AMENDED

NOTICE
PUBLIC MEETING OF THE
PIMA COUNTY ANIMAL CARE ADVISORY COMMITTEE

November 19, 2015 – 5:30 p.m.

Herbert K. Abrams Public Health Center
3950 S. Country Club Road
Tucson, Arizona
(520) 724-7729

Functions of the Committee

1. Serve in an advisory capacity to the Board, and to the Manager of the Pima Animal Care Center; and
2. Review and evaluate the operations of the Center to make recommendations in writing to the Board for the formulation of guidelines to assure that:
   A. The Center's operations are conducted in the best interest of the public health and safety; and
   B. The Center keeps pace with the most modern practices and procedures of animal care and welfare; and
3. Review complaints from the public concerning policies of the Center and make recommendations for resolution to the proper authority.

AGENDA	
1.	Call to Order • Roll Call • Establishment of Quorum and Pledge of Allegiance
2.	Review and Adoption of Minutes: • Adoption of October 15, 2015 meeting minutes
3.	Pima County Attorney's Office Presentation on Open Meeting Laws, and Committee Duties and Responsibilities
4.	Management Report
5.	Old Business • Procedures Related to Agenda Items
6.	New Business • Proposal to have Comment Sheet for Welfare and Dangerous Dog Reviews • **Animal Care Center Main Phone Tree Message**
7.	Donations: A total of 1,324 individuals gave $34,906.35 in donations during the month of October.
8.	Complaints and Commendations: There were no complaints or commendations received by staff during October.
9.	Call to the Audience
10.	Announcements, Schedules and Proposed Agenda Items
11.	Next Meeting – December 17, 2015
12.	Adjournment

Copies of this agenda are available upon request at the Pima County Health Department, 3950 S. Country Club Road, by calling 724-7729 or at www.pima.gov/animalcare. The Committee may discuss and take action on any item on the agenda. At the conclusion of an open call to the public Committee members may only respond to criticism made; ask staff to review the matter raised; or ask to include the matter on a future agenda.

Should you require ADA accommodations, please contact the Pima County Health Department at 724-7729 five (5) days prior to the meeting.

Pima County Animal Care Advisory Committee
Minutes
October 15, 2015
3950 S. Country Club Road
Tucson, Arizona 85714

Draft

1. Call to Order

Ms. Emptage called the meeting to order at 5:32 pm

- Attendance

Present:
Tamara Barrick, Pima Paws for Life
Nancy Emptage, Chair, Animal Welfare Coalition
Pat Hubbard, Humane Society of Southern Arizona
Pat Jacobs, Tucson Kennel Club
Sophia Kaluzniacki, DVM, SPCA of AZ, Inc
Helen Mendelsohn, Disabled Community
Jack Neuman, Vice-Chair, PACC Volunteers
Erin O'Donnell, DVM, Southern AZ Veterinary Medical Association
Jane Schwerin, People for Animals in the Prevention of Cruelty and Neglect
Gail Smith, MD, Board of Health
Marcy Flanagan, Health Department Deputy Director, New Ex-Offico

Absent:
Derek Marshall, Public Education

- Pledge of Allegiance

2. Adoption of the Minutes

- Adoption of the September 17, 2015 Meeting Minutes

Mr. Jacobs said that when he asked the architects about the greatest challenge regarding the new animal care facility, there were two answers, the site and the budget, but the minutes do not mention the site. Ms. Schwerin pointed out she asked a number of questions of the architects because she is convinced overcrowding will be a problem in the new facility; and continued that one of her questions: things being equal, will the new facility be able to handle twice as many animals, was omitted. She also asked if during the architect discussion PACC's current cat housing unit number was given. The general consensus was that it was not said during the meeting.

The motion was made and seconded (Hubbard/Schwerin) that the September 17, 2015 meeting minutes be adopted with the two aforementioned additions. The motion carried (10-0).

3. Animal Welfare and Dangerous Animal Cases for the Month of September and Recent Holds Snapshot

Ms. Schwerin referred to the September Welfare Report and said seven of the ten cases listed on the report resulted in the owners keeping or redeeming back their pets. She said the owners all received criminal citations; and continued she was renewing her opposition to criminal owners being allowed to keep animals.

Ms. Emptage mentioned welfare case two refers to a veterinary report from Dr. Wilcox, but the report was not included. She continued that when a report is referred to she would like the opportunity to have the report available for review. Ms. Emptage expressed concern regarding welfare case four which involved a dog owner living in a tent in someone's back yard, who had his Dalmatian on a tie-out because the dog was a jumper. The PACC officer recommended a covered kennel run and Ms. Emptage felt it was unrealistic to think an individual living as this one did would do as suggested. However, Supervisor Tenkate said the owner did get the covered kennel run and the charges were dismissed.

Ms. Schwerin brought up that last month's meeting did not include welfare complaints and that she would like an opportunity to review those August complaints not shared or discussed last month. Discussion also brought out that the next meeting will be largely devoted to the County Attorney's Office, and that there was little opportunity to review the September report due to a holiday related mail delay. Ms. Emptage requested a special packet be sent out with the Welfare Case Reports for August, September and October. She also suggested a comment sheet go out with the packet.

4. Call to the Audience

There were no speakers at this call to the audience.

5. Management Report

Ms. Flanagan reported on three items. The four-day PetSmart adoption event placed 409 pets with adopters, which was by far PACC's most successful event. An adoption fee was not charged. If a standard $30 fee was charged, then $12,270 in revenue theoretically could have been generated. However; housing costs for those animals for an estimate of three more days to adopt them out from the shelter would total $24,500, so it was still operationally cost effective. PACC has hired an off-site adoption coordinator, Mark Little, who has already started. Finally the Committee is all invited to the October 20 unveiling of the conceptual design for the new animal care facility, which will be from 6:00 to 7:30 pm at the Abrams building.

Mr. Jacobs said he has a Kennel Club meeting at the same time as the unveiling and requested materials to be able to inform the kennel club about the new animal care center. Ms. Flanagan said some things will be posted on the web site and items can be included in the Committee's packet.

In response to a question Ms. Flanagan said she thought the PetSmart adoption event involved six locations but she would need to check to be sure.

6. Old Business

- Procedures Related to Agenda Items

Ms. Schwerin said when anyone puts an item on the agenda it is a regular item and the person who put it on the agenda has no special rights to control what happens after it is on the agenda. One cannot tell another member they cannot speak on the item. She continued that State law says any member may speak on other matters related to an agenda item.

DRAFT

Mr. Jacobs requested County Attorney clarification on the related matters statement, saying the statement is in the law, but direction from the Attorney General, the ombudsman and the County Attorney seems to be contrary.

Ms. Emptage said historically any member may put an item on the agenda without going through the Chair; however, if it was already discussed and a vote was taken, then a member who voted in the minority may not bring the item back up, but one who voted in the majority may. She asked that this also be addressed by the County Attorney's Office.

Ms. Emptage mentioned trying to end the meeting by 7:00 pm as is stated in the by-laws, to which Mr. Neuman said there are important animal welfare items discussed in the meetings and he didn't want the Committee held hostage by a 7:00 pm deadline. He added that if a strict 7:00 pm cut off is employed and cuts off important discussion, then he will be requesting additional meetings.

- Process used by PACC to track every animal's care every day that does not include volunteers

Mr. Neuman said volunteers are a substantial workforce at PACC, but the same person is not present every day like a full time staff member is. Therefore relying on volunteers doesn't provide a continuation of care. Dogs can fall through the cracks. He said the Humane Society has a system through which every animal is checked every day and asked if PACC is moving toward such a system. Ms. Flanagan said she spoke with Chief of Operations Kristin Barney about the topic and PACC is having a supervisor scan every animal every day to ensure they are where they are supposed to be and to do a quick look over. However, PACC still relies on volunteers, interns and students to bring issues to the attention of staff. Ms. Emptage wanted the checks logged into a computer system and said that an animal's medical record should go with it when it is adopted out. Dr. Kaluzniacki said with the Animal League of Green Valley the new owner gets a copy of the record. Ms. Hubbard said with the Humane Society the chart is on the kennel not computerized.

- Ajo Animal Care Center Veterinary Services

Mr. Neuman asked when an animal at the Ajo animal center needs emergency medical care how is it handled. Ms. Flanagan said currently if an animal comes in in severe pain and needs to be euthanized staff calls the vet and staff have the medication and training to euthanize. If an animal is in pain, but is not to the point where it needs to be euthanized then it is given pain medication and taken to Tucson. Ms. Emptage also asked about how long animals stay at the Ajo facility, to which Ms. Flanagan replied that they are taken to Tucson twice a month.

7. <u>New Business</u>

- Public Concerns and Perceptions

Ms. Emptage said she has heard individuals say not to take animals to PACC because they'll put them to sleep. She also said there is negative perception based on someone saying an animal is healthy then it turns out to be ill. People need to realize that living creatures do get sick. She continued people need to know PACC is a safe place and PACC needs to spread good will to help public perception. Ms. Mendelsohn said sometimes the response received when calling PACC is part of the problem, citing that she lost an animal, called PACC and was told if PACC finds her dog she'll get a ticket. She just wanted her dog back and didn't care about the ticket, but the negative was all she was greeted

DRAFT

with. Ms. Emptage called for positive interactions with the community especially by the field officers who are constantly out in the public. She referred to the Humane Society stepping up when a woman was in a battered women's shelter and could not take her pet there. The Humane Society cared for the woman's pet until she got out of the shelter. Such an occurrence fosters a good public perception. She went on to say the recent MASH (medical animal spay/neuter hospital) event helped hundreds of animals and promoted considerable good will. She also suggested more staff training. Mr. Neuman said the Post Office had rules about when carriers see a member of the public with a need, like if someone took a fall; they are to make a call or check on the person. Ms. Flanagan said the Department has just completed its Workforce Development Plan, which is a first in her 15 years with the Department. She said components of the plan include training in customer service, communication and community engagement, with the aim of creating a culture of community service. Ms. Emptage requested the Workforce Development Plan be on the agenda. She also suggested bumper stickers about licensing and adopting pets. Mr. Jacobs requested staff check with the Director on how to get these bumper stickers made.

- Issues with Pet Food and Linen Donations

Dr. Smith said Mr. and Mrs. Dean are volunteers who spend four days a week driving many miles to collect dog food donations from various Walmarts. Dr. Wilcox does not want the shelter animals to be fed this food; all the PACC dogs are on the same food. So this food is given to rescues and non-profit organizations. Recently a large amount of dog food stored at PACC was given away without Mr. Dean's knowledge. Then he was told all the collected dog food had to go to PACC before it was distributed. She said there seems to be a lack of communication. Dr. Smith also said Mr. Mayotte (volunteer) goes to local resorts and collects out of service linens. Mr. Mayotte recently brought in 11 large trash bags full of linens to PACC, but the laundry room was closed so the linens were left outside the laundry room. These linens were reportedly thrown away. Again Dr. Smith said she is concerned about communication issues and said she was hoping bringing this up will help prevent these problems. Ms. Hubbard said the Humane Society also gets similar dog food donations and does not feed it to their animals for the same reason as PACC, so they give the food away once a month.

Mr. Dean said originally he was just picking up the dog food and bringing it to PACC, but then he noticed it was just building up and not going out. So then he got permission from Karen Hollish, Fund Development Coordinator, to distribute the food to non-profit rescues. He continued that it was about 500 to 600 pounds of food he was going to distribute to dog patch, but it was all gone without anyone telling him anything and he found out later it went to Three-Points. He said he picks up about 1,000 to 1,200 pounds of food every week and now he doesn't even bring it to PACC; he just delivers about 80 percent of it and uses his carport to store the food as needed. He repackages some of the food for distribution and all the food goes to PACC partners and/or 501c3 organizations. Mr. Dean listed many of the organizations he distributes food to. He added that all the treats go to PACC. Mr. Dean said he talked to Ms. Barney about the issue and she and Jose (Ocano, Shelter Manager) are working on a place to store the food.

Ms. Flanagan said the linens were taken in and some were moldy because of the rain. Only the moldy linens were thrown away, not all 11 bags. She added that Dr. Wilcox cannot use all the linens. Pillow cases and king size sheets are not useful, but towels can always be used. So they are working out a system to only take into PACC the linens PACC can use and direct the other linens to other organizations. Regarding the dog food disappearance, there was a 70 to 80 cat impound and the room

DRAFT

needed to be used for all the impounded cats; it was the only place available for the cats, so the food had to be moved out right away.

Mr. Dean said he spoke with the person who threw the linens away and they were thrown away. He added that Mr. Mayotte expressed that someone needs to walk around the premises and check for possible issues such as these linens. Ms. Flanagan said some of what was thrown away was trash. Dr. Smith called for some established line of communication. Mr. Jacobs asked if Mr. Dean had a contact he deals with every day. Mr. Dean said he worked with Ms. Hollish, but not every day.

- Committee Resignation: Ms. Hurley, City of Tucson Representative

Ms. Emptage said Ms. Hurley has resigned and the City is working on finding a replacement.

8. Donations: A total of 1,430 individuals gave $ 54,967.27 in donations during the month of September.

Dr. Smith asked if the aforementioned dollars went to just PACC or included donations to Friends of PACC; Ms. Flanagan replied just PACC. Mr. Neuman asked how this money is appropriated. Ms. Flanagan said a report can be provided and that a large portion of the donations offsets costs to municipalities as defined in the most recent agreements. Mr. Neuman said he was told the opposite. He said if he wanted to give $50,000, but it would just go to save on taxes, then he wouldn't give it, adding that taxes should be paid by the people of the community not by donations. Ms. Flanagan said if someone gives for something specific like spay/neuter, then that is what the money goes toward. She added that she will find the exact language expressing how donations are handled. Ms. Emptage said the only specific donation option on the licensing form has been spay/neuter; however, in times past other categories were requested on the paper form. Ms. Hubbard said that community spay/neuter is not part of PACC's shelter operations. She continued that if an animal needs medical care or a gate needs fixed, then that should be on the County, but anything that comes through Friends of PACC should be extra. Ms. Hubbard added that with the Humane Society if money is given for a specific purpose, then it has to be used for that purpose, but if money is given generally, then it goes to offset the costs of normal operations. Mr. Neuman and Ms. Hubbard discussed the hypothetical scenario of there being a $400,000 medical budget and then someone gives $100,000 for medical. Mr. Neuman felt the $100,000 should be beyond, in addition to, the $400,000, whereas Ms. Hubbard said that is not how the budget works. Ms. Flanagan discussed how the County budget includes a specific spending authority and that donations have to be estimated prior to the budget year to be able to have the spending authority to spend the donated funds. She also offered to have someone from County Finance come to a Committee meeting. Ms. Schwerin said she agreed with Mr. Neuman; if money is given then that should be extra, beyond the original spending level, not as an offset. Mr. Neuman said we are hurting ourselves if we do not use donations for extra spending. Ms. Barrick asked how Friends of PACC works. Ms. Flanagan said Friends of PACC is not governed by the budget rules because they are a separate non-profit organization.

9. Complaints and Commendations: There was one complaint and two commendations received by staff during September.

Ms. Schwerin said at 4:30 pm on September 6, a very hot day, a friend of hers saw a large dog lying on concrete in full sun at Kolb and Interstate 10 and reported it to PACC, but PACC did nothing to help the dog. Ms. Flanagan said she could look into the incident.

DRAFT

10. Call to the Audience

There were three speakers from the audience: James Dean, Cathy Neuman and Marcie Velen.

Mr. Dean spoke during the discussion under New Business, Issues with Pet Food and Linen Donations then spoke again at this call to the audience. He said the PetSmart events have unintended consequences in that these events provide competition with rescue groups. Rescue groups charge adoption fees and cannot compete with free adoptions at these events. Regarding donations, he said he felt they just go to reduce County expenses. Regarding the every animal every day discussion he was for the daily checks and said recently there was a dog that had notes about tick fever and a mass. The record said the dog was spayed and he asked why when the dog was spayed wasn't the mass removed. In checking he found out that there actually was no mass. His point was the dog was passed over by would be adopters who could see the notation and did not want a dog with a mass. He said there was another dog, Bucky, listed as having valley fever when it actually did not. These were examples of dogs that fell through the cracks. Regarding good will and public perception Mr. Dean said he sees a lot of good at the shelter, but said once he observed an Animal Care Tech drag a dog out of a kennel and a citizen also saw the incident. He said he spoke with Mr. Ocano about the incident and the Tech was fired, so Mr. Ocano is concerned about how things are done and about public perception. Mr. Dean added that he sees a lot of compassion in intake.

Ms. Neuman said she is at PACC at least three nights a week and she sees the closing process in the evening. She said she did not want to bad mouth staff that is overworked and doing the best they can. However, the scanning of every animal is just going through the motions, just scan, scan, scan going down the line. They are not looking at the dogs, they don't have time. She said they really need a floor supervisor available all the time to address issues and to actually look at every animal ensuring they are in the right place and being taken care of properly. She continued that there will never be enough staff and PACC will always need volunteers to have their eyes and ears open to the animals' needs. Ms. Neuman also talked about Bucky saying that he had been at the shelter since July and his card said he had valley fever and tick fever, so he was passed over for months until someone checked. She said another volunteer found a dog in the tent, which is where the strays are housed, and the dog had been there for over two weeks. If the dog had no identification (un-owned) it was supposed to be evaluated after three days and owned dogs are supposed to be evaluated after seven days, but the dog sat there for over two weeks.

Ms. Velen made the distinction between ill will and diversion. The help desk has helped divert over 800 animals. She said the help desk encourages people to not leave an animal at PACC if there are other options, because the shelter is crowded and there are risks for the animal. The help desk does not say don't leave the animal at PACC because it will die. She asserted reduced intake helps improve outcomes. She said there is a higher return to owner rate for diverted found animals than for those left at PACC. She added only nine percent of PACC strays are returned to owners. She closed by saying even the best shelter in the country should be the last resort.

11. Announcements, Schedules and Proposed Agenda Items

Ms. Hubbard said 800 dogs and cats were spayed/neutered by amazing veterinarians last weekend at the 48-hour MASH (medical animal spay/neuter hospital) event.

DRAFT

Mr. Jacobs suggested that if there will be four months of welfare and dangerous dog cases to discuss, it will require considerable time and an additional meeting might need to be considered.

12. Next Meeting – November 19, 2015

Ms. Emptage said the next meeting will be at the Abrams building due to the ongoing road construction around PACC.

13. Adjournment

The meeting adjourned at 7:28 pm

DRAFT

PIMA ANIMAL CARE CENTER
ADVISORY COMMITTEE
AUGUST 2015 OPERATIONAL REPORT

	THIS MONTH			THIS YEAR TO DATE			LAST YEAR TO DATE			YEAR TO YEAR	
	TUCSON	COUNTY	TOTAL	TUCSON	COUNTY	TOTAL	TUCSON	COUNTY	TOTAL	DELTA	%+/-
SHELTER OPERATIONS											
ALL ANIMALS HANDLED											
DOGS	671	681	1,352	1,386	1,212	2,598	1,470	1,382	2,852		
CATS	339	338	677	792	570	1,362	815	576	1,391		
OTHERS	22	43	65	44	78	122	69	127	196		
TOTAL ANIMALS HANDLED	1,032	1,062	2,094	2,222	1,860	4,082	2,354	2,085	4,439	-357	-8%
Live Animals Handled	915	980	1,895	1,965	1,658	3,623	1,903	1,730	3,633	-10	0%
IMPOUNDED ANIMALS											
ADOPTED											
DOGS	341	266	607	570	478	1,048	593	602	1,195		
CATS	239	178	417	514	292	806	332	289	621		
OTHER	2	0	2	3	1	4	1	5	6		
TOTAL ADOPTED	582	444	1,026	1,087	771	1,858	926	896	1,822	36	2%
RETURNED TO OWNER											
DOGS	98	77	175	209	167	376	177	146	323		
CATS	1	6	7	21	8	29	9	18	27		
OTHER	0	2	2	1	2	3	0	0	0		
TOTAL RETURNED	99	85	184	231	177	408	186	164	350	58	17%
RESCUED											
DOGS	80	91	171	194	168	362	185	188	373		
CATS	38	26	64	143	117	260	128	70	198		
OTHER	0	0	0	6	0	6	4	2	6		
TOTAL RESCUED	118	117	235	343	285	628	317	260	577	51	9%
***TOTAL LIVE RELEASES**	799	646	1,445	1,661	1,233	2,894	1,429	1,320	2,749	145	5%
****TOTAL LIVE RELEASE RATE**	90%	87%	89%	90%	89%	90%	1	1	83%		
EUTHANIZED											
DOGS	114	118	232	218	205	423	317	266	583		
CATS	32	19	51	50	26	76	100	62	162		
OTHER	5	6	11	10	10	20	18	33	51		
TOTAL EUTHANIZED	151	143	294	278	241	519	435	361	796	-277	-35%
(-)Owner Requsted Euthanasia	62	48	110	99	86	185	126	101	227		
Adjusted Total Euthanasia	89	95	184	179	155	334	309	260	569		
***EUTHANASIA RATE	10%	13%	11%	10%	11%	10%	0	0	17%		
OTHER	149	92	241	313	218	531	548	415	963	-432	-45%
ENFORCEMENT CALLS FOR SERVICE											
Requested	1,484	957	2,441	3,165	1,954	5,119	3557	2,066	5623	-504	-9%
Total Responses	1,282	1,281	2,563	2,555	1,628	4,183	3,012	1,681	4,693	-510	-11%
Welfare Responses	224	115	339	418	239	657	399	156	555	102	18%
LICENSING OPERATIONS											
ALTERED	3,325	4,271	7,596	6,898	8,599	15,497	7,437	7,812	15,249		
UNALTERED	224	197	421	421	421	842	482	482	964		
OTHER	73	85	158	144	183	327	133	203	336		
TOTAL SOLD	3,622	4,553	8,175	7,463	9,203	16,666	8,052	8,497	16,549	117	1%

*Total Live Releases(TLR)=Total Adopted+Total Returned+Total Rescued
**Live Release Rate=TLR/(TLR+Adjusted Total Euthanasia)
***Euthanasia Rate=(Adjusted Total Euthanasia)/(TLR+Adjusted Total Euthanasia)

PIMA ANIMAL CARE CENTER
ADVISORY COMMITTEE
OCTOBER 2015 OPERATIONAL REPORT

	THIS MONTH			THIS YEAR TO DATE			LAST YEAR TO DATE			YEAR TO YEAR	
	TUCSON	COUNTY	TOTAL	TUCSON	COUNTY	TOTAL	TUCSON	COUNTY	TOTAL	DELTA	%+/-
SHELTER OPERATIONS											
ALL ANIMALS HANDLED											
DOGS	724	538	1,262	2,839	2,347	5,186	2,879	2,656	5,535		
CATS	343	245	588	1,483	1,034	2,517	1,575	1,134	2,709		
OTHERS	18	32	50	85	153	238	134	233	367		
TOTAL ANIMALS HANDLED	1,085	815	1,900	4,407	3,534	7,941	4,588	4,023	8,611	-670	-8%
Live Animals Handled	965	724	1,689	3,912	3,138	7,050	3,795	3,431	7,226	-176	-2%
IMPOUNDED ANIMALS											
ADOPTED											
DOGS	361	299	660	1,199	1,049	2,248	1,065	1,047	2,112		
CATS	214	153	367	991	597	1,588	626	528	1,154		
OTHER	0	0	0	3	2	5	2	8	10		
TOTAL ADOPTED	575	452	1,027	2,193	1,648	3,841	1,693	1,583	3,276	565	17%
RETURNED TO OWNER											
DOGS	94	58	152	408	318	726	340	272	612		
CATS	3	6	9	30	23	53	15	29	44		
OTHER	0	4	4	2	6	8	0	5	5		
TOTAL RETURNED	97	68	165	440	347	787	355	306	661	126	19%
RESCUED											
DOGS	103	107	210	365	359	724	352	387	739		
CATS	43	46	89	242	219	461	241	203	444		
OTHER	0	1	1	11	3	14	9	23	32		
TOTAL RESCUED	146	154	300	618	581	1,199	602	613	1,215	-16	-1%
***TOTAL LIVE RELEASES**	818	674	1,492	3,251	2,576	5,827	2,650	2,502	5,152	675	13%
****TOTAL LIVE RELEASE RATE**	86%	89%	87%	89%	89%	89%	82%	84%	83%		
EUTHANIZED											
DOGS	133	104	237	480	408	888	648	555	1,203		
CATS	45	20	65	124	73	197	156	112	268		
OTHER	3	9	12	17	23	40	36	49	85		
TOTAL EUTHANIZED	181	133	314	621	504	1,125	840	716	1556	-431	-28%
(-)Owner Requsted Euthanasia	49	46	95	212	178	390	259	229	488		
Adjusted Total Euthanasia	132	87	219	409	326	735	581	487	1,068		
***EUTHANASIA RATE	14%	11%	13%	11%	11%	11%	0	0	17%		
OTHER	147	115	262	616	456	1,072	1,047	771	1,818	-746	-41%
ENFORCEMENT CALLS FOR SERVICE											
Requested	1,611	1,037	2,648	6,360	3,967	10,327	792	357	1149	9,178	799%
Total Responses	1,295	1,268	2,563	5,300	3,368	8,668	5,737	3,475	9,212	-544	-6%
Welfare Responses	187	115	302	801	497	1298				1,298	14%
LICENSING OPERATIONS											
ALTERED	3,073	3,861	6,934	13,471	16,744	30,215	13,702	15,458	29,160		
UNALTERED	161	257	418	788	895	1,683	822	929	1,751		
OTHER	87	85	172	305	346	651	247	362	609		
TOTAL SOLD	3,321	4,203	7,524	14,564	17,985	32,549	14771	16749	31520	1,029	3%

*Total Live Releases(TLR)=Total Adopted+Total Returned+Total Rescued
**Live Release Rate=TLR/(TLR+Adjusted Total Euthanasia)
***Euthanasia Rate=(Adjusted Total Euthanasia)/(TLR+Adjusted Total Euthanasia)

Donation Activity

Period: 2015-10-01 To: 2015-10-31

Donation Code	Amount
DONATION	$362.00
DONATION ADOP	$445.00
DONATION GEN	$20,596.55
DONATION OUTR	$62.00
DONATION S/N	$8,722.80
DONATION SAMS	$4,718.00
Grand Total	$34,906.35

Donation Activity

Period: 2015-07-01 To: 2015-10-31

Donation Code	Amount
DONATION	$475.02
DONATION ADOP	$1,232.00
DONATION GEN	$79,436.56
DONATION LIC 0973	$20.00
DONATION OUTR	$193.00
DONATION S/N	$41,991.30
DONATION SAMS	$49,011.57
Grand Total	$172,359.45

OPEN MEETING LAW

A Reference Guide to A.R.S. § 38-431 through 38-431.09

Prepared by the Pima County Attorney's Office Civil Division
Karen S. Friar, Deputy County Attorney

A.R.S. § 38-431.09(A) provides:

> **It is the public policy of this state that meetings of public bodies be conducted openly and that notices and agendas be provided for such meetings which contain such information as is reasonably necessary to inform the public of the matters to be discussed or decided. Toward this end, any person or entity charged with the interpretations of this article shall construe this article in favor of open and public meetings.**

The Open Meeting Law is specifically intended to ***maximize the public access to the governmental process***. Therefore, official proceedings and deliberations by any public body must, with very limited exceptions, be conducted openly. Uncertainty in whether or not the Open Meeting Law should apply should always be resolved in favor of openness.

Public Bodies covered by the Open Meeting Law (A.R.S. § 38-431):

1) Boards, commissions, and other multi-member governing bodies;
2) Corporations and other instrumentalities whose boards are appointed or elected by the State or political subdivision;
3) Quasi-judicial bodies (such as the Arizona Board of Tax Appeals);
4) Advisory committees*;
5) Standing and special committees; and,
6) Subcommittees* of any of the above.

*An advisory committee or a subcommittee is a group "officially established, on motion and order of a public body or by the presiding officer of the public body whose members [are] appointed for the specific purpose of making a recommendation concerning" a decision or course of conduct to be made or considered by the public body. A.R.S. § 38-431(1).

With few exceptions, the Open Meeting Law ("OML") applies to multi-member bodies created by law or an official act pursuant to some legal authority.

Actions and Activities covered by the Open Meeting Law:

1) Any gathering of a quorum, ***in person or through technological devices,*** at which they discuss, propose or take ***legal action***, <u>including deliberations</u> on the topic (or action); and,
2) Contested case proceedings or quasi-judicial or adjudicatory proceedings by the public body.

Arizona law defines a **quorum** as "***a majority of a board or commission***." A.R.S. § 1-216(B). This has been interpreted to mean a ***majority of the <u>total</u> number of members set forth in law or in the board or commission's by-laws***. Thus, <u>if the law or by-laws require</u> that there be <u>seven (7)</u> <u>members</u>

on the commission, but there are only five (5) currently appointed and serving, a quorum is still based on the seven members that should be on the board and would be four (4). The quorum would not be based on the five sitting members (where the quorum would be three (3)).

Legal action is a collective decision, commitment or promise. A.R.S. § 38-431(3). All legal action must take place during a public meeting. A.R.S. § 38-431.01(A). The requirements of OML must be followed regarding ***any matters which might forseeably require final action or a decision by the quorum***. Therefore, meeting of a quorum must be open to the public whenever members:

a) **Discuss** (speak together about) a legal action;

b) **Propose** (suggestion of a member) a legal action;

c) **Take** (a collective decision, commitment or promise by a majority) a legal action; or,

d) **Deliberate** (exchange of facts or opinions) with respect to a legal action.

Every "legal action" must be conducted in either a public meeting or, when allowed by law, an executive session. Consequently, ***all meetings where there is a gathering of a quorum either in person or through technological devices (such as conference phones, e-mail and facsimiles) must***, pursuant to A.R.S. § 38-431.01(A), ***be public***.

The safest course of action is to comply with the Open Meeting requirements ANY TIME a majority of the public body discusses the business of the body.

It may be possible to conduct discussions and/or deliberations between less than a quorum of members, but it is a violation of the Open Meeting Law to do so when the meeting of less than a quorum is used to circumvent the purposes of the Open Meeting Law. ***Discussion of business by a quorum of the public body may take place ONLY in a public meeting or an executive session convened pursuant to law.***

Topics which may be discussed in executive session:

1) Personnel matters (A.R.S. § 38-431.03(A)(1));
2) Confidential records (exempt by law from public inspection)(A.R.S. § 38-431.03(A)(2));
3) Legal advice (with the attorney FOR the public body) (A.R.S. § 38-431.03(A)(3));
4) Instruction on contract negotiations, litigation, or settlement to avoid or resolve litigation (with the attorney FOR the public body) (A.R.S. § 38-431.03(A)(4));
5) Employee salary (A.R.S. § 38-431.03(A)(5));
6) International and interstate negotiations (applies to cities and towns) (A.R.S. § 38-431.03(A)(6)); and,
7) Instruction to public body's representative regarding the purchase, sale or lease of real property (NOT with the party with whom the public body is negotiating) (A.R.S. § 38-431.03(A)(7)).

Executive session allows for the private ***discussion*** of matters in categories specified above. ***No final action, no debate over what action to take, and no straw poll may take place in executive session.*** If the proposed discussion does not plainly fall within one of the above mentioned categories, it should take place only in a public meeting. A quorum must vote to hold an executive session, and such vote must be public. All public notice provisions apply.

Personnel matters are confined to the discussion or consideration of employment, assignment, appointment, promotion, demotion, salary, discipline, resignation, or dismissal of a ***specific*** public officer, appointee, or employee. The affected individual must receive a minimum of 24 hour advance notice of the executive session (no emergency exception) with sufficient content. The individual may request that the discussion be held in public and such request must be honored. The individual may be permitted to attend the executive session. It is unclear whether there is a right to attend.

Confidential records are those which are exempt from public inspection either expressly or by implication.

Legal advice may be discussed with the attorney for the public body. The attorney must represent the public body either as an employee, as a contract hire, or as provided by an insurance company. The discussions are limited to advice on the legal ramifications of facts and situations. ***Debate and discussion on what actions to take based on the advice must be conducted in open public session!*** The mere presence of an attorney in the room does not justify an executive session.

Litigation, either pending or contemplated, may be discussed with the attorney for the public body. The discussion or consultation is to consider the public body's position and instruct the attorney on how to proceed.

Contract under negotiation may be discussed with the attorney for the public body. The discussion or consultation is to consider the public body's position and instruct the attorney on how to proceed.

Employee salary discussions and consultations may be held to consider the position of the public body on negotiating salaries and/or benefits and instruct representatives on how to deal with employee organizations. Meetings with the employees' representatives are to be held in public, as are any negotiations conducted by the public body.

International and interstate negotiations permit a city or town to conduct an executive session with members of a tribal council, or its representatives, of a reservation within or adjacent to the city or town.

Purchase or lease of real property negotiations may be discussed in executive session. Instructions may be given to the representative (for example, authorizing negotiations to a certain dollar amount). Any meeting with the seller, or lessor, or representative of the seller or lessor is to be held in public and the contract must be approved in a public meeting.

Discussion and considerations are strictly limited in executive session to the seven categories authorized. Once the session is concluded, the public body must reconvene in a public meeting to take the final vote or make a final decision.

Notice of meetings:

Notice must be given at least 24 hours prior to the start of the meeting. The 24 hours includes Saturdays, if the public has access to the physical location where notice is posted or if notice is available on the internet. Excluded from the 24 hour notice period are Sundays and the fifteen holidays established under A.R.S. § 1-301(A).

Notice MUST be given to:

1) Each member of the public body; and,
2) The public.

It is sufficient to mail a copy of the notice to each member of the public body. Notice must be made available to the general public.

The public is informed of meetings of the County's public bodies (including special districts) in a two-step process:

1) A disclosure statement is filed on the public body's website or, in the case of special districts, on the district's website or with the Clerk of the Board of Supervisors. The statement identifies where public notices of meetings will be displayed both physically AND electronically. A.R.S. § 38-431.02(A). The physical location should have regular business hours and be easy to find and access; and,
2) A notice of each meeting is then posted on the public body's website AND at the physical location identified in the disclosure statement. The public body should also provide such additional notice which is reasonable and practicable. A.R.S. § 38-431.02(A). Additional notice includes: news releases, mailings to persons requesting they be informed, and newsletters or other publications. Notice must also comply with the Americans with Disabilities Act for accommodation of needs of persons with disabilities.

When the public body meets for a specified calendar period on a regular day or date, in a regular place, at a regular time notice need only be posted at the beginning of the calendar period. However, the agenda requirements discussed below must still be met, unless the notice contains a clear statement that the agenda for each meeting will be available at least 24 hours in advance and provides directions on where and how to obtain a copy.

Notice must contain the following:

1) Identification of the public body;
2) The date, time and place of the meeting -- specify the street address and specific room number or other identifying information;
3) Either the agenda for the meeting and any executive session or information on how the public may acquire a copy of the agenda; and
4) A statement regarding accommodations for persons with disabilities.

If an action is taken in violation of the Open Meeting Law, it is null and void. A meeting may be convened within 30 days of discovering the violation to ratify that action. The ***notice to ratify an action must also contain***:

1) A description of the action to be ratified;
2) A clear statement that the public body proposes to ratify a prior action; and,
3) Information on how the public may obtain a written description of the action to be ratified.

Notice must be given at least 24 hours in advance of the meeting unless one of three situations exists:

1) An **actual emergency exists** when, due to unforeseen circumstances, immediate action is necessary to avoid the serious consequences which would result from delaying 24 hours. (This does not apply to notice to an employee to be discussed in executive session);
2) The meeting is for the **ratification** of a prior act taken in violation of the Open Meeting Law. In such an instance, ***72 hours'*** notice is required; and,
3) A properly noticed meeting is **recessed and resumed within less than 24 hours**. Before recessing, notice must be given publicly on the time and place for the resumption. (If an executive session is recessed and resumed within less than 24 hours, the public body should reconvene to provide public notice of the place where and time when the meeting will be resumed.)

Additionally, a meeting may still be held when there has been a temporary technical problem preventing notice of a meeting on the public body's website, but only if the posted notice and other additional notice requirements have been met. A.R.S. § 38-431.02(A).

Agendas must inform the public of matters to be discussed:

The agenda for any meeting of the public body is the road map for the conduct of the meeting. ***Carefully crafting and following the agenda promotes public confidence and provides protection to the members of the public body.***

The agenda must be **available 24 hours before** the meeting, unless one of the exceptions noted above applies. The agenda **must be sufficiently detailed** to advise the public of the specific matters to be discussed, considered, or decided at the meeting. Use of **generic or broad terms**, such as: "staff reports", "personnel", "new business", "old business", or "other matters", is **not permitted**. The degree of specificity depends upon the circumstances. ***When in doubt, resolve in favor of more detail.***

An **agenda for an executive session** must contain a **general description** of the matter to be considered, but should not contain information that would defeat the purpose of the session. Weight the legislative policy to favor public disclosure with the legitimate confidentiality concerns of the Executive Session in determining the agenda content. Remember that the **specific legal authority** for the executive session from A.R.S. § 38-431.03(A) must be included on the agenda.

If there are any changes in an agenda after it has been posted and distributed, a new agenda must be prepared, posted and distributed at least 24 hours in advance of the meeting.

There is one general term which may now be placed on the agenda. It is the "summary of current events." This summary may only be presented by **the chief administrator, presiding officer, or member of the public body** and then only if:

1) The summary is listed on the agenda; and,
2) No discussions, deliberations, proposals or legal actions may take place regarding the current event presented.

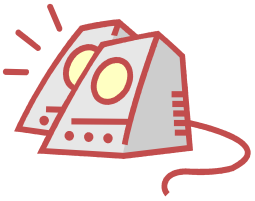
The agenda may provide for a "**call to the public**" (but not a "call to members"). The purpose of the "call to the public" is to allow citizens to address the public body. As there is no way to know specifically what topics the public will address, this broad heading is acceptable. However, ***if a matter is raised by the public that is not on the agenda, the public body shall not discuss it at that meeting.***

At the <u>conclusion</u> of the open call to the public, individual members may ONLY:

1) ***Respond to criticism made;***
2) ***Ask staff to review a matter raised; or,***
3) ***Ask to include the matter on a future agenda*** (if discussion of the matter is desired).

Discussions and decisions at a meeting are limited to matters specified on the agenda and "other matters related thereto". Extreme caution should be exercised in utilizing the "other matters related" provision; such matters must be, in some reasonable manner, related to the specified agenda item. The better course of action is to defer discussion and decision until a later meeting, when the matter can be specifically listed as an agenda item.

The public must be allowed to <u>attend and listen</u> to deliberations:



Under the Open Meeting Law the public has a right to attend and listen to the meetings of the public body. But, there is <u>no public right to participate</u> in the discussion or decision-making activities of the public body.

Because the right to attend and listen is paramount, nothing should be done which in any way obstructs or inhibits public attendance. Reasonable efforts must be made to accommodate persons with disabilities. Access requirements are not met when things occur such as:

1) Requiring the public to sign an attendance sheet (except a member of the public who wishes to speak at the meeting may be required to register, as it complies with minute-taking requirements);
2) Using remote locations or ones where public access is prohibited;
3) Using small rooms; or,
4) Conducting the meeting at unreasonable times.

The public must be allowed to record the public meeting as long as there is no active interference in the conduct of the meeting. Audio recording and video recording are allowed.

Keep in mind that some public bodies must follow other statutes, rules or regulations which may require public participation or public hearings. In such instances, the public must be provided an opportunity to be heard.

Minutes must be kept and made available to the public:

All public meetings and executive sessions must have minutes. Minutes may either be **written or recorded** (audiotape or video) and must be available for public inspection **within three (3) working days** of the meeting. Minutes must be reduced to a **form readily accessible** to the public. Thus, access to the recording would meet the accessibility requirement, but shorthand notes would not.

Executive session minutes are confidential and may only be disclosed to authorized persons which are: members of the public body; the officer, appointee, or employee who was the subject of the session; staff personnel as necessary to prepare and maintain the minutes; the attorney; the auditor general; the court; and the Attorney General or County Attorney in response to an investigative request.

Minutes for a public meeting must contain:

1) The date, time, and place of the meeting;
2) The members present or absent;
3) A general description of the matters discussed or considered (even where no formal vote is taken);
4) An accurate description of the legal actions proposed, discussed, or taken. This must include the name of the person making each motion. It is wise to also include how the body voted and the numerical breakdown of the vote;
5) The names of each member of the public addressing the public body and the specific legal action to which the comments are related;
6) Sufficient information to allow the public to investigate the background or specific facts involved in a decision, when the subject matter is not adequately disclosed in public session (i.e. consent agenda items);
7) A full description of the nature of the emergency that precipitated an emergency discussion of items not on the agenda; and,
8) A copy of the required disclosure statement, when a prior act is ratified.

Minutes for an executive session (which are confidential) must contain:

1) The date, time, and place of the meeting;
2) The members present or absent;
3) A general description of the matters considered;
4) An accurate description of instructions given under A.R.S. § 431.03(4), (5) and (6);
5) A statement of reasons for emergency consideration, when appropriate; and,
6) Other information deemed appropriate.

Meetings may occur by means other than in person:

Remember that ***any gathering of a quorum*** of members of the public body, in person ***or through technological devices***, at which the members discuss, propose or take legal action, must be held in public. A ***legal action does not require a vote***; discussions about or deliberations on a possible action is a meeting subject to the provisions of the Open Meeting Law. ***A quorum of the public body need not be at the same location or at the same time in order to have a meeting under the Open Meeting Law.*** **Meetings may occur serially.** With the advances of technology, hyper-vigilance is required to avoid unwittingly conducting a meeting without complying with the Open Meeting Law requirements. Conference calls, video conferences, facsimiles and e-mails all pose a risk.

A member may attend a meeting via telephone or other conferencing device:

Members of the public body may participate in a meeting by telephone or video conference, if such attendance is approved by the public body and not prohibited by statutes. This should be used, however, only when no other reasonable alternative to personal attendance exists. If the public body wishes to allow such appearances in certain circumstances, the body should adopt rules or procedures which specify when telephonic (or video conference) attendance will be allowed and how those appearances will be handled.

Telephonic attendance requires compliance with the following:

1) Notice and agenda indicate one or more members will participate via telephone;
2) The meeting place adequately provides for the public to observe and hear all telephone communications;
3) Procedures are developed to clearly identify the member(s) participating telephonically; and,
4) The minutes identify the member(s) participating by telephone and describe the procedures followed to assure public access to all communications during the meeting.

A meeting may be conducted online (BUT, only with very special attention to details):

The Arizona Attorney General opined in September 2008[1] that a public body may conduct an online meeting for the purpose of ***deliberation and discussion***. ***Final action (motion and vote) must take place in a traditional face-to-face public meeting.*** The online meeting would only be legal, however, if <u>all</u> requirements of the Open Meeting Law are met. This includes:

1) Proper notice and an agenda;
2) The taking and preservation of minutes; and
3) Public access to the entire course of deliberation and discussion (the public must be able to identify which member contributed which edits and which comment);

Notice must provide:

1) A specific beginning and end time;
2) Clear instructions on how to access the meeting and operate any software used by the public body to host the online meeting;
3) An indication of how the public body will facilitate public access to the meeting (including the location of any free Internet access);
4) A proposed date and time for the meeting at which the final action of adoption will take place; and
5) Reasonable accommodations for any member of the public with a disability that requests an accommodation (there will be technological obstacles to access for some disabled citizens).

[1] *See* A.G. Opinion I08-008.

Additionally, a policy must be developed for the retention of records created during the course of the online meeting.

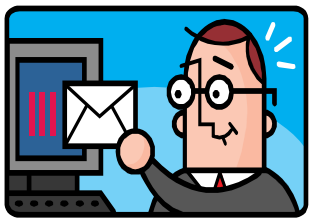
An online meeting, while potentially convenient for many members and the public, is fraught with the potential for abuse. Scrupulous compliance with the provision of the law and the recommendations of the Attorney General are imperative.

WATCH OUT FOR THESE OPEN MEETING LAW PITFALLS:

REMEMBER: A quorum of the public body need not be at the same location or at the same time in order to have a meeting under the Open Meeting Law. <u>Any communication between at least a quorum about a topic that might foreseeably come before the group is a meeting!</u>

Care must be taken to avoid the unintended serial meeting and, consequently, a violation of the Open Meeting Law.

E-mail communications can be a meeting:



E-mail communications constitute a meeting when the e-mail has the equivalent components of a meeting:

- Between a quorum
- Via technological device; and
- Discussions, deliberations, proposals or take legal actions

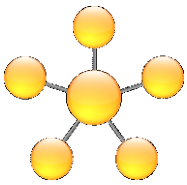
Such e-mails constitute a meeting and are subject to all of the provisions of the Open Meeting Law.[2]

E-mails between a quorum of members that concern matters that have come before the public body or might foreseeably come before the public body, including the exchange of facts regarding these matters, may be a legal action which must take place in public. (It is irrelevant if the materials shared in the e-mails (such as a newspaper article) are part of the public domain.)[2]

Because the original sender of an e-mail cannot control its dissemination once it has been sent the risks of using e-mail are great. E-mails can be copied and forwarded and exchanged from one member to another, then forwarded or printed and shown to other members and a communication between a quorum of members has suddenly occurred. It is better to avoid using e-mail to discuss the business of the public body.

[2] A.G. Opinion 105-004 ("When members of the public body are parties to an exchange of e-mail communications that involve discussions, deliberations or taking action by a quorum of the public body concerning a matter that may foreseeably come before the public body for action, the communications constitute a meeting through technological devices under the OML." *See, also* the attached Exhibit A.

Splintering the Quorum or Polling:



As mentioned previously, it may be possible to conduct discussions and/or deliberations between less than a quorum of members, but it is a violation of the Open Meeting Law to do so when the meeting of less than a quorum is used to circumvent the purposes of the Open Meeting Law.

"Splintering the quorum" or "polling" is not allowed. These practices occur when individual members have separate or serial discussions with a majority of the members and tell the information received from each member to the other members or when a non-member is used as a spokesperson in the same manner. It is advisable to always avoid even the appearance of impropriety in this regard.

Social gatherings can be a meeting:

When a quorum of members of the public body are at the same social gathering, they must be very careful not to discuss anything that is even remotely (or tangentially) related to the business of the public body.

A FAX transmission can be a meeting:

Facsimile transmissions pose the same threats as e-mail.

Penalties exist for violations of the Open Meeting Law:

As the consequences for violating Open Meeting Law provisions can be serious, it is incumbent upon every member of a public body to be fully informed of the requirements of the law and to further investigate the penalties which may be assessed. Every effort should be made to avoid technical violations (those which would seem to have no demonstrated prejudicial effect on a complainant).

Any actions taken in a meeting which was conducted in violation of the provisions of the Open Meeting Law are <u>null and void</u>. The actions may be resurrected and given force through a properly noticed ratification held within 30 days of discovery of the void action.

Additional penalties include:

1) The issuance of a writ of mandamus in which the court compels compliance or prevents a violation from occurring;

2) A civil penalty up to **$500.00 against the individual** who violates the provision(s) of the Open Meeting Law or against anyone who knowingly aids, agrees to aid, or attempts to aid another person in violating the law ***(the public body may not pay the fine*** *which is deposited in the public body's general fund*);

3) Reasonable attorney's fees to the successful plaintiff (these are normally paid by the political subdivision, but the court must assess such fees against the individual if it determines he or she

violated the law with the intent of depriving the public either of information or opportunity to be heard); and,

4) Removal from office.

The public body may not hire counsel or expend monies for legal services to defend against Open Meeting Law challenges, unless it has specific legal authority to do so. If so authorized, the retention rate and expenditure must be approved in a properly noticed open meeting, before any obligation is incurred.

An excellent detailed resource and guide for the conduct of meetings by public bodies is the Arizona Agency Handbook prepared by the Attorney General's Office. The handbook may be accessed through the Attorney General's website:

www.azag.gov

Type "**Arizona Agency Handbook**" in the search box located under "AZ.GOV" in the upper right. A list will appear on the left hand side. Click "Open Meeting Law" and then **Arizona Agency Handbook: Chapter 7: Open Meetings"** for the full text..

The open meeting law statutes (**§38-431** through **§38-431.09)** are also available on the "Open Meeting Law" page.