the group? I do not believe that it is the charge of this group to discuss / debate the specifics of any individual case. Elin's letter and the responses in the minutes reflect a discussion of the process as is this commission's charge rather than the specifics of the case. I believe that the distribution of these photos to the group was inappropriate in this forum; is inconsistent with the group's directive; and is indicative of a larger issue in animal activism in which sensationalism rather than facts are often used to advance a position. Though this interpretation may only be my opinion, this commission should make every effort to avoid such impressions if we wish to be viewed as credible or unbiased.*

Roni McCall addresses this issue with the following:

The whole issue came about because of Elin Phinizy's letter where she specifically mentioned the Acworth horse. Several members disagreed most vehemently with her letter and many requested the pictures if they were available. The single horse was the only picture we could get regarding this case - again the information from outside the Commission is not that forthcoming. Providing the commission members with this picture was done by request and with the okay of the chairperson.

Many of the members believe this case should have gone to prosecution and for whatever reason did not - had Mrs. Phinizy not brought this case up as an example of a non-animal cruelty case the pictures nor the discussion would ever have taken place.

Mrs. Phinizy objected to this and heard directly from the members that they don't agree with her that this was not an animal neglect case.

Steve Sprowl stated in the May 29th minutes *Elin's statement was not accurate. As the NHSPCA cruelty investigator I saw the photos of the horses in question and there definitely was justification to remove them from the owners and it was definitely a chargeable offense The Vet was accurate in ordering them removed. The only problem was the Sullivan Humane Society was ordered to return the animals back to the owners because they were not a licensed Humane Society. They had applied for a non-profit status and got approved and they thought they were then licensed and they failed to get the NH License from the Department of*

Agriculture, not realizing that they needed that as well as the non-profit status.

The situation became political because the Prosecutor stated the horses had to be returned because they were not a licensed Humane Society. The NH State Police actually did the search warrant, and went to the property with the vet and removed the animals with the assistance of the Humane Society...but it could have still been legal if the NH State Police would take responsibility for the animals which they decided not to do. As a Law enforcement, the NH State Police could still have proceeded legally with the case and choose not to. They don't like handling animal complaints.

It's a shame for the horses because they are the ones suffering. I hope that this at least woke up the owners that they need to feed their horses better.

Roni McCall stated again had Mrs. Phinzy not brought this case to the table, the discussion and pictures would never have been necessary. Roni stated personally I was shocked at the letter, that Mrs. Phinzy didn't have the courtesy to present the letter to the members herself, its content and the reference that "We, as a commission, have not been presented with any evidence of an "alarming increase" in animal abuse in New Hampshire". (See minutes of May 29th meeting for the entire letter).

Update on Legislation/Pending hearings

Joanne Bourbeau stated all the animal related bills have had hearings and in most cases addressed so there is nothing new to report on current legislation.

However we might want to address some of the problems the animal cruelty cases are seeing such as:

Bonding law is currently not being utilized by the judges. Judges won't strike it from the record but they feel it is unconstitutional. Civil forfeiture has worked with some success in cruelty cases in NH over bonding.

The commission might want to look into bills before they go to hearings as a prequel if you will - Some are bills being proposed are frivolous - this

commission might want to consider being an resource - perhaps to legislative services. The end result might come out with a better bill from the beginning.

Maureen Prendergast wanted to pass along information from an article she saw in one of the seacoast newspapers. It was more of an editorial, on troubles that dog owners have insuring their homes. It mentions a bill that passed in NJ this past session (by a huge majority 76-3) that states in NJ owning a dog will have no influence on homeowners insurance. The editorial then suggests that similar legislation might be introduced in the next session of the NH legislature this coming winter.

Update on <http://www.nh.gov/humane> website

Sheila Presby asked that the <http://www.nhdart.org> website be added to the links on the Commission page as she recently met with Lora dePlante and found the information should be helpful to pet owners in the event of a disaster - this is particularly true in light of the fact that Epsom, NH just had a tornado devastate the community. The <http://www.NHSPCA.org>, should also be added as it has a lot of disaster planning information that should be made available to NH residents.

The Commission member bio's have not been put on the <http://www.nh.gov/humane> webpage as of yet because to date we have only received 6 of the forms. We will add the bio's collectively rather than piece by piece so members should notify the Commission Secretary if they are going to submit a bio and especially if they do not intend on submitting one.

New Business

Proposal to have a subcommittee look into a permanent Humane Commission.

The discussion centered around the pro's and con's of having such a legislative commission, including having a budget, term of service, less active members (i.e. 8-10 vs. 25) and having to create administrative rules in order for the commission to go into effect.

Dick Wentzell suggested the commission actually be an agency (i.e. under a non-profit) not a commission because as an agency you can ask people,

agencies, and departments to sponsor legislation but as a commission you could not.

Dick went onto say that some of the cons under the current commission is

1. the Commission has to be renewed by the governor but a taskforce you would be reporting to the senate - authority and goals would be done through legislation.
2. The Governor's Commission is here at the pleasure of the governor - and has to be renewed by every governor through an executive order. - as a legislative taskforce - it would become a law - signed by the governor after approval from the senate and representatives and that all funding would have to be approved through the state budget.

After much discussion Sheila Presby requested a subcommittee to determine if a permanent commission should be established.

The commission members voted to create a subcommittee to study this proposal. The subcommittee will be made up of the following members: Representative Carla Skinder, Dick Wentzell, State Veterinarian Steve Crawford and Steve Sprowl with legal counsel being Susan Morrell and Trish Morris as Susan will be unavailable starting in October with cases going to trial. Susan mentioned that every lawyer in the AG's office have cases going into court starting in October.

However the subcommittee will table any activity until after the completion of the Governor's Cost Analysis Report. 18 members voted yes, no members opposed and 1 member abstained from voting.

Announcements

Roni mentioned again that the Secretary's position is open - Roni has been the secretary since the Commission was a taskforce going back to 2004. Roni agreed to stay on as Secretary until a replacement can be made as long as it does not take several months to fill this position. Roni will continue to be a public member of the Commission after the new Secretary is in place.

NHFHO asked for some more info from the VT CRS program at their last meeting - the members will be voting on whether to move forward or not on this program on August 8th.

Next Meeting Date

September 25th is the next meeting from 1-4pm in Senate Room 100 of the State House.

The SWOT focus will start again with the September 25th meeting with Deb Simson presiding.

Submitted by Roni McCall, Commission Secretary on August 7, 2008.