



DEPARTMENT: CITY ATTORNEY
DIRECTOR: BRADFORD R. JERBIC

☐ Consent ☒ Discussion

SUBJECT: **RECOMMENDING COMMITTEE: ELIGIBLE FOR ADOPTION AT THIS MEETING**

Bill No. 2009-44 Requires that dogs and cats over the age of four months be spayed or neutered, except under specified circumstances, and requires the microchipping of dogs and cats before they can be recovered, impounded or adopted. Sponsored by: Councilman Steven D. Ross

Fiscal Impact

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No Impact

☐ Augmentation Required

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Budget Funds Available

Amount:

Funding Source:

Dept./Division:

PURPOSE/BACKGROUND:

This bill would require that dogs and cats over the age of four months be spayed or neutered, except under specified circumstances. Among the exceptions: animals being held by a shelter or other organization for adoption; animals held by persons with a fanciers permit; animals that are incapable of breeding or are medically unsuited for the procedure; and service and law enforcement animals. The bill would also impose reporting requirements on pet shops. Finally, the bill would require the microchipping of dogs and cats before they can be recovered from impound or adopted.

RECOMMENDATION:

FORWARDED to Full Council at 11/18/2009 City Council meeting with no recommendation pursuant to the 11/3/2009 Recommending Committee.

First Reading 10/21/2009; First Publication 11/6/2009

BACKUP DOCUMENTATION:

1. Bill No. 2009-44
2. Business Impact Statement
3. Submitted at Meeting Support Letters and email to Councilman Reese by the College of Southern Nevada - Dennis Olsen, Dr. David Henderson - Sunrise Veterinary Clinic, Heaven Can Wait Animal Society - Harold Vosko and email by Andrea Larson, Studies by Chief Karen Coyne, Protest Petition with 135 signatures and Article on Mandatory Spay Neuter Laws and Regional Animal Sheltering Statistics for CY2008

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Motion made by STEVEN D. ROSS to Approve as First Amendment

Passed For: 5; Against: 2; Abstain: 0; Did Not Vote: 0; Excused: 0

STEVE WOLFSON, OSCAR B. GOODMAN, GARY REESE, STEVEN D. ROSS, STAVROS S. ANTHONY; (Against-RICKI Y. BARLOW, LOIS TARKANIAN); (Abstain-None); (Did Not Vote-None); (Excused-None)

Minutes:

COUNCILMAN REESE read and submitted a letter from VETERINARIAN DAVID HENDERSON, Sunrise Veterinary Clinic, stating his support and offering free spray/neuter, microchip and vaccination. The Councilman read emails from other veterinarians in support of the ordinance. Many felt that four months is an appropriate age.

CHIEF KAREN COYNE, Director of Detention and Enforcement and the City's Animal Regulation Officer, stated that the proposed bill is designed to reduce the pet population by promoting responsible pet ownership through a system of accountability in an effort to reduce the number of euthanasias at the local shelters. The ordinance is not without the input of representatives from the veterinarian community, humane organizations, animal control professionals, shelter providers and the citizens. The ordinance should be an educational component as the language is consistent with legislation adopted by the City of North Las Vegas. In spite of all the work, this legislation has drawn much criticism. Regardless of the opponents, CHIEF COYNE stated she is willing and committed to working with those who are critical of this bill.

CHIEF COYNE spoke of an incident three years ago that resulted in the death of thousands of animals because of an infectious disease that ran rampant through the shelter. She emphasized that over-population and lack of responsible pet ownership contributed to sanitation challenges and subjected the animals to the spread of the disease. CHIEF COYNE stated that although the loss was enormous, there is not comparison to the number euthanasias experienced every day throughout the Valley. If anything, the new legislation will be a positive tool for the officers in the field.

She stated that criticism, resentment and opposing views were voiced by several groups; however, they have come together to better address this issue and she hoped that momentum is not lost. She did not want to overshadow the fact that prior to that devastating day, the County, through JOE BOTELLOS leadership, had already been doing research on this type of legislation. They have not been successful bringing this bill before the Commission yet. She also asked a City of North Las Vegas representative to speak on the issue as they have adopted a similar ordinance.

CHIEF COYNE addressed several issues including the age at which spay/neuter should occur. She submitted copies of studies on early sterilization and its benefits and noted that the four-month age is consistent with the other jurisdictions.

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The other concern was brought forward by the breeders and kennel clubs. However, there are exceptions for pet owners who are willing to secure either a dog or cat fancier permit, professional handler or breeders permits. There are exceptions for an animal that is medically unsuited as determined by a veterinarian, for dogs who are used for a specific service, such as seeing-eye dogs or search and rescue dogs. Pound and shelter operations are exempt as long as they have provisions within their policies that address spay/neutering.

CHIEF COYNE indicated there will be an expense associated with this for the consumer but that is a part of being a responsible pet owner. There are many low cost spay/neuter clinics that offer the service at no cost.

COUNCILMAN ROSS verified with CHIEF COYNE that the City's contract with the Lied Animal Foundation cost the taxpayers approximately \$2 million. The Chief stated they are aware of the challenge for those who need assistance, and in Section 9 of the Bill, with a future resolution, the Council has the authority to determine a percentage of the fine and fees that are appropriate to be set aside in a special fund to offset the cost associated with spay/neuter for those who need public assistance.

Over the last three years there has been a 10 percent increase of impounded dogs and five percent increase of impounded cats. The City is currently impounding four times the amount of animals as compared to cities much larger than Las Vegas. For fiscal year 2009, in the City of Las Vegas 62 percent of animals were euthanized and that is not acceptable. This is a serious challenge and the City Council has the opportunity to support the proposed bill.

COUNCILMAN REESE mentioned that there are many cats and dogs running loose in the City and Clark County. He emphasized the need to take care of these animals.

CHIEF COYNE pointed out that there is a concern in the Bill regarding the 48-hour euthanasia requirement for feral cats. NRS and local ordinance speak to the 72-hour hold for owned animals non-wild. Feral cats are deemed wild animals. The purpose behind the 72 hours was to allow ample time to find the owner or the owner to find the shelter. Therefore, the 48-hour requirement was repeated in the bill. However, the 48 hours for feral cats has been on the books in the City of Las Vegas since 1991.

COUNCILMAN ROSS asked RICHARD MOLINARI, Supervisor of the Animal Control Unit, to address the state law associated with spay/neuter. MR. MOLINARI replied that NRS 5.74 states that an animal that comes out of a shelter at four months shall be spayed/neutered.

COUNCILMAN WOLFSON verified with CHIEF COYNE that there has been an increase in the number of animals impounded and if nothing is done the increase will continue. In the City of Las Vegas, approximately 33 animals a day are euthanized. This bill is a mirror of the City of North Las Vegas' bill which was adopted a year ago. The hope is that Clark County comes on board based on COMMISSIONER CHRIS GIUNCHIGLIANIS interest to introduce a similar bill before the County Commission.

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COUNCILMAN BARLOW remarked that he received many emails both in support, but the question regarding civil liberties continues to surface as individuals feel their rights are being taken away.

CITY ATTORNEY BRAD JERBIC clarified that the Charter states that an entity has a responsibility for public health, safety and welfare, and animal control falls within that category. There has never been an unlimited right in this country; licensing procedures are in place that directly address those issues.

AL NOYOLA, Assistant Director of Administrative Services, City of North Las Vegas Police Department, stated that North Las Vegas adopted a similar ordinance in January of 2008, and supports this bill. Their ordinance promotes pet ownership and controlling pet population. North Las Vegas used an aggressive marketing to educate the population and to reach the citizens, and the response has been positive. Animal control officers do not cite specifically for spay/neuter situations. Typically, they respond to barking dogs or stray pets, and as they deal with that issue, they ask the question if the animal is vaccinated or spayed/neutered. Oftentimes, the officers talk to the citizens, who are receptive about taking their pets to their vet to have them spayed/neutered. Most of the time many citizens are not aware of the ordinance regarding registering or spaying/neutering their animals and they are not cited, but are given a period to become compliant.

Since the passage of the ordinance, North Las Vegas has seen an increase in the sterilization practice. They realize that many cannot afford to spay/neuter their animal, but there are local organizations that provide low cost or no cost services for the spaying/neutering of animals.

MAYOR GOODMAN verified with MR. NOYOLA there has been an increase in pet population mostly due to the economic decline in home ownership resulting in many animals being left behind in the homes.

COUNCILMAN ROSS verified that the City of North Las Vegas does not have concrete numbers to verify whether the adoption of the ordinance has had an impact. However, the veterinary clinics are seeing a tremendous increase in sterilization and immunization. MAYOR GOODMAN surmised that if this ordinance is not adopted, the numbers of animals impounded due to the economic conditions, could be far worse.

MR. BOTELLO, Chief of Code Enforcement, Clark County, stated that Clark County has invested in sterilization of pets since 1999. As part of their ordinance, they charge an impound fee of \$35 which goes towards sterilization and \$15 to microchipping. If the owner decided not to have their pet spayed/neutered, those fees were turned back to the public for free sterilization. Clark County has made an investment in Heaven Can Wait Sanctuary Sterilization Clinic, where in one day they can do 300 cats. They have used the spay/neuter license plates sold by the Department of Motor Vehicles (DMV) and those funds are turned in to the Heaven Can Wait. Last year there were approximately 20,000 animals impounded and about half were euthanized. MR. BOTELLO explained a legitimate breeder would be the exception. Some people breed

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animals to make money that contribute to the pet over-population. He agreed that difficult economic times will contribute to the increase of impounded animals, but the proposed ordinance will put the tools in place to solve this issue.

COUNCILMAN REESE asked about statistics of how many cats are homeless. MR. BOTELLO replied that he could not provide an accurate number. COUNCILMAN REESE remarked that cats in his neighborhood might have an owner and most of them go from neighborhood to neighborhood and spread all types of diseases. MR. BOTELLO stated that Clark County impounds more cats than dogs.

COUNCILMAN WOLFSON asked why the number of impounded animals is similar to the City of Las Vegas given the fact that Clark County has more residents. MR. BOTELLO replied that Clark County invested heavily in the free sterilization voucher program and the distribution reached farther into the County. He indicated that at this time, a committee is looking at an ordinance similar to the City and he believes that all entities should have a similar ordinance.

MAYOR GOODMAN discussed with CHIEF COYNE that he could obtain a dog fanciers permit at a cost of \$50 annually in the event he wanted to keep a dog after four months of age.

MR. MOLINARI explained that if a dog must be met to have a breeder's permit, the animal must have a City of Las Vegas animal license, be vaccinated and an inspection of the property is done. The neighbors must agree. For a dog breeder's permit, that dog can stay intact and cannot breed.

COUNCILMAN BARLOW further verified with CHIEF COYNE that a professional animal handler's permit is subject to business licensing requirements. If he would choose to someday breed his dog, he would need to get a breeder's permit and make sure the dog is vaccinated and ensure the neighbors would not oppose the breeding of his dog.

MR. MOLINARI discussed with MAYOR GOODMAN that the breeder's permit allows up to six dogs but he could only have one dog. CHIEF COYNE further clarified that it is the ability with the breeder's permit to have up to six dogs but it does not require six. The Mayor asked the Chief to explore some type of law that allows him to keep one dog, not have him sterilized so he could breed the dog some day.

COUNCILMAN REESE verified that language within the bill specifically refers to medical exclusion by a licensed veterinarian declaring that the pet is medically unsuited, either permanently or because of temporary conditions, to be for sterilized. CHIEF COYNE indicated that a license in the City of Las Vegas for a sterilized dog is \$10 otherwise it is \$25.

COUNCILMAN BARLOW asked whether the ordinance has a provision for the residents who do not want their animals spayed/neutered. He is aware of the over-population but he believes an owner has the right to make that determination. CHIEF COYNE explained that the bill introduced has exceptions, including the opportunity to breed the animal with criteria that must be met.

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CITY ATTORNEY JERBIC explained there are two different kinds of breeders; a pet owner is a non-commercial breeder. A commercial breeder is someone who sells puppies for profit; they generally have kennels and usually operate as a business, and the zoning classification comes into play. Anybody, regardless of the zoning category, is eligible for a non-commercial breeder permit. COUNCILMAN ROSS stated that the bill addresses that and the exceptions are clear. He read excerpts from a letter from Heaven Can Wait, who supports the proposed ordinance. The Councilman verified that the amount of animal control officers throughout various entities is a considerable cost to all taxpayers.

CHRISTINE ROBINSON, Executive Director of the Animal Foundation, appeared with DR. AMY MITCHELL, the shelter veterinarian. MS. ROBINSON stated that the foundation is a non-profit organization that provides sheltering services for the City of Las Vegas, City of North Las Vegas and Clark County. In addition, they provide adoption services, a low-cost public shot clinic and extensive community education. The foundation supports the spay/neuter of animals. She outlined statistics of the number of dogs and cats that are delivered to the shelter, and most of them are intact. The animal foundation adopts out many animals and returns animals to their owners. In spite of those positive outcomes, the animal foundation still euthanizes over 29,000 animals.

The animal foundation spends approximately \$6.2 million each year in operational expenses. It is the job of the elected leaders to decide how to solve this issue, and the animal foundation will remain committed in supporting that effort. This conversation is not about making this problem better but about not making it worse. Should this ordinance be adopted, the animal foundation looks forward to evaluating its effectiveness and making any necessary modifications and improvements.

DR. MITCHELL showed a euthanasia list; each page contained 24 spots. The problem needs to be addressed in the proposed legislation. Many clients select low-cost rabies vaccination because it is required or they get cited. They will also breed the animal over and over again. Unfortunately, there are not enough organizations to address this problem, and education is a good tool but legislation is required.

COUNCILMAN ANTHONY asked if somebody has a dog or a cat and a veterinarian determines they cannot be spayed/neutered, what is a valid reason? DR. MITCHELL replied it would be for health reasons. Spay/neuter eliminates testicular or uterine cancer. She understood the concern about the age restriction but she felt that four months is appropriate. There are exceptions for owners to have some time until they have their pets spayed/neutered.

COUNCILMAN ROSS acknowledged DR. MITCHELL'S passion about the animals and concurred that there is a serious problem in communities. MS. ROBINSON stated that the animal foundation provides shelter services and has contractual agreements with different entities that contribute approximately 60 percent of the \$6.2 million budget, and the organization is responsible for the other 40 percent.

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COUNCILMAN BARLOW asked if the proposed ordinance would decrease the number of euthanasia. MS. ROBINSON responded that it is a sad reality, and 29,000 animals euthanized are too many. The proposed ordinance would bring the intake number down, and spay/neuter will start to solve that problem.

COUNCILWOMAN TARKANIAN asked if it is easy to tell the difference between four and six month old pets. DR. MITCHELL replied that the age could generally be determined between four to six months.

DR. APRIL HEINSCH, At Risk Animal Hospital, and DR. KAREN LEMON, both appeared in support. DR. HEINSCH pointed out that veterinarians have gone through four years of undergraduate education and four years of veterinary school. They are board certified both nationally and interstate. She found the comment that spay/neuter is mutilating the body offensive. They use appropriate anesthetic and surgery protocol. They would never put pets in danger. Animals that are intact are more likely to be aggressive and to bite. It is a health concern and those who bite are quarantined at the cost of the taxpayers. Spayed/neutered animals are easier to train and reduce the risk of cancer. The proposed bill will protect the licensed breeders.

KEITH WITHLOCK, MIKE CONNELL, KENSILDA WICKHAM Club Legislative Liaison to the Silver State Kennel Club, TODD FARLOW and KAREN MOSS expressed their opposition. MR. WITHLOCK stated that various organizations are against mandatory spay/neuter. The mandatory law will increase shelter intake, increase euthanasia, cause reduction in standard veterinarian visits and will have no affect on backyard breeders. Some communities have seen an increase on the amount of litters. It will be difficult for a veterinarian to tell if a female has been spayed or neutered. The court has decided that animals are private property. A model that works need to be followed and he suggested following Washoe County's model. He submitted a protest petition.

Regarding the comment that veterinarians are unable to verify whether an animal has been spayed or neutered, DR. HEINSCH stated that a test can be performed to ascertain that. Las Vegas has a transitory population and this will target the 20 percent that do not follow the law.

MR. CONNELL stated he previously submitted a packet of information regarding long-term studies about spay/neuter at an early age. Dogs that are spayed/neutered at a young age have lost 75 percent of their normal growth, both physically and mentally, and are harder to train. He indicated a pet owner can keep a dog intact up to six months of age and then a veterinarian, who specializes in fertility, can have that dog collected. After six months of age, they can implant a female to have puppies, and then those animals can be spayed/neutered. MR. CONNELL agreed that backyard breeders are a problem and they will not adhere to the legislation. He noted that the states of Illinois and Kentucky rescinded the spay/neuter ordinance because people are not having their pets vaccinated. He pointed out that there would be no domestic animals in Clark County if breeding would stop.

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MR. SUNDAY indicated that the Kennel Club is in favor of spay/neuter and microchipping, but oppose the four-month age. It is a veterinarian-client privilege that should be observed and not a government mandate. He pointed out that the five-year period between violations has not been addressed, and felt that it should be reduced to one year. On the first offense, the animal owner should have the option to spay/neuter, pay the fine and obtain a license. The second offense should be looked at more closely, and by the third offense, if there is a pattern of irresponsibility, then the mandatory spay/neuter would be acceptable. He was pleased to see within the ordinance that the City would help fund spay/neuter for senior citizens.

MR. FARLOW stated that a veterinarian must have a good reason for not spaying/neutering at four months of age.

HOLLY STOBERSKI, Vice President of Heaven Can Wait Animal Society, is an advocate in favor of reducing the pet population and euthanasia rate. She indicated that the comment that the Council does not have a right to regulate animals because they are personal property is untrue. The City has the right and obligation to regulate ownership of property if it affects the public health, safety and welfare. The only people who oppose this ordinance are backyard breeders. Any reputable breeder would pay the license fee. She urged the Council to approve the ordinance.

JANA WRIGHT, resident in Ward 1, GINA GREYSON, President of Nevada Voters for Animals, DR. DIANE VALLEY, Vegas Valley Animal Shelter, CHRISTA COPPOLA, employee at American Society for the Prevention of Cruelty to Animals, and ERICA CARSON, member of the Teens for Animal Protection, collectively provided their comments supporting the proposed ordinance. MS. WRIGHT noted that ordinance has a provision for medical exclusions if signed by a veterinarian, service and law enforcement animals are exempt, any valid dog or cat fancier or professional handler permits. She asked to keep the four-month age requirements for cats. She asked that revisions be made to state provided that term shall not include providing nourishment to a stray feral cat or dog. This language is the same that the City North Las Vegas has adopted, and Clark County will adopt the same language when they will introduce a similar ordinance. COMMISSIONER CHRIS GIUNCHIGLIANIS staff held a pet fair where Heaven Can Wait offered to spay/neuter all cats and dogs at no cost. MS. WRIGHT suggested using 50 percent of the fund referred to in the ordinance to subsidize spay/neuter for low-income individuals. She further suggested using the media to make the residents of Las Vegas aware of this ordinance.

MS. GREYSON pointed out that the number of pets killed every year in the Las Vegas Valley could fill the entire Sam Boyd stadium. The public health and safety is at risk by dog bites from unsterilized animals. She provided statistics from the American Veterinary Medical Association (AVMA). She pointed out that AB 15 would require the disclosure of applicable sterilization. DR. VALLEY stated that she has performed over 7,000 surgeries, and pointed out that the surgery is not mutilation. MS. COPPOLA remarked that spayed/neutered animals do not lose their mental growth. Their behavioral problems are a combination of the environment, genetics and training.

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MS. CARSON observed a cat being hit by a car and she wrapped the kitten into a blanket and took it to the animal hospital where she was told that it needed to be put down. Spay/neuter will prevent the over-population and prevent animals running loose. She agreed that the public has a right to own pets but she also has a right to not being attacked by a homeless animal.

ANTHONY HODGES stated that cats and dogs are different and the cats are the hardest to control.

KAREN LANE, President of the Las Vegas Valley Humane Society, appeared on behalf of the coalition made up of several animal welfare groups. Working with Animal Control agencies, their goal is to reduce the number of impounds and taxpayers dollars. They are a rescue organization and unfortunately because people are irresponsible they see a lot more puppies and kittens being born outside ownership. She provided a list of how many dogs and cats are returned to their owners.

CAROL MOSS expressed concern about the license for the breeder and the number of six animals that could be on a property. She asked if this could create a legal loophole for people who do not want up to six animals if they would be denied a license. MAYOR GOODMAN assured her that if the Council approves the ordinance every issue to be considered, including finding out its success and make sure that the animal control officers have all the facts and statistics. If the ordinance does not work it will be brought back.

COUNCILMAN BARLOW verified that she can apply for a breeder's permit. He also verified that the proposed ordinance contains four months of age and not six months.

COUNCILWOMAN TARKANIAN stated that coming from a family that owned many animals, all were spayed/neutered. She does not feel that the evidence fully substantiates the fact that it must be done at four months rather than six months. The majority of cats are becoming pregnant at six months. Medicine is not a science, and she does not feel it could be subjective on this. She asked 10 veterinarians and not one said it should be at four months but rather at six months. The Charleston Neighborhood Preservation also received information that it should be at six months. She supports the ordinance with the exception of the four months.

COUNCILMAN ROSS appreciated everyone who sent their emails and as the Bill's sponsor, he needed this information on the record. Before this began, staff did the research, and DEPUTY CITY ATTORNEY VAL STEED did a fabulous job. Many of the comments were a reflection of the input by different organizations, as well as dog owners, and veterinarians. It is not easy to make decisions but oftentimes tough decisions have to be made for the benefit of the community.

He outlined all the issues that are addressed within the ordinance. The City plans to set up funding for low-income people but in the meantime organizations are available to provide those services at no cost. There is a general distrust of government and interference and violation of personal property rights. The ordinance will give the animal control officers the ability to do what needs to be done to address the over-population issue. Regarding the four-month

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requirement, the ordinance gives the discretion to the veterinarian. He believes this will set a standard for responsible pet ownership. After hearing statements regarding spay/neuter, spending taxpayers' money, he must move forward, as there needs to be accountability.

CITY ATTORNEY JERBIC remarked that this Bill will not go into effect until April 1, 2010 and based upon comments made today, the Bill will come back to clearly address the definition of breeder, as well as look at the penalty sections. The gist of the Bill is to treat commercial breeders differently from private owners, and for private owners to have their animals remain intact, there will be a legitimate method through the licensing department.

COUNCILWOMAN TARKANIAN referred to the Bill addressing those people that could obtain a letter from a veterinarian exempting animals from spay/neuter. Many people might not be able to afford an examination and obtain a letter.

DEPUTY CITY ATTORNEY STEED outlined the Bill's amendments. Page 1, Section 7.14.020, Subsection C training for certain animals, he recommended adding language "in addition to the appropriate training of certification by a recognized agency if such certification is available. On Page 2, Section 7.14.040, having to do with forfeiture of puppies and kittens born to non-spayed or non-neutered animals, he recommended that it be changed to be subject to forfeiture following which they may be given to the care of a local shelter for adoption. He recommended adopting the Bill as First Amendment.

COUNCILMAN ROSS suggested imposing 12 and 24-month review of this ordinance to see its effectiveness. He thanked the organizations for their participation and input. CITY ATTORNEY JERBIC clarified that that is not a sunset clause but an annual review. COUNCILMAN ROSS amended his motion to an annual review. CITY ATTORNEY JERBIC clarified that the annual review would occur one year from the date the ordinance goes into effect.

MAYOR GOODMAN remarked on the number of animals being euthanatized. Everybody has lost a pet and this is unacceptable for the entire community.