

AGRICULTURAL ADVISORY BOARD

JUNE 24, 2008

1. ROLL CALL

The meeting was called to order at 6:35 p.m. Board members present were Chair Julie Aitken, Vice-Chair Jason Hurley, Jacque Daniels and Greg Hoover. Also present were Code Compliance Official Daniel Stallone, and Board Secretary Jenevia Edwards recording the meeting. Councilmember Starkey was absent.

2. APPROVAL OF MINUTES: April 22, 2008

Vice-Chair Hurley made a motion, seconded by Ms. Daniels, to approve the minutes of April 22, 2008. In a voice vote, with Councilmember Starkey being absent, all voted in favor. **(Motion carried 4-0)**

Following a brief discussion regarding the minutes of March 25, 2008, Mr. Hoover indicated that word “dairy” in the minutes was a mistake. Board Secretary Edwards indicated that she would make the necessary correction.

3. DISCUSSION

3.1 Carcass Removal Ordinances – Danny Stallone, Code Compliance Official

Mr. Stallone referred to the issues of Chair Aitken’s email which were the property versus the livestock owner potentially being cited for the carcass disposal, and what happened when the carcass was on public property. He indicated that no private property owner could be held responsible.

Chair Aitken advised that at her presentation to Council on June 18th, she had asked Council to table the carcass disposal ordinance until after this meeting. Mr. Stallone explained that he was willing to facilitate an ordinance that was applicable to everyone’s intention as well as enforceable.

Chair Aitken understood that if someone had a horse or cattle at a boarding farm within the Town and the lessee owned the cattle, but not the boarding farm, there had to be somebody on whom to enforce the lien. Mr. Stallone indicated that in Chapter 162 of the Code Enforcement Statute, enforcement was applied to the property owner; however, there were occasions when there were administrative fines which were applicable to a business that may be operating from the property but may not be tied to that property. Mr. Stallone commented that it was important to review the ordinance in an attempt to incorporate some potential modifications to make it enforceable.

Chair Aitken asked if there was a way for the Town to place a lien on an individual residing in Broward County but their property was not located in Davie. Mr. Stallone responded that it would be an administrative lien, and would not be a real property lien because the property that would be involved would be separate from the property that the cattle owner may either reside on, or have an ownership interest in. He explained that with an administrative fine, “the Town could lien the property as to the personal property of the cattle owner who did not own the property.” Chair Aitken questioned if it made a difference if the animal was dead. Mr. Stallone explained that it did not matter, the infraction was whether or not the dead animal was removed in a timely manner. He referred to the verbiage of the initial ordinance drafted by the Board and indicated that some of the issues was how the Town would ensure contact with the owner within the first 24 hours to make the individual aware of what had occurred. There was the question of identifying the cattle, whether it was branded and if the branding would be part of the registration process.

Mr. Stallone believed that the intent of the Board was to include the carcass removal ordinance in Section 12 of the Land Development Code; however, it was brought to his attention by the Planning and Zoning Division that the process would be extended if this item was added to the Land Development Code because it had to be presented to the Local Planning Agency. He explained that in his version of the proposed ordinance, the carcass removal was incorporated into Chapter 4 which was the animal code section.

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Ms. Daniels spoke of an incident in Miami where a dead animal was dumped on a property. Despite several calls by the owner to the police, the animal remained on the property for a week. She added that the property owner contacted the newspaper when no response was received from the police. Ms. Daniels questioned what the Town's policy would be in a situation of this nature and who would be responsible. In responding, Mr. Stallone explained that in cases of this nature, the measures taken would be to contact the owner either through Code or by the Police Department. He advised that usually the Town was able to contact the owners of the livestock and there had never been a situation where the carcass had been left for more than two days. Ms. Daniels asked if the person living on the property where the animal was dumped would be responsible to have the animal removed. Mr. Stallone responded in the negative and added that the owner of the horse would have to be identified or the Town would pay for the removal of the animal. Mr. Hoover questioned if the policy was the same for someone dumping tires on a property. Mr. Stallone stated that the property owner was responsible for removing the tires.

A lengthy discussion continued regarding the issue of removing carcasses and responsibility. Mr. Stallone commented that in some cases, when dumping occurred on public rights-of-way, this was removed by the Public Works Department; however, because of how the Code was written, the adjacent property owner was responsible for maintaining the swale which included the removal of trash and debris as well as upkeep of landscaping.

Regarding the dumping issue, Mr. Stallone questioned how a horse could be identified if there was no requirement for them to wear a tag like dog's do. Ms. Daniels responded that there was no registration requirement for horses. Chair Aitken indicated that racehorses were required to have a tattoo on their lip. Ms. Daniels commented that once the horse left the track, their owners could change a number of times and the tattoo on their lip was not always on their Coggins.

Mr. Stallone explained that because of the health issue as it related to the dumping, the most common sense solution would be to utilize the lien process and continue the investigation. He commented that with a dead horse lying on a public road, waiting more than 48 hours would not be proper public health policy, and if there was an increase in the cost for removal, "it would not be too magnanimous for the Town to intervene and take charge." Mr. Stallone spoke of the maintenance of a livestock register and indicated that he did not have a problem maintaining the register; however, Special Project Director Bonnie Stafiej had registration material available. Vice-Chair Hurley did not think that the registration was a good idea.

Chair Aitken cited different instances of carcasses being on the roadway either from becoming loose and being hit by a vehicle or of the animal dying on a property and being removed to another property during the night. In both cases she questioned who would be responsibility, especially in the initial case when the owners do not identify the animal for fear of liability. Mr. Stallone explained that in the case where the animal was not identified by the owner, it was not fair to hold the adjacent property owner responsible; however, if the animal was not on Town property, the Town would have to take charge. In the case of a carcass being left on the side of the road, Mr. Stallone stated that the Town did not want to take more responsibilities than it had to; however, there was a certain amount of responsibility it owed to all its citizens. Mr. Stallone indicated with that in mind, with some investigation the owner would be found, and with the lien process, the initial cost would be borne by the Town; however, it was possible to recoup the fees later.

Regarding dumping in the swales, Mr. Stallone advised that the Town's position was that the adjacent property owner would be responsible for the removal. He explained that because of the Town's current perspective due to economics, there would be an investigation in an attempt to locate the party responsible and the appropriate cost would be assessed.

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Chair Aitken questioned State law as it related to burning of carcasses. Mr. Stallone quoted from the Florida Statutes relating to burning of carcasses and added that if the Town was prohibiting the burning or burying of carcasses, he did not see it as a conflict with the Town Code. Chair Aitken questioned whether disease mentioned in the statutes referred to a contagious disease. Mr. Stallone believed the statute referred to contagious diseases. Chair Aitken referred to the water table in Broward County being low and the risk of contamination due to the burial of dead carcasses particularly if they were diseased. Mr. Stallone commented that the statute was 30 years old.

Discussion ensued regarding the burial issue and how it related to domestic animals with Mr. Stallone commenting that the concentration was strictly on livestock.

A lengthy discussion was devoted to the draft ordinance and the changes that might be necessary to make the ordinance enforceable. Mr. Stallone suggested that special attention be given to the issue of illegal or improper dumping of carcasses. He added that those individuals were the people to whom large penalties should be applied. Mr. Stallone stated that this was not covered in the ordinance; however, a special section could be added in which that was explicitly stated. He explained that if a significant penalty was levied on the responsible individual, it would fall under irreparable or irreversible violation of approximately \$15,000. Mr. Stallone indicated that this would get the attention of the individual who did the illegal dumping. He stated that this section could be published in the Davie Update and the Davie Farmers Guide as well.

3.2 Outcome of Presentation to Council – Steps to Further That Procedure

Chair Aitken advised of the items that she presented to Council and had requested that Council delay making any decision on the carcass ordinance until the Board had a chance to discuss it. She indicated that the presentation was well received and was strongly supported by Councilmember Starkey.

Chair Aitken explained that Council would be moving the livestock identification and the carcass ordinance to an upcoming agenda so that Council could begin consideration of the recommendations. However, she was not sure on which agenda the items would be placed. Chair Aitken commented that Mayor Truex expressed concern as to how the carcass lien would be enforced.

4. OLD BUSINESS

4.1 Review Letter To Councilmembers Regarding Outstanding Board Issues

This item was discussed earlier in the meeting.

5. NEW BUSINESS

5.1 Discussion with Open Space Advisory Committee Members Regarding Trail Markers

As no one from the Open Space Advisory Committee attended the meeting, Chair Aitken suggested that another invitation be extended to the Committee and this item be placed on the agenda for the July meeting. The question was raised concerning the cost of the markers, with Chair Aitken commenting that staff had not provided the information to the Board. Chair Aitken commented that because Council would have to be approached to expend funds, it was important that the Open Space Advisory Committee work with this Board. She saw this as a lobbying effort and it was important to find out the cost. Chair Aitken stated that the proposed trail marking system had the support of both the Fire and Police Departments and this was the manner in which they preferred to handle the issue.

Vice-Chair Hurley advised that the information garnered from the Fire and Police Departments was that they would like to see this system in place. He commented that the issue had the support of both departments and it would be worthwhile if the Open Space Advisory Committee worked with this Board. Chair Aitken asked that Program Manager Phillip Holste be contacted concerning the cost for the mile markers and suggested inviting him to the next meeting.

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Vice-Chair Hurley suggested sending an email to the staff liaison for the Open Space Advisory Committee to be forwarded to the Committee members asking for a representative to attend the next board meeting.

6. AGENDA ITEMS FOR NEXT MEETING

The following items were suggested for the July meeting:

1. Discussion with Open Space Advisory Committee members regarding trail markers
2. Agricultural Code Definitions
3. Cost for Trail Markers

7. COMMENTS AND/OR SUGGESTIONS

There were no comments or suggestions.

8. ADJOURNMENT

There being no objections and no further business to discuss, the meeting adjourned at 8:00 p.m.

Date Approved

Chair/Board Member