

Fwd: Comments on Administrator Leach's "Investigation into Euthanasia..."

Sitka City Assembly
Administrator Leach
KCAW
Sitka Sentinel
Friends of the Sitka Animal Shelter
Animal Control Board, City of Sitka
City Attorney Rachel Jones
Angie Kemp, Chief Prosecutor, State of Alaska
Amy Fenske, Assistant District Attorney

Administrator Leach's report, "Investigation into Euthanasia of Animals at the Sitka Animal Shelter" states in its conclusion: The euthanasia of animals in September 2024 was legally permissible under SGC 8.05.040 and was carried out by trained personnel following AVMA guidelines. The report speaks in generalizations about the situation at the shelter and with FOSAS, although there was a long overdue admission that the animals were euthanized by gunshot. The report did not explain, for example, why that decision was made, what had happened at the shelter when ACO Magni took over, or the origin of the source of much of the information that has been asserted at Assembly meetings and in negotiations. Few facts were presented in the report.

The statement by Administrator Leach that the animal shooting was done following AVMA guidelines is patently wrong. Nor was it legal according to state law or city ordinances.

Where state law conflicts with local ordinances, the state law preempts the local ordinances. In other words, the state can overrule or nullify a local law that conflicts with or in some circumstances is different than, that the state law. State law generally controls.

This Assembly must look to state law as well as the local ordinances to make a correct determination whether the dog and cat shootings were legal and in accordance to the AVMA as stated in Administrator Leach's report. It is apparent that Administrator Leach did not follow this basic legal principle.

Administrator Leach, who supervises Chief Baty (who supervises Lt. Achee), simply picked out the portion of the ordinance (the 3 and 5 day euthanasia rule, SGC 08.05.040) which he wanted to enforce rather than looking to the entire ordinance and its meaning. He therefore wrongly asserts that the killing

was legal. Nor are Chief Baty, Lt. Achee or Administrator Leach qualified in veterinarian care so as to be able to judge the condition of the animals properly to determine whether the animals needed to be euthanized because of illness or age, which was the excuse used by Chief Baty to justify the killing of the dogs. (email to Julie Bovee, Dec. 13). Nor are they trained in animal behavior. Shooting these animals was plainly wrong.

State law says

AK Sec 03.55.100. Minimum Standards of Care For Animals.

(b) Any determination as to whether or not the standards of this chapter are met shall be based on the professional opinion of a veterinarian licensed under AS 08.98

(c) The department may adopt regulations to implement this section.

A regulation adopted under AK 03.55.100 reads:

18 AAC 36.500 Animal Care Standards

(f) When necessary, euthanasia must be administered in a humane manner that conforms to the American Veterinary Medical Association's (AVMA) Guidelines for the Euthanasia of Animals: 2020 Edition, adopted by reference.

And the AVMA states.

Gunshot should not be used for routine euthanasia of animals in animal control situations, such as municipal pounds or shelters. Guidelines on Euthanasia 2020 avma.org p. 42.

Administrator Leach's assertions that the shooting was according to AVMA standards is completely incorrect. Although the standards and law allow for very limited times when shooting is allowed (rabid animals for example), none of the exceptions apply here. Those persons who shot and killed the shelter animals may even be guilty of cruelty to animals, SGC 8.10.010C, in that these animals were killed in a way that was not humane according to accepted veterinary practice.

The statement by Administrator Leach that the animal shooting was done legally is also wrong.

SGC 08.05.040A, allowing euthanasia after 3 to 5 days, an ordinance upon which Administrator Leach consistently relies to support the killings, is so vaguely written as to be open to interpretation.

First, the title of the ordinance is "Impoundment Procedure." Nowhere in the ordinances is the word "impoundment" defined. However the ordinance does not appear to include animals which have been surrendered, and indeed the dictionary definition of "impound" mean "seized".

Section A of the Impoundment Procedure ordinance says

A. Dogs found **running at large** may be impounded at a municipality designated shelter. Dogs wearing valid license tags will be held for a minimum of five days if not claimed by the keeper. After five days, if not claimed by the keeper, they may be destroyed or adopted. Unlicensed dogs will be held for a minimum of 72 hours and may then be destroyed, or held for adoption for a reasonable period at the discretion of the animal control officer. Before destroying an animal, the animal control officer shall make reasonable efforts to promote the adoption of the animal. [emphasis added].

Sections B and C of that ordinance refers to procedures used by the animal control officer for a dog running at large, not surrendered animals such as the dogs (at least).

Thus a reasonable interpretation of this ordinance, its plain meaning, is that **only dogs running at large** are subject to the 3-5 day euthanasia rule. Not surrendered dogs, nor cats, nor other animals. The ordinance is poorly written and unclear as to its meaning.

In addition, 8.05.040 states that “Before destroying an animal, the animal control officer shall make reasonable efforts to promote the adoption of the animal. The word **shall**, in legal terms, **makes this step legally mandatory**. Neither Administrator Leach or Chief Baty (who supervised Lt. Achee’s shootings) state that any attempt to adopt the animals was made. It is all the more tragic because two people had expressed interest in adopting the dogs. There is no indication that there was any attempt to adopt out the four cats.

The actions by Chief Baty and Lt. Achee were against both city and state law, facts which were not reflected in Administrator Leach’s report and perhaps overlooked in his investigation. The report is incomplete and partly inaccurate. It should not be relied upon in any decision that is made by this Assembly.

The Sitka Police Department authorities and Administrator Leach were not transparent, were not in keeping with the Sitka ordinances ordinance or state law, and were contrary to humane practices for animals surrendered to their care. I ask the Assembly to reject this report. It was unfair to ask Administrator Leach to review actions and establish facts in a department of which he has ultimate responsibility.

This Assembly should authorize an independent, objective investigation of both the Administrator’s and Chief Baty’s responses and actions to this unfortunate situation. Other organizations exist which could delve more deeply in an investigation than Administrator Leach was able to do. The state Ombudsman and the Police Standards Commission are two organizations that come immediately to mind. The public needs clarity and accountability.

Sincerely,

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