

**MINUTES REPORT
EXECUTIVE REGULATORY OVERSIGHT COMMITTEE
(ERO)
Wednesday, September 13, 2023
2:00 p.m.**

Committee Members Present:

Tracy Hayden, Vice-Chair
Sam Hagan
Bill De Deugd
Tim Keene
Michael Reitmann

Excused / Absent:

Randal Mercer, Chairman	Mike Roeder
Victor DuPont	Bob Knight
Matt Roepstorff	Ian Moore
Carl Barraco, Jr.	Jim Ink

Lee County Staff Present:

Anthony Rodriguez, DCD, Zoning Manager
Adam Mendez, DCD, Zoning Senior Planner
Joe Adams, Assistant County Attorney Belinda
Odom, DCD Administration

Outside Consultants/Members of the Public Present:

Ms. Kate Welch, Lee County Sheriff's Office
Lt. Richard Castellon, Animal Abuse Task Force, Lee County Sheriff's Office
Detective, Lee County Sheriff's Office

Ms. Roseanne Duffy, Wildblue Resident
Member of the Public, Wildblue Resident
Ms. Marsha Ellis, Fort Myers, Florida

CALL TO ORDER AND AFFIDAVIT:

Ms. Tracy Hayden, Vice-Chair called the meeting to order at 2:15 p.m. The meeting was held in the Community Development/Public Works Building, 1500 Monroe Street, Fort Myers, Florida, Conference Room 1B.

Mr. Joe Adams, Assistant County Attorney, confirmed the Affidavit of Publication was legally sufficient as to form and content and the meeting could proceed.

APPROVAL OF MINUTES – May 10, 2023

Ms. Tracy Hayden stated the Minutes of the last meeting were provided to the members of the Committee in the packet and asked if there were any questions, comments, or suggestions regarding those Minutes. There was none.

Mr. Michael Reitmann made a motion to approve the May 10, 2023 minutes as written, Mr. Sam Hagen seconded. The motion was called and carried unanimously.

Annual Lee County Animal Abuse Registry Ordinance

Mr. Joe Adams, Assistant County Attorney introduced Ms. Kate Welch with the Lee County Sheriff's Office and Attorney's Office. He stated that they worked with the Lee County Sheriff's Office on drafting this Animal Abuse Registry Ordinance.

The main purpose of the Ordinance is to create an online data base Registry to establish identifying individuals residing in Lee County convicted of certain animal abuse crimes that will prevent these individuals from adopting, purchasing, possessing, or otherwise obtaining animals from any animal shelter, pet seller, or other person or entity involved in the exchange of animals by adoption, sale, or other means.

This ordinance protects the animals and Lee County from animal abuse crimes by creating this Registry. Pet stores and animal shelters have the obligation to check the Registry and will be able to easily identify individuals who have been convicted of animal abuse, crimes, or have been enjoined from animal possession by a court order and cannot purchase or adopt animals by virtue of court order or by being listed on the Registry. The Registry will contain the names, residence, photo, and other related information of certain Abusers living in the County who are convicted of an Abuse Offense on or after the effective date of this Ordinance. The Ordinance and the importance of having such a Registry would protect animals from being placed in homes that previously had convictions. The Lee County Sheriff's Office will maintain the registry and there will be some fees collected that will go toward their cost in running the program. The Registry will be listed on The Sheriff's official website. There are several other Counties throughout the State that have adopted similar ordinance and we met with one of them and they stated it was very easy to do and effective.

Mr. Adams asked Ms. Welch if she had anything to add. Ms. Welch stated that they have seen a big spike in animal abuse crimes in Lee County and the Sheriff wants to crack down on them. The Sheriff wants to make sure that everybody who adopts or sells has this as a resource to make sure they are not giving an animal to someone who is going to abuse it.

Ms. Hayden asked if there was anyone here from the public to speak on this item. No one responded.

There was discussion among the committee members. Mr. Bill De Deugd asked if this would be a publicized registry. Ms. Welch replied yes, it will be on the Sheriff's website. Ms. Hayden asked if there has been any input from the pet stores. Mr. Adams replied that there will be educational outreach to make sure the public is aware of the Registry. Mr. Tim Keene asked how long someone stays on the Registry and what happens if someone inadvertently gives an animal to someone on the list. Ms. Welch replied it would depend on if it was a civil matter and would be based on it when it comes to a conviction as it is laid out in Section Three. There was discussion about Section Three, A, B, and C that it states the

length of time and that when it comes to enforcement the Sheriff's Office and the County choose whether or not to enforce it. She also stated that for a first offense they would only get a warning and the warnings would not be published on the website. There were a couple of members that thought this was too broad and needed additional language. Ms. Hayden asked for clarification for "what kind of other information" in Section Four, C, 6. Ms. Welch responded that if something fishy, like an address doesn't seem right they will be able to request additional documentation.

Ms. Hayden asked for a motion to approve, or any changes. Mr. Bill De Deugd stated he was going to abstain on this. Ms. Hayden responded that he was not able to abstain and without a motion to approve or deny she didn't know if they could do anything with it.

Mr. Bill De Deugd made a motion to approve as its written, Mr. Reitmann seconded to approve as written.

Mr. Hagan and Mr. Keene brought up Section Two, L, definition of a person. There was a discussion about this. Ms. Hayden asked Mr. Adams if there was a way to come up with something that addresses what Mr. Keene's concerns are toward not having to affect someone who totally had no knowledge of the Registry. Ms. Welch stated that it is on us to enforce it.

A question came up to get clarification that if someone gave an animal to a person who was on the Registry and had no idea of it, they would only get a warning, and not be put on the website and in return it would educate them to be aware of this. Ms. Welch replied yes, and it could be a verbal warning, not a written. Lt. Castellon with the animal Task Force, stated that education is a huge part of what they do, as the enforcement part. Last year they had 4,256 calls for service, animal related and out of those calls they made about 24/28 felony arrests. They deal with local rescue groups, cat rescue groups, 501 (C)(3)'s, Mutty Paws, and many more. People aren't even aware of some of the Ordinances like tethering Ordinances. The purpose of us getting this out here is a tool that is not only for us but to help educate the public.

Marsha Ellis, member of the public, spoke up and thanked the officer for bringing in the education piece as part of the service of what they offer to people. She mentioned her concern of vigilantism of individuals acting out against these people.

Ms. Hayden stated we have a motion on the floor to approve as written and a second to approve as written. The motion was called, and motion passes 3 to 2.

Noise Ordinance Amendment

Mr. Adam Mendez, Senior Planner, Lee County Community Development Zoning Department gave a brief overview of the Ordinance. The Board of County Commissioners adopted an amendment to the Noise Control Ordinance (Ordinance 14-18) on April 19, 2022 (Ordinance 22-10). Ordinance 22-10, as adopted, addressed the measurement of C-weighted sound pressures (Network dBC), pure tone analysis, and measures of enforcement, including an alternative maximum noise level table addressing the measurement of sound levels by emitting land use (Table 2). At the adoption hearing for Ordinance 22-10, the Board received public input expressing concern with respect to the exclusion of manufacturing and industrial land uses from Table 2. In the motion approving the adoption of Ordinance 22-10, the Board included direction to staff to perform further analysis to establish legally defensible sound level limits for manufacturing and industrial land uses in Table 2 to avoid the potential for a regulatory taking of a

business enterprise. Based on this direction, staff evaluated noise exposure standards established by the Occupational Safety and Health Act (OSHA) and the National Institute for Occupational Safety and Health (NIOSH) to establish a baseline for decibel values associated with the potential for hearing impairment, damage or loss. OSHA establishes a 90-dBA criterion for an 8-hour time weighted permissible exposure limit. Employers conducting business activities at or beyond this threshold are required to provide a hearing conservation program or action level plan, in addition to other requirements. The OSHA 90 dBA 8-hour time weighted average limitation is less restrictive than the NIOSH 85 dBA recommended 8-hour time weighted average. Staff, with assistance from the Lee County Sheriff's Office, performed noise level testing within a series of industrial areas in unincorporated Lee County to determine if noise levels exceeding 90 dBA and 95 dBC were present at the property line of the respective noise source. As recorded within nine distinct industrial areas throughout unincorporated Lee County, the average peak volume noise was recorded at 69.4 dBA and 76.6 dBC. These figures were considerably lower than the above-referenced OSHA and NIOSH values, especially when considering noise energy exposure doubles every 3 decibels (dB). For example, 63 dBA carries twice as much sound level pressure as 60 dBA. The limited amendment contained herein establishes an alternative sound level standard for manufacturing and industrial land uses that may be used at the discretion of the Lee County Sheriff's Office consistent with standards established in Ordinance 22-10.

Ms. Tracy Hayden asked for public comment.

Ms. Marsha Ellis, member of the public, had passed out a handout to all in attendance in opposition of this noise. She stated that the purpose of her letter was to advocate for protection of public health, life, safety, and private property interests in unincorporated Lee County through preservation of common-sense noise level protections, as derived from accepted community noise standards.

Ms. Roseanne Duffy, member of the public, asked for clarification if the ordinance was just for the levels for pure tone. Mr. Mendez replied, the purpose of this ordinance is to establish a standard, where no standard currently exists. There is a pure tone adjustment that is proposed here if a pure tone is detected then the decimal level drops by 5 according to the way the ordinance is proposed.

Ms. Hayden suggested they go around the room to each member to see if anyone has any questions or comments.

Mr. Sam Hagan asked if under the existing statute, is manufacturing and Industrial exempt. Mr. Mendez replied that he wouldn't call it exempt, Table 1 still applies so people who have that issue in their receiving land use there is just no standard for Manufacturing and Industrial at this time and this is what they are trying to rectify.

Ms. Hayden asked Mr. Mendez if she is standing on the Ajax property line, can she expect to have the 75/80? Adam Mendez replied that he wanted to make sure everyone understood which land use came first with an explanation referring to Table 1 residential. Table 1 is not going away; it is actually an extra layer of protection.

Mr. Bill De Deugd stated that he had a conflict of interest for this matter and would have to abstain from voting. A form will be provided for him to fill complete.

Mr. Joe Adams stated he wanted to clarify procedurally, yes, this vote can move forward, and it requires 3 affirmative votes to pass a motion.

Ms. Hayden called for a motion to approve as written or amended. Sam Hagan made a motion to approve as written, Mr. Tim Keene seconded.

Ms. Hayden asked if there were any comments from the board. There was none. The vote was called. Motion passes 4 with 1 abstained.

Ms. Tracy Hayden adjourned the meeting at 3:09 p.m.

Ms. Roseanne Duffy asked if any adjustments could be made to these levels if there are still some questions about whether it's gone far enough and if it is warranted?

Mr. Mendez replied that this will be going to go through another committee review as the local Planning Agency is going to hear this, so between now and then if someone has some suggestions on standards that work with the parameters and the direction they were given, it will be heard and taken under advisement before it goes to the board which is the next step.

There was no further business.

The next meeting is tentatively scheduled for Wednesday, November 8, 2023.