

From: [Garza, Jason](#)
To: [Ellen Jefferson](#); [sarah lyons](#)
Cc: [Faith Wright](#); [Steve Porter](#); [Sloat, Mark](#); [AUSTIN LOST AND FOUND PETS](#); [Anne LaFriniere](#); [BeverlyLuna](#); [REDACTED]; [Dog Foster Manager](#); [REDACTED]; [Stephanie Bilbro](#); [REDACTED]; [Patty Alexander](#); [Bland, Don](#)
Subject: RE: Lost and Found Touchbase Meeting
Date: Friday, May 22, 2020 8:15:00 AM
Attachments: [image003.png](#)
[image005.png](#)
[image006.png](#)
[image007.png](#)
[image008.png](#)
[image009.png](#)
[image010.png](#)
[Lira v Greater Houston German Shepherd Dog Rescue Inc.pdf](#)

Good morning everyone,

Wanted to send this last night but was having internet issues. As Faith mentioned, I shared with our attorneys the law from New Mexico. They found it interesting but are not sure it would work in Texas, mainly due to a case that went before the Texas Supreme Court. Attached is a Texas Supreme Court case discussing who retains ownership of an animal after impoundment. In that case a dog was found and kept impounded for six days before being given to a Houston German Shepard dog rescue organization to be fostered. When the owner finally located the dog and requested the dog back the fosterer refused and litigation ensued. The Court concluded that the dog owner never lost rights to the dog and he should have been returned to the owner.

Texas law generally opposes the forfeiture of someone's rights to their property, including animals. The court analyzed the term "impound" and determined that impoundment does not transfer ownership. If we wanted to operate similar to Las Cruces and create an ordinance that takes away a property owner's right to retain their pet then that would likely be subject to a due process challenge, and in Texas it is unlikely that the ordinance would be upheld unless the redemption period was longer (maybe 30 days). If a finder claimed ownership after 3 days (based on an ordinance approved by the City), it would likely result in both the finder and the City getting sued by the owner for taking their property.

I asked what could be codified to ensure a finder of an animal is protected should they decide to keep the animal or rehome without the animal being impounded by the City. They said since the dog wouldn't have been impounded by the City, then the issue would end up being a civil matter between the finder and owner. They advised that the option would be to change civil liberties legislation with the state.

I asked what the City could do at least for impounding an animal and then sending it to the finder to act as a foster during stray hold period at least. The stated that the Code would need to be amended for that to occur. Since the City is the specific authority on impounding an animal, their concern is that it could be argued a foster's home is consider an extension of the shelter during that stray hold period and would be mandated by sheltering requirements. They advised that a conversation with DSHS to get a determination if a foster would be seen as an extension of the shelter during the stray hold period should occur.

They recommend that the safest approach (at least for the City) is to allow a finder to keep the animal for a short period before being required to turn over the animal to ASO for official impoundment. This is essentially what we've been trying to incorporate as a practice for AAC and the community. However, once Beverly updates Faith's draft ordinance, then we will solicit feedback from this group and then share with City legal.

Thanks all.

Jason

From: Ellen Jefferson [mailto:[REDACTED]]
Sent: Friday, May 22, 2020 7:49 AM
To: sarah lyons <[REDACTED]>
Cc: Faith Wright <[REDACTED]>; Steve Porter <[REDACTED]>; Sloat, Mark <Mark.Sloat@austintexas.gov>; AUSTIN LOST AND FOUND PETS <[REDACTED]>; Garza, Jason <jason.garza@austintexas.gov>; Anne LaFriniere <[REDACTED]>; BeverlyLuna <[REDACTED]>; [REDACTED] Dog Foster Manager <[REDACTED]>; [REDACTED] Stephanie Bilbro <[REDACTED]>; [REDACTED] Patty Alexander <[REDACTED]>; [REDACTED] Bland, Don <Don.Bland@austintexas.gov>
Subject: Re: Lost and Found Touchbase Meeting

*** External Email - Exercise Caution ***

I hear what you are saying (really, I do). I can't get my head around why it would be ok for the city to only hold for 72 hours (it's actually longer than that because they can't count the first day) but not a citizen if the same channels are used in the same way for alerting the public and making available for reclaim. And if they are not being used in the same way, I would want to know why we aren't striving for that. The longer any one piece of this is, the more chance there is for people not to want to help. The city was set up for 72 hours because that was the longest amount of time they could reasonably hold all these animals considering the volume.

I'm not going to be hung up on the time frame but I think 14 days is way too long. It might be that we should survey the found fosters and get a sense of what is reasonable as well as survey people who found but eventually brought to the shelter.

Sarah- right now, if you find a pet and hold it, who pays the bill if it gets sick? I'm not sure of how that is working currently.

On Thu, May 21, 2020 at 4:10 PM sarah lyons <[REDACTED]> wrote:

I love the idea of allowing found animals to be brought by for vaccines (and maybe flea meds and dewormer) and then going home with a designated caretaker!

I really think setting the time at 72 hours for found-keep would have the opposite effect of what we want to achieve, anyway, and more animals would end up being brought to the shelter. (Besides probably creating a public backlash.) If I find a pet and know if I keep it for 72 hours I will become legally and financially responsible for it, and will have to do make an appointment for an owner surrender to bring it in, I am going to rush to the shelter to drop it off before that kicks in. I think 10-14 days is more reasonable and is what people have been told for some time. Some people may not be able/willing to hold them for that long, but it will be easier to build up a system of stray hold fosters if there is legal clarity that they don't have to be held indefinitely.

On Thu, May 21, 2020 at 3:30 PM Faith Wright <[REDACTED]> wrote:

Jason, Beverly and I were able to talk today. I sent them a draft ordinance change to give us a target of somewhere to start. City legal is concerned about the 72 hour hold time for finders not being anywhere near enough time so we are definitely aware of that and appreciate that guidance early in the process. The Texas Supreme Court has ruled animals as property and property rights are a big thing to "give" away in ordinances. Jason will send the PDF of the case out to everyone. The definitions proposed as additions are Found Animal Report, Harbor, Missing Animal Report, and then revising the owner definition. We are looking at possibly adding definition changes to impound and adding definition of designated caretaker. The missing report platform will be at least 2 months out and then also will need piloting so it will be towards the end of 2020 when that can happen.

Issues we are exploring - can an animal be "impounded", get vaccines, go home with finder now as designated caretaker without having to stay at the shelter?

Beverly will be working on expanding language I proposed in an ordinance amendment this weekend.

Jason will send out more info on City view and concerns on proposed language and thoughts as well.

Thanks all!

[REDACTED] Faith Wright
Maddie's Shelter Management Advisor
American Pets Alive, Inc.
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512-791-3753

On Tue, May 12, 2020 at 12:27 PM Faith Wright <[REDACTED]> wrote:

Good afternoon Beverly and Jason. Was wanting to try to get a call on our calendars about the ordinance language we want/feel we can get approved. Any idea of your availability this week?

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On Thu, May 7, 2020 at 11:28 AM Faith Wright <[REDACTED]> wrote:

Thanks Steve. I agree that a "facilitator" needs to be on each team. Beverly and Jason should we schedule a call to decide how/when we want to complete our project?

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On Thu, May 7, 2020 at 9:23 AM Steve Porter <[REDACTED]> wrote:

After reviewing all the notes in the google document, I took a shot at boiling it down to three sub projects (Legal, Content, Systems) and assigned some names based on feedback during the call. PLEASE NOTE: I threw names into the "Who" for each group based on perceived interest I heard on the call, but these are by no means meant to be set in stone...READ: if you want to be involved (or are listed and do not want to be involved) please speak up. I also think it would be helpful for each sub project/team to tag one person as the "facilitator", who will be responsible for driving the team to meet goal. What do you all think?

Legal Team:

1. Goal: draft proposed language for either a new city ordinance or some other type of official published guidance to outline how a community member can safely help a stray animal and eventually rehome.
2. Who: Beverly Luna, Faith Wright, Jason Garza
3. Estimated Completion Date for draft proposal: TBD by Group

Web Content Update:

1. Goal: draft proposed changes to AAC's Lost and Found animals page (eg. updates to page content for when a community member finds an animal or losses an animal, etc). Work with the city to help drive implementation of these changes. May involve some new process changes and will take input from legal team with respect to any final rules about notification requirements (ie lost/missing reports being completed) and hold requirements prior to rehoming.
2. Who: Sarah Lyons, Monica Frenden, Mark Sloat
3. Estimated Completion Date for draft proposal: TBD by Group

Systems Review

1. Goal: draft proposed list of system improvements (eg new page / functionality to submit a lost animal report, documentation of maximum time it should take a found report to make it to searchable pets page and pet harbor, etc) and follow up with AAC and city of Austin IT group to help drive implementation.
2. Who: Sarah Lyons, Steve Porter, Mark Sloat, City of Austin IT representative TBD
3. Estimated Completion Date for draft proposal: TBD by Group

-Steve

On Wed, May 6, 2020 at 6:28 PM Ellen Jefferson <[REDACTED]> wrote:

True.

On Wed, May 6, 2020 at 4:21 PM Faith Wright <[REDACTED]> wrote:

It is also answering though the transfer of an ill/injured animal prior to end of stray hold period.

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On Wed, May 6, 2020 at 3:56 PM Ellen Jefferson <[REDACTED]> wrote:

This was created for hold time extension before euth, not to help prevent intake.

On Wed, May 6, 2020 at 2:01 PM Faith Wright <[REDACTED]> wrote:

Here is what I have found. It only calls for 3 days but does say that the health authority shall maintain documentation, in physical and electronic form reviewable by the public...for three business days...:

§ 3-1-25 - DISPOSITION OF AN IMPOUNDED ANIMAL.

[SHARE LINK TO SECTION](#)[PRINT SECTION](#)[DOWNLOAD \(DOCX\) OF SECTION](#)[EMAIL SECTION](#)[COMPARE VERSIONS](#)

(A)

An animal surrendered by its owner to the health authority is immediately abandoned by its owner and is the property of the health authority. The health authority may transfer, place, or sell an animal surrendered by its owner at any time after intake.

Except as provided in subsection (G), the animal shelter must not euthanize an animal before the animal has been impounded (B) for seven business days and the notice requirements of [Section 3-1-26](#) are either satisfied, or determined not to apply.

Except as provided in subsection (D), the health authority shall hold an impounded animal not surrendered by its owner

- (C) for a period of three business days following impoundment of the animal for owner reclamation. On the fourth business day, an impounded animal is the property of the health authority.
- In order to save the life of an impounded animal not surrendered by its owner, the health authority may transfer that animal to
- (D) a 26 U.S.C. Section 501(c)(3) (*Exemption from tax on corporations, certain trusts, etc.*) organization located in Travis County that is an animal shelter, animal rescue organization, or other animal-welfare organization prior to the expiration of the period described in subsection (C) subject to the following conditions.
- The health authority shall maintain documentation, in physical and electronic form reviewable by the public, of an animal transferred under this subsection, including a photograph of the animal and all information pertaining to the animal's impoundment and transfer, at the health authority and on the health authority's website for three business days following the impoundment of the animal at the health authority.
- (1) An animal transferred under this subsection is considered abandoned by its owner, and becomes the property of the transferee organization, upon the expiration of three business days from impoundment by the health authority.
- (2) Prior to the expiration of the period described in subsection (D)(2), the transferee organization is the designated caretaker of the animal.
- (3) An animal transferred under this subsection remains subject to reclamation by its owner prior to the expiration of the period described in subsection (D)(2).

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On Wed, May 6, 2020 at 12:53 PM Faith Wright <[REDACTED]> wrote:

I am looking through the ordinance (it is a legal research day) and I see no specified time period for a rescue to hold a medical stray. I do know 1st hand though that we take them in as "RQ foster" for 3 days. Most of them time because they are parvo, bottle babies, or critical they are unavailable for longer than the 72 hours. We def should prob look at adding that piece in to the new ordinance language we want to write.

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On Wed, May 6, 2020 at 12:26 PM sarah lyons <[REDACTED]> wrote:

I think it is relevant that the Las Cruces statute includes the ability/responsibility for the owner to file a "missing animal report" which doesn't yet exist in our system/city.

I'm not sure what the current ordinance states for rescue partners (for example, when APA takes a medical stray directly). Is that currently 14 days before rescues can rehome? It would probably be less confusing if the timeline were the same for rescue partners and good Samaritans and if that was also the time the found reports stayed on the public page.

On Tue, May 5, 2020 at 10:07 AM Faith Wright <[REDACTED]> wrote:

Only if the finder is not wanting to work with owner and vice versa.

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On Tue, May 5, 2020 at 9:54 AM Steve Porter <[REDACTED]> wrote:

So the animal does physically stay in the shelter for 72 hours? That's what we are trying to avoid.

On Tue, May 5, 2020 at 10:38 AM Faith Wright <[REDACTED]> wrote:

I believe they way they are doing it in Las Cruces is if the found report is made then the ACO goes to the finder's house and brings it to the shelter for the owner to reclaim. If it then sits at the shelter for 72 hours with no reclaiming then the finder can adopt it or it can be adopted out or rescued out.

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On Mon, May 4, 2020 at 7:43 PM Steve Porter <[REDACTED]> wrote:

I grabbed the relevant section from the Las Cruces ordinance and pasted it below. It does require a missing animal report to be filed. Mark, do you accept those now at all? I know you don't have a way to do it via a webpage or the app, but if a citizen calls to report their animal missing do they file a report? Or are they just directed to the found animals search pages/petharbor? Also, it might be a good idea to spell out more explicitly what happens if both the found and missing reports are filed but for whatever reason the animal is not reunited within 72 hours. Is there some period of time that if elapsed the previous owner loses rights? And is that a good idea or bad idea?

§ 134-12. Found Animals.

- A. A person shall not, without the knowledge and consent of the owner, hold or retain possession of any animal for more than twenty-four (24) hours without first submitting a Found Animal Report to the ASCMV.
- (1) A person having possession of such an animal shall immediately surrender the animal to the Animal Controls Officer upon request.
 - (2) A person having possession of such an animal shall allow the animal to be scanned for the presence of an Identification Microchip by the Animal Controls Officer immediately upon request.
 - (3) If the animal remains in the custody of the finder and the owner of such animal fails to submit a Missing Animal Report with the ASCMV within seventy-two (72) following the submission of the Found Animal Report, the finder may thereafter claim ownership of the animal.

On Mon, May 4, 2020 at 6:42 PM Faith Wright <[REDACTED]> wrote:

I found this too which includes a link to ordinance: <https://www.citywatchla.com/index.php/2016-01-13-17-00/animal-watch/18638-la-animal-services-gm-barnet-less-than-truthful-about-the-new-finders-keepers-law>

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On Mon, May 4, 2020 at 5:31 PM Steve Porter <[REDACTED]> wrote:

Thanks Faith.

On Mon, May 4, 2020 at 6:11 PM Faith Wright <[REDACTED]> wrote:

As I mentioned on the call today here is the ordinance from Las Cruces, NM. Page 22 discusses finder rights and duties: <https://www.donaanacounty.org/sites/default/files/pages/266-2013.pdf#overlay-context=animal>

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On Sat, May 2, 2020 at 9:52 AM <[REDACTED]> wrote:

Greetings - over the last week I tried to learn everything I could about how lost, found and stray animals are reported via city systems such as 311 and AAC and put everything I learned in this document:

https://docs.google.com/document/d/1gbAb_CT_bB6L0b3IQaOS8VJfIvjSJyXWXRxSpVVD_N0/edit?usp=sharing

The idea is that this document can serve as a single digital commenting grounds (see below if you are unfamiliar with making comments onto a google document). There are likely still gaps in information here (for example, I am still working on figuring out exactly how 311 transforms the information they receive into a typed request for the ACOs) but my hope is this serves to move the discussion forward. After collecting constructive comments in the document itself, I hope the group can distill those into a list of recommendations for positive change that we the community can make.

Help in case you are new to google docs and don't know how to make a comment:

<https://support.google.com/docs/answer/65129?co=GENIE.Platform%3DDesktop&hl=en>

Lost and Found Touchbase Meeting

When Mon May 4, 2020 4pm – 5pm Eastern Time - New York

Joining info Join with Google Meet
meet.google.com/jvr-zcot-crg

Join by phone
+1 530-385-6246 (PIN: 325921970)

[More phone numbers](#)

Who

- [REDACTED] - organizer
- Stephanie Bilbro
- Ellen Jefferson
- don.bland@austintexas.gov
- mark.sloat@austintexas.gov
- jason.garza@austintexas.gov
- [REDACTED]
- [REDACTED]
- [REDACTED]
- Patty Alexander
- Dog Foster Manager
- [REDACTED]
- [REDACTED]
- [REDACTED]
- [REDACTED]

More to follow but a follow up touch base to discuss ways to improve current lost and found process in Austin.

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Steve Porter
Director of Information Systems



Austin Pets Alive! gets more than 1,500 emails a day. If every person who contacted us donated just \$25 a month (83 cents a day), that would cover the cost of intaking 3,750 cats and dogs! Learn more or sign up at [Constant Companions](#).

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Ellen Jefferson, DVM
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Maddie's® Director of Lifesaving Leadership at American Pets Alive!



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