

The Governor's Commission on the Humane Treatment of Animals

Meeting Minutes
October 15, 2018

1) The regular meeting of the Governor's Commission on the Humane Treatment of Animals was called to order at 1:00 PM in Room 203 of the Legislative Office Building by Chair, Patricia Morris

2) **Members Present:**

- a) Patricia Morris, Chairperson & Equine Association
- b) Lindsay Hamrick, National Humane Organization & Secretary
- c) Tom DeRosa, Dr. Jeri Zezula, Jennifer Eber, Tom Seymour, Cynthia Collins, Marga Coulp - General Public
- d) Kristi Atherton, NH Farm Bureau
- e) Sheila Johannesen, Animal Control Officers Association of New Hampshire
- f) Steve Sprowl, Humane Cruelty Investigator
- g) Heather Faria, NH Federation of Humane Organizations
- h) Wendy Munroe, NH Veterinary Technician Association
- i) Gary Lambert, NH Sportsmen
- j) George Cook, Dog Owners of the Granite State
- k) Dr. Jane Barlow Roy, NH Veterinary Medical Association
- l) Chief Dean Rondeau, NH Association of Chiefs of Police

Public Present: Dave McKillop, NH Wildlife Federation; Tyler Clark NHVMA; Dr. Deborah Kelloway, Veterinarian

Members Absent: Sheriff Brad Valerino, Sheriff's Association; Chairman John O'Connor, House Representative; Senator Regina Birdsell, Senate Representative; Dot Perkins, UNH Cooperative Extension; Dr. Stephen Crawford, Department of Agriculture

3) **Secretary's Report:** Lindsay presented the minutes from the September meeting. Tom Seymour motioned to approve the minutes as written. Marge Coulp seconded. All members voted in favor.

4) **Current Cruelty Cases & News**

- a) Trish Morris updated the Commission on an ongoing case from Derry in which animals were seized in 2015 and placed into foster homes. In 2017, the defendant was found incompetent to stand trial and the Court ordered that the animals be returned to the defendant because she wasn't technically convicted of cruelty. A State report also found the defendant incompetent to care for animals but that document was sealed until recently. Trish and the Greater Derry Humane Society intervened utilizing RSA 437:19 which dictates that an owner must pay costs of care to have the animals returned or forfeit the animals. The case went through mediation where a resolution was reached but then the defendant rescinded. There are concerns for future cases in which defendants who are incompetent to stand trial will have animals returned to them and not be required to pay restitution costs.
- b) Lindsay Hamrick updated the Commission on the ongoing case involving 52 Labrador Retrievers from Marlborough. The trial was scheduled for early September but was delayed due to last minute motions offered by the defendant who was representing himself. The trial is scheduled for the end of October. The majority of the dogs are now in foster homes through the Monadnock Humane Society and the case has cost the shelter over \$50,000.

- c) Steve Sprowl updated the Commission on the ongoing case involving 36 German Shepherds from Alexandria and Bristol. The defendant was convicted in July and ordered to pay the \$70,000 bond to retain ownership of the animals through an appeal but has not yet posted the bond. There was a hearing held for contempt of court but the defense didn't show for the hearing. The Superior Court is scheduled to hear the appeal case on 10/23 and the District Court has asked the Superior Court to remand the case back to District Court which would confirm the conviction in July, the restitution order and the dogs would be forfeit due to the lack of the required posted bond. The NHSPCA has spent over \$200,000 on the dogs to date.
- d) Lindsay stated that the citizen whose Golden Retriever died at a Hampton groomer's business has been in contact to try to work on legislation to address these concerns. HSUS has received other requests for legislation regulating entities that care for animals but do not fall under the Department of Agriculture's licensing provisions. (ex. training facilities, boarding facilities, groomers, animal control officers, etc.) Lindsay requested input from other stakeholders and will report out at the November meeting with potential ideas for legislation. Dr. Jeri used to teach an associate's degree program at UNH for animal care professionals as well as a diploma program based on national certifications so there are resources available. She pointed out this is also another opportunity to encourage the public to research the facilities they utilize for animal care.
- e) Lindsay updated the Commission on the Great Dane case. The NH Supreme Court has not yet scheduled the case and that process may take many months. Jennifer Eber opened the discussion regarding whether the Commission should submit an amicus brief to the Supreme Court based on some of the challenges in the appeal that are relevant to the Commission's work. Examples may include challenges that the cruelty code is too vague, how search warrants are drafted, what costs may be considered for restitution, and how complaints are drafted. Lindsay Hamrick, Chief Rondeau and Dr. Jeri Zezula will recuse themselves from all conversations and email communications regarding the decision by the Commission to submit a brief and, if the Commission does submit a brief, will recuse themselves from any conversations or drafting of that brief. George Cook moved to continue the discussion at the November meeting. The motion was seconded by Tom Seymour. All voted in favor (Lindsay, Chief Rondeau and Dr. Jeri abstained.) Jennifer Eber will send around the list of challenges to all but the three members who are recused and the Commission will discuss at the November meeting. Tyler Clark, lobbyist for the NHVMA asked if there were issues with an executive branch commission becoming involved in a judicial proceeding. Trish Morris commented that the executive order charges the Commission with reviewing and determining policies related to the cruelty code and ultimately, the Court would determine if the Commission's amicus brief was appropriate.
- f) George Cook brought up a recent cruelty case in which a breeder was charged with cruelty for allegedly not seeking veterinary care for grease burns on a puppy who was sold and how that case and others may speak to the timeframe by which pet owners must seek veterinary care for medical issues.
- g) Trish will look into updates on the seizure of horses and other animals from a New Hampton "sanctuary". The animals were surrendered to Live and Let Live Farm but it's unclear if charges were filed and if so, where the case stands now.

5) 2019 Legislative Initiatives

- a) **HB 1385:** Relative to a Committee to Study Animal Welfare
 - i) The House Environment & Agriculture Committee has had a number of subcommittee meetings and solicited input from various stakeholders to address cost of animal care concerns and the transfer of animals. The Committee is utilizing HB 1385 as a vehicle to discuss these two issues but intends not to recommend the intent of HB 1385 (to create a committee to study animal welfare) for future legislation.

ii) The Committee has submitted two placeholder bills. The first under the cruelty code (RSA 644:8) regarding costs of care and the second under RSA 437 regarding the transfer of animals. Proposals to address cost of care include a state fund which would be funded by an existing fee on commercial feed. Currently, feed fees generate ~\$1 million per year. 50% of the funds go to the Department of Agriculture and the other 50% goes to the general fund. The Committee recommends that a portion of the general fund monies go into a cost of care fund administered by the Dept. of Agriculture. In order for towns to access the fund, they would need to contribute a small amount. The fund would not impact the requirement for defendants to pay restitution and any restitution collected could be routed back into the fund. The specifics of such a fund would be worked out in the post-legislative rulemaking process. The Committee also recommends additional funding for the Department to add staff to oversee pet vendor regulations and funds for a database system to track health certificates. The NHVMA has been discussing how they may be able to assist in the tracking of health certificates because the majority of veterinary clinics already use an electronic system. Specific bill language for both bills won't be available until November or December.

b) Other State Laws

i) Trish highlighted the passage of a recent Pennsylvania law that assigns felony level penalties for leaving a dog outside in temps below 32 degrees or more than 80 degrees for more than 30 minutes.

c) Commission Process for Legislative Positions and Amendments

i) Leading up to the 2019 legislative session, the Commission discussed how best to take positions on active legislation and to review significant amendments to priority bills. Jennifer thinks the Commission should only review a priority bill's amendment if that amendment significantly alters the intention of the bill. The Commission decided that the Legislative Subcommittee can track these changes and alert the Chair if an amendment has passed that warrants a new vote from the Commission members. Trish will contact the Governor's Office to determine if the Commission can electronically vote on these amendments in the event a decision is needed prior to a Commission meeting. The legislative committee will begin meeting in November and will provide legislative reports to the Commission. Dr. Barlow recommended that the reports include the specific vote and the reports will be updated to reflect this. The legislative committee can also write and/or oversee the process for majority and minority reports.

6) Cruelty Tracking Subcommittee

a) Jennifer Eber and Heather Faria presented the draft five page report (plus references) and will present the full draft to the Commission in November. Chief Rondeau discussed the changes in reporting mandates that should make reporting more accurate in the future which may show an increase in the number of cases reported even if the actual frequency of cruelty cases has not changed. Based on other mandatory reporting mandates, these numbers should even out after about five years. Steve Sprowl asked if cases where owners relinquish the animals are reported as this makes up the bulk of cruelty cases in the state? Chief Rondeau confirmed that those cases would be included as long as cruelty was charged in the case.

7) Legislative Subcommittee

a) The subcommittee did not meet but will begin meeting regularly in November.

8) Funding & Education Subcommittee

a) The subcommittee is finalizing the animal care brochures.

b) Trish mentioned that in the town of Barnstead, half of the calls to law enforcement involve animals and the town is researching local funding options. George mentioned that the portion of the dog license fees that don't go to the State can be used by the towns for animal control related

responsibilities. Some towns use this money to hire an ACO, others use it to pay for any livestock damage fees but most put it into the general fund. While there is a minimum amount required for dog license fees, towns can set their own fees.

- c) Commission members discussed the group license fee structure which allows anyone with five or more dogs to pay \$20 to have them all licensed. This formula is significantly impacting the amount of funding available in towns that have many group license holders. The House Agriculture committee has also discussed this issue and is considering a new sliding fee scale that would better account for the total number of dogs.

9) Legal Database/Repository

- a) Trish is continuing to work on a future repository for court motions and responses such as motions to suppress evidence, summary judgment, case dismissals, etc. There is a lot of interest from prosecutors to have a repository of motions and responses as well as case law.

10) Protocol Manual Updates

- a) Lindsay received protocol manual updates from the groups working on 1) Prevention, 2) Section 4, 3) Pages 38-41 and 4) Specific Investigations Concerns. The other groups can bring their feedback to the November meeting and email ideas to Trish and Lindsay. After the November meeting, Lindsay will edit the manual with the recommendations of the members and then circulate it for review. The edited version will clearly show where changes have been made.

11) Review of other state cruelty laws

- a) Commission members have been asked to review other state cruelty laws and bring their thoughts and ideas to the November Commission meeting. Trish asked members how they envision the process of reviewing our cruelty law and clarified that she doesn't necessarily see the Commission rewriting the entire law but does want an analysis. Lindsay stated that there seem to be two tracks. The first is to identify areas of agreement that simply need to be cleaned up in the law and the second is to discuss some of the historically controversial topics such as regulation of pet vendors, wildlife cruelty, bonding and forfeiture, and outdoor dog standards. George felt that reviewing other state laws will benefit the Commission in making any potential recommendations for our law. Dr. Zezula presented a draft of a possible reassignment of the cruelty code to give it its own section in the law rather than lumped in with other breaches of the peace which makes the code difficult to follow.
- b) Other topics discussed included the Veterinary Practice Act and how it may or may not impact the ability for first responders to administer first aid/narcan/CPR, etc. Trish had deployed for Hurricane Michael and there are uncertainties around how much first responders can do in NH as non-veterinarians. Dr. Barlow Roy stated that while first responders should be able to administer first aid in the event of an emergency, the animal should always be transported to a veterinarian as quickly as possible.
- c) Lindsay suggested the Commission also look at the livestock guardian dog language as it pertains to outdoor dogs. There have been a number of alleged cases of tethered dogs posing a safety risk to people and/or livestock whose owners are claiming the livestock guardian exemption in order to avoid barking complaint fines and outdoor sheltering requirements.

12) Old Business

- a) The NHSPCA's Law Review book is now updated and available on the Commission's website as well as on the NH Federation of Humane Organization's website. The ACO Association also requested to post it on their site.

13) New Business

- a) George asked if organizations could send other representatives in the event a member was absent. The Executive Order only allows the Department of Agriculture to do this.

14) 2018 Meeting Dates

- a) The final meetings for 2018 will be November 19th, and December 17th at 1pm. Location in the Legislative Office Building in Concord TBD.

15) Call to the Public

- a) Dr. Deborah Kelloway spoke to the Commission regarding an ongoing case before the Board of Veterinary Medicine involving veterinarians and veterinary clinics' role in the surrender of animals. She is looking for guidance from the Veterinary Board regarding the ability for veterinarians to take in owner surrenders from cruelty cases and requested the Commission's assistance. Trish stated that the Commission has a narrow charge and cannot get involved in ongoing issues before the Board of Veterinary Medicine but can look at the cruelty law to determine whether this issue should be reviewed and can consider expanding on the manual regarding the involvement of veterinarians in cruelty cases.

Tom Seymour moved to adjourn the regular meeting at 2:58pm. Chief Rondeau seconded. All voted in favor.

Respectfully submitted by: Lindsay Hamrick, Secretary