

Report on Pierce County Proposed Ordinance February 2004, Laurella Desborough AFA Legislative Vice President

The following appears to be the scenario leading up to the proposed Pierce County Aviary Ordinance. About three years ago, disagreements between owners of two bird farms in counties adjacent to Pierce County, led breeder A to call the local humane society on breeder B. The humane society, along with a veterinarian, inspected breeder B's facility and reported everything was in order. In the Fall of 2002, breeder B moved their farm to Pierce County. A local pet bird owner/activist had been campaigning about "bad bird farms." Someone reported the misinformation that breeder B had moved their birds onto the property of breeder C.

In January of 2003, the activist enlisted two women from PAWS to do some work on the bird farm matter. He sent them to an avian veterinarian in Kings County to receive instructions on the kinds of complaint items that would cause the humane society to take action. The two women then visited the bird facility of breeder C on the pretext of being potential clients. Immediately after leaving the facility, they presented a complaint of animal abuse to the Pierce County Humane Society. As the activist had been in regular contact with the Pierce County Humane Society regarding bird farms, the society staffers asked who he would recommend as an avian veterinarian to inspect breeder C's facility. The activist recommended the veterinarian from Kings County, the same one who advised the women from PAWS.

The avian veterinarian, accompanied by the Pierce County Humane Society, then visited the facility of breeder C and was allowed to do an inspection. The avian vet inspected the facility in January and filed a report on in early March, 2003, with recommendations for specific

changes. In June, 2003, the Pierce County Humane Society accompanied this veterinarian on a follow up inspection of breeder C's farm. The PCHS sent a message to breeder C indicating that the avian vet was impressed with the improvements and would prepare a report. To date there is no record of this report being made.

In September, 2003, the activist was aggravated at the lack of stronger measures being taken by the PCHS against breeder C. Documents indicate he enlisted an animal rights activist to trespass on the property of breeder C. The activist was discovered on the farm and escorted off the property. The animal rights person then made a written report to the activist who allegedly sent it to the PCHS as a complaint against breeder C. The PCHS again visited the facility and reported that everything was fine.

Apparently this was not sufficient for the activist who then started a campaign. (Keep in mind, he never visited the facility.) He worked to push for further action from the humane society, and also, the Pierce County council members. Apparently he wanted the Pierce County Council to change the law so that the humane society did not have to obtain permission (such as a warrant) to enter a property. He communicated the matter to various internet discussion lists, to the Seattle Times newspaper, to the ABC television folks, and to several rescue individuals and organizations. Finally, Council member Barbara Gelman, District No. 5, and Council Member Shawn Bunney, District No. 1 sponsored an ordinance to create major changes in local regulations and give the humane society great leeway to conduct inspections, require permits and confiscate animals. A hearing was held on February 24 on proposed Ordinance 2004-3.

**To: Council Members, Pierce County, Washington State
From: American Federation of Aviculture,
Laurella Desborough, Legislative VP
Re: Proposed Ordinance 2004-3**

February, 23, 2004

Honorable Council Members,

In reviewing the Ordinance 2004-3, amending Section 5.04.020, and Chapter 5.24 of the Pierce County Code by adding aviaries to the facilities which require licenses, we

would like to address several issues within the ordinance.

We see the issues as falling into three categories we would like to address:

A) Local governance issues which involve the authority of the county to establish permits and inspections, and issues involving federal laws that may have oversight on some exotic bird matters.

B) Health and welfare issues, involving the husbandry and management of hobby aviaries and commercial aviaries.

C) Individual rights issues relating to the rights of persons to participate in hobby aviary activities or to participate in legal commercial business activities.

In Section 5.04.020, we note that there is only one type of aviary mentioned, and nothing relating to rescue facilities. We would suggest that there are two basic types of aviaries; hobby aviaries and commercial aviaries. This distinction is based on the purpose of the individual aviary, not the number of birds or the species of birds housed. Since commercial aviaries are generally involved in business activities, it makes sense that these aviaries would be paying a commercial permit fee. Likewise, it would make sense that a hobby aviary where birds are kept, housed and/or raised for pleasure would be charged a fee more appropriate for a hobby activity.

Since rescue facilities also house birds, and since humane care and treatment of avian species is a major purpose of this ordinance, and since many rescuers have not been trained in avian husbandry nor had experience with managing numbers of birds, it seems to be reasonable to require rescue facilities to meet basic standards of avian care, have routine inspections, and pay a permit fee.

Other states which have permits for aviaries do include rescue facilities. In regards to any exotic birds that are confiscated under a local ordinance, there are federal laws covering certain rare and endangered species of birds which would supercede state and local laws. The U.S. Endangered Species Act covers certain exotic species. Under the ESA, endangered and rare parrots are protected species and any confiscated birds need to go into breeding programs. Their value and importance for conservation cannot be underestimated. Reference:

<http://laws.fws.gov/lawsdigest/esact.html>

Under the Wild Bird Conservation Act, most parrot species can no longer be imported into the US. In that case, each and every individual parrot provides valuable genetic material for the captive population in the U.S. To send each of these confiscated parrots into a rescue facility where the genetics is lost, would be a terrible loss for the species. Then these individuals would no longer be able to contribute to the future of their species. Zoos do not have sufficient space for maintaining sizeable collections of all these species. That is why the private sector breeders are an important component of out-of-the-country conservation. Reference:

<http://international.fws.gov/laws/law102.html>

In February of 2002, Senator Jesse Helms successfully amended the Animal Welfare Act's definition of "animal" in the 2002 Farm Bill to exclude birds bred for use in research. All other birds fall under the definition of "animal" in the Animal Welfare Act. Reference:

<http://laws.fws.gov/lawsdigest/anwelfa.html>

In the fall of 2002, officials of the U.S. Department of Agriculture (USDA) contacted the American Federation of Aviculture (AFA) (Reference. www.afabirds.org) and the Model Aviculture Program (MAP) (Reference. www.modelaviculture.org) indicating that the USDA was planning to develop

regulations under which bird breeding facilities would be inspected and permitted. The USDA requested that the aviculture community develop model regulations to present to the USDA for their consideration. The National Avian Welfare Alliance (NAWA) was formed to carry out the task. (Reference: www.nawabirds.org) The working committee is composed of members from every avicultural activity: racing pigeons, exotic waterfowl and game birds, bird trainers and exhibitors, rescuers, and individuals representing all national bird organizations and all specialty bird organizations (amazons, canaries, cockatoos, conures, eclectus, finches, greys, lorries, macaws, parrotlets, etc.). At present the NAWA continues to develop the recommended regulations. Commercial breeding facilities, dealers, rescuers and transporters will fall under these regulations. I am a member of this NAWA working committee. After the USDA reviews the recommendations presented by NAWA, information will be published in the Federal Register, the USDA will train inspectors, and inspection and permitting of bird breeding facilities will begin. Thus, the Council Members might consider whether or not they wish to place an additional fee and inspection process on the local agri-business commercial breeders, as commercial breeders will be inspected and permitted under the USDA regulations covering birds.

Under Section 5.24.020 Definitions D. "Aviary" means any premises wherein a person(s) keeps a flock and engages in the practice and/or business of breeding, boarding, letting for hire, selling, or bartering birds. A flock means at least 24 birds. Aviary does not include premises solely used for poultry and/or livestock, as defined in PCC 6.02.020.

We would like to point out that an individual might have a hobby aviary of budgies or finches or even parrots, which might number from 2 to 50. A hobby aviary is not engaged in the practice of selling or bartering birds. It might be advisable to distinguish between a commercial aviary where birds are raised for sale, trade, or barter, and a hobby aviary where birds are kept and bred solely for the enjoyment of the owner. Is it really necessary to regulate a hobby aviary? This would be like regulating the facilities for owners of such companion animals as dogs and cats. In any case, it might be appropriate to reduce the permit fee for a hobby aviary.

Under Section 5.24.030 License Requirements E. License-Required Information. It is noted that the number of animals which can be kept in the facility at any one time shall be determined by the Director or agent of the Humane Society for Tacoma and Pierce County who inspect the premises. It appears that this requirement for a specific number would have relevance for dogs and cats and perhaps other large animals. However, it does not have much relevance with regard to birds, as most humane officers and directors have little background or experience in the management of exotic birds. Additionally, space and caging requirements vary for different species and under different conditions, such as off-season flocking, or flocking young birds in socializing cages, or having pairs set up in breeding cages. These varied situations make it more difficult to determine appropriate flock numbers for those without a background or experience in aviary protocols and flock management. (Reference: **Model Aviculture Program**) The decision on numbers would best be made by the owner of the commercial aviary.

Under Section 5.24.030 License Requirements F. Records - Duty to Maintain. It is noted that the records of purchases and sales are to be maintained, which would be normal protocols for a commercial aviary facility. It is also noted that the records shall be made available for inspection by the Director and/or agent of the Humane Society for Tacoma and Pierce County at all reasonable times for a specific reason. Here we have a very great concern. The concern is for maintaining of the confidentiality of both the persons who sell birds to the aviary and persons who purchase birds from the aviary. At this point in time, owners of exotic birds and animals are targets for theft, and also targets for harassment by the radical animal rights community. The privacy of these kinds of records is of primary concern in order to protect these people from harassment, theft and damage to the birds.

Rumors are that in Washington state, there are "vigilante rescuers" who are locating facilities with exotic birds, trespassing on the property, and illegally removing birds and placing the birds in new homes. We do know that the radical animal rights individuals have done this with farm animals and with research animals. We believe that utmost care must be taken to prevent these stealthy incursions by animal rights radicals on the property of citizens, and that appropriate measures need to be in place to protect owners of aviaries.

Section 5.24.040 Application Under B. Application - Required Information. Any person applying for a license as required by this Chapter shall submit to the Humane Society for Tacoma and Pierce County the following information: 7. A statement by the applicant giving permission for inspection of the facilities at any reasonable time.

Number 7 above is of great concern. Aviary facilities housing breeding birds have very different protocols than kennels or catteries. First of all, many exotic birds are wild caught, having originated in another country, and are not "tame" which means they can be extremely fearful of strangers, to the point that they damage or destroy their eggs, their chicks, and sometimes their mates. Most commercial aviaries of the medium to larger parrots do not permit anyone to have access to the facility except the regular service persons with whom the birds are familiar. Some facilities have extremely strict protocols, such as requiring the service workers to access the flights or cages from the same exact site in the same exact manner at the exact same time of day, in order to prevent the birds from being startled or threatened. Parrots in a breeding situation must be managed extremely carefully in order to prevent the loss of chicks and adults. One walk-through by a stranger can be sufficient to cause the loss of several valuable chicks and damages or losses of adult birds. We have discussed this matter with the USDA and they have suggested the use of video cameras to inspect facilities where the birds are highly sensitive to intrusions.

Section 5.24.130 Inspection. It shall be a condition of the issuance of any permit or license that the licensing authority be permitted to inspect all animals, and the premises where animals are kept, at reasonable intervals to protect the health and safety of the animals and of the community.

With respect to parrots, the inspection process, as we have indicated previously, could pose dangers to the health and safety of the birds. There is a requirement that the owner of the aviary has had an inspection performed by a state licensed

veterinarian who has provided a written statement of compliance with industry standards for aviary management and record keeping. Why would it also be necessary for the licensing authority to also inspect the animals and the facilities? The aviary owner has had the benefit of an inspection by a professional who would be the most knowledgeable individual with regard to the health of the birds and the condition of the facility and record keeping.

An enforcement officer shall have the authority to enter the premises if a permit or license holder is keeping animals in his/her own residence. Does this mean any owner of a commercial aviary who has companion birds in his/her residence, but does not have aviary birds in his/her residence, must comply with this statement? Or does this statement mean that the enforcement officer has the authority to enter a residence if and when the owner has birds in the house that are part of the licensed and permitted breeding facility? It would seem inappropriate to have an enforcement officer inspecting companion animals in a residence if their mandate was inspection of the breeding facility and its occupants, i.e., the aviary birds.

Section 5.24.140 Impoundment. An enforcement officer may impound any animal that is disabled or diseased because of neglect, abuse, or improper care, or whose condition constitutes a threat or danger to the public health and safety. We would question whether or not an enforcement officer would be able to recognize a diseased bird. It may be easy to recognize a diseased or disabled dog or cat or horse, but not so easy to determine the health or condition of a bird without extensive experience with a variety of species, their species specific behaviors, and the range of avian diseases and conditions which might occur.

We would strongly recommend that the decision to impound birds should best be left to the expertise of an experienced avian veterinarian who could ascertain the disease potential and also speculate on the potential response of the bird to being removed from its environment.

Stressed, diseased or weakened birds in poor condition might simply die quickly or within a day or so of being impounded. I do not believe that this is the result that the Council is seeking for birds. Being placed in a new situation and separated from their mate and their flock is highly stressful to birds. Furthermore, it has been observed that there are few shelters or public facilities that have adequate arrangements for housing and caring for exotic birds. When placed in substandard or stressful environments, it seems impounded birds have simply been given a death warrant. Some rare and endangered species under the U.S. ESA, might be impounded. It would seem to be advisable to consider the consequences of impoundment versus the consequences of having the birds remain where they are, but charge the owner with the task of providing proper veterinary care and other necessary actions.

We aviculturists of the American Federation of Aviculture are very concerned about the health and welfare of avian species. We believe that the Pierce County Council Members are also concerned for the health and welfare of avian species and have drafted the Ordinance 2004-3 to amend Section 5.04.020 and Chapter 5.24 of the Pierce County Code for that purpose. We support the council members in their effort to improve the health of avian species in Pierce County.

However, we have serious concerns about several items in this proposed amendment.

We have concerns about the issue of regulation by Pierce County and the relationship of that regulation to federal laws: specifically, the Endangered Species Act and the Animal Welfare Act.

We have concerns about health and welfare issues for aviary birds under these regulations, as it exposes the birds to loss of chicks and damages to adult birds due to the intrusion of strangers such as an enforcement officer. These are issues that go beyond the loss of individual birds and their replacement costs. In terms of availability, we may not be able to replace those birds. In terms of reproductive competence, we may not be able to replace those birds. In terms of maintaining a viable gene pool for the species, we may not be able to replace those birds.

We have concerns about the rights of citizens who are pursuing valid hobby activities in the form of hobby aviaries, and of the rights of citizens to engage in legal commercial agribusiness: breeding birds in an aviary facility and selling the offspring to the public.

We have concerns about the confidentiality issues surrounding the collection of information and then making that information available to enforcement officers who may or may not be bound over to confidentiality with client data.

We would like to state again that the USDA will be inspecting and permitting commercial aviary facilities. We would like to recommend for large hobby aviaries and rescue facilities, that the Model Aviculture Program be utilized for the inspection (by a state licensed veterinarian) and certification. The resulting certificates of compliance would then be provided to the Tacoma Humane Society for their files.

Thank you for your attention to these concerns.

Respectfully,

Laurella Desborough, Legislative Vice President,
American Federation of Aviculture

Local pigeon fanciers, budgerigar breeders, two commercial bird breeders, one bird breeder/dealer, and many individual hobby bird breeders attended the hearing and spoke against it. From the AFA, Regional Director Natalie Frumin and AFA State Coordinator Wendy Crane, and Laurella Desborough, AFA Legislative VP, also brought forward serious concerns about the ordinance. The activist and the veterinarian spoke in favor of the ordinance, as did two individuals from the local humane society. After hearing all the presentations, Pierce County Council members of the Public Safety and Health Committee voted to table this proposed ordinance. ❖

Sun Seed's New Bird Wellness Program

For over twenty years Sun Seed has produced superior quality premium grade seed mixes. The Company has always been known as the innovator in the seed manufacturing industry. In November, 2001 Sun Seed formed a partnership with the number one manufacturer of bird food and vitamins in Germany; Quiko. Throughout the Avicultural community Quiko is recognized as a professional grade product line. The foundation of this line is baked product made with real eggs and honey known as eggfood. Essentially this is a supplemental food that is added to the basic daily diet.

According to Jeff Clark, Sun Seed's Vice President of Marketing and Sales, the real beauty of this eggfood is that birds universally accept the food and eat it before they eat anything else. "If you want to supplement the diet with vitamins, or need to medicate a bird, eggfood is the ideal medium for doing this. Because the birds completely ingest the eggfood, you are assured that they ingest anything that is added to the food."

European aviculturists have been using eggfoods for generations. With the exception of canary breeders, the concept is relatively new to the U.S. More and more aviculturists and avian hobbyists are embracing this method of improving the diets of their birds.

Sun Seed has developed a program for use in pet stores utilizing 5 Quiko products to improve the health and condition of birds kept in a retail environment. The Bird Wellness Program as it is called is a three-stage feeding program that increases protein levels, provides essential vitamins and eliminates parasites, certain bacteria and fungus that can infect birds.

The first stage uses a formula consisting of eggfood, vitamins, a protein supplement, and a probiotic that is fed to newly introduced birds for the first five days that they are in the store. The second stage utilizes eggfood and vitamins as a basic daily supplement. The third stage is feeding the original introductory formula once a week as a prophylactic treatment.

The Bird Wellness Program was tested by a number of avian specialty stores across the country before being introduced. "The feed back was phenomenal." Clark said. "We received nothing but positive feedback, including several claims that this approach actually saved the lives of some birds that had been in jeopardy. Some breeders have also begun using this approach. It is very beneficial in any situation where there is a regular turn-over or introduction of new birds into the setting."

Sun Seed has always been a strong supporter of the independent retail pet industry. The Bird Wellness Program is just one more way that Sun Seed is trying to promote proper avian care.

Contact Clark at 1-800-221-6175 for more detailed information on this program. ❖