

CITY OF DERBY

**ORDINANCE REVIEW ADVISORY BOARD
REGULAR MEETING
JUNE 18, 2013
6:00 P.M.**

APPROVED MINUTES

ROLL CALL

Jessica Rhein
Paul Shaver
Dale Smith
Richard Van Hyning

ABSENT

Thane Rockhill

Also Present: Janae' Springer, Secretary
Kevin O'Connor, City Attorney
Taylour Tedder, Management Assistant

Agenda Item #1 – Public Forum

No one present to speak, public forum was closed.

Agenda Item #2 Introduction of New Members

New members of the board were introduced.

Agenda Item #3 – Election of Chair and Vice -Chair

Motion:	Motion to elect Paul Shave as Chairman.
Vote:	3 yea, 0 nay, Thane absent. Motion carried
Motion:	Motion to elect Richard and Vice-Chair.
Vote:	3 yea, 0 nay, Thane absent. Motion carried

Background:

- Derby residents have expressed concern that animal waste is a rising problem on public and private property.
- Many cities in Kansas have adopted ordinances prohibiting animal waste in the public right of way, public places or property of another including but not limited to Andover, El Dorado, Maize and Rose Hill.
- The proposed ordinance would require pet owners to remove any waste deposited by their animals within public right of way, public places or property of another.
 - Signage in parks will be updated to remind pet owners it is the law to pick up after their animals.
 - When residents walk their pets, a disposable bag or ‘pooper scooper’ must be taken along to pick up after their pets.
 - Several pet waste stations exist in Derby parks for the convenience of residents.
 - Public information on the issue will be communicated through City Channel 7, Derby welcome bag literature, newsletters, dog licensing literature and park rule signs.
- In Derby, Animal Control would be responsible for day-to-day enforcement of the ordinance. In instances when Animal Control is unavailable, Code Enforcement officers would be responsible.
 - The enforcement officer would first warn a resident when in violation of the ordinance. If an additional violation is made, the officer would write the offender a ticket.
 - If an on-duty police officer witnesses a violation of this ordinance, the officer would issue a warning or ticket to the offender.
- Typical fines in Kansas cities:
 - Park City and Rose Hill set fines of not less than \$10 per offense plus court costs.
 - El Dorado has a tiered fine structure. The fine for a first offense is \$60 to \$80, while the second and subsequent offenses are \$80 to \$100 plus court costs.
 - Mission Hills set a fine up to \$500 per offense plus court costs.
- The new City of Derby website, which will go live in mid-July, will provide residents with the ability to inform the city of violations through a "Citizen Request Tracker." This electronic tool allows residents to report a concern or violation and attach a time-stamped photo. Animal Control would follow up via phone or email.
- The recent "Listening to Derby" Community Forum comment cards showed 66% of respondents were in favor of a \$10 fine plus \$30.50 court costs for violations. The remaining respondents recommended a higher fine.
- The issue is scheduled for review by the Ordinance Review Advisory Board at its June 18th meeting.

Financial/Sustainability Considerations:

- Existing staff would enforce the ordinance.
- Recommended fines and court costs would help defray implementation and enforcement costs.

Legal Considerations:

- Adoption of the proposed ordinance is within the police powers of the City.
- The proposed ordinance was reviewed by the City Attorney.

Recommend a Motion to:

- Schedule a second reading for July 9.

DISCUSSION:

Taylor presented the staff report and the proposed ordinance to the board.

Dale asked if we currently have bags available in any of our parks.

Taylor said he believes we have them at High Park and Garrett Park currently.

Dale asked if there was any discussion on how to deal with repeat offenders, such as having higher fines.

Taylor advised he spoke with the police chief about that, he indicated that the first offense would probably result in a warning; subsequent offenses would result in a fine. The chief did not think there would be a huge problem with repeat offenders.

Richard asked if *section a* should be amended to clarify that private property meant someone else's private property and not your own.

Kevin advised the words "private property of another" could be added for clarification, in *sections a, b and c*.

Jessica asked if there would be a violation if they were walking their dog and did not have in their possession any means to clean up the waste.

Taylor explained that the ordinance does not require that the dog owner has to have a means to clean up the waste.

Kevin explained that if the council passes the ordinance, it is not necessarily the agenda report. They only pass what is contained in the ordinance. The ordinance itself does not have a requirement for carrying a means to clean up the waste.

Taylor stated that the ordinance is meant to more educational to residents so they know it is a requirement to clean up after your pet. We will provide information to citizens via Channel 7, in our welcome bags at the Chamber and several other methods.

Jessica asked about people with physical disabilities who are unable to pick up after their pets.

Kevin explained if they receive a violation they will have the opportunity to explain their situation to the city prosecutor.

Richard indicated he is against the ordinance. He walks his dog in the park and has not encountered a problem. He believes 22 residents is small sample size for a city of nearly 25,000 residents. He does see the necessity to have an ordinance for it and suggest promoting awareness rather than adopting an ordinance. It seems like a lot of resources being spent on what he sees as a trivial matter.

Kevin asked if he thought maybe passing a resolution to provide more education on the issue would be more appropriate.

Richard indicated he would be more for promoting city awareness rather than making it a legal issue. He can't imagine animal control or a police officer having to come out and track down the person who didn't clean up their pet waste. It seems to be better that if someone saw it happen to just approach them and ask them to clean up their animal waste. He does not see a statistical basis for the ordinance. It seems trivial and a lot of work for something that should be personal responsibility and could be handled much easier.

Paul advised he lives on a busy corner with a 6-foot walking path in his hard and has never seen any problems. He can support this because he knows it will help reduce potential situations from escalating into bigger ones.

Kevin stated that for some people, if there is an ordinance on the books it serves a purpose. It also gives the police department something to use as grounds for enforcing the animal waste issue, without an ordinance, they are unable to do anything about it. It is a tool to give law enforcement the ability to approach someone and will affect the chronic offender more than anyone else.

Jessica advised she was in favor of the ordinance; it will not affect those that are already doing what they should be doing.

Motion: Paul moved to amend the ordinance adding "private property of another" to sections a, b and c and to send to the city council as amended. Dale seconded.

Vote: 3 yea, 1 nay (Richard), 1 absent. Motion carried.

Meeting adjourned at 6:38 p.m.