COUNCIL AGENDA: March 19, 2013

SUBJECT: RESPONSE TO GRAND JURY REPORT – "WAR OF THE HORSES"

SOURCE: City Manager

COMMENT: Based upon a citizen's complaint received, the 2012-2013 Grand Jury reviewed a charge of neglected horses in an area under Tulare County Animal Control's jurisdiction and Porterville Animal Control's subsequent response to the complaint, and recently issued their report of findings, conclusion, and recommendations (attached). The report was delivered to the City Manager's Office on January 24, 2013. Pursuant to law (CPC § 933(c)), a written response to the report is required to be filed by the Agency Head by no later than March 25, 2013.

The combined response of the Agency Head, City Council, and the City Manager is attached for consideration and approval.

RECOMMENDATION: That the Council:

1. Consider the draft "Response to the Grand Jury" letter regarding the "War of the Horses"; and
2. Authorize the Agency Head, Mayor, and the City Manager to sign the Response letter.

ATTACHMENTS:
1. Draft Response Letter
2. Grand Jury Report

C/M

Item No. 15

March 13, 2013

David Serpa, Grand Jury Foreman
Tulare County Grand Jury
5963 South Mooney Boulevard
Visalia, California 93277

Dear Mr. Serpa

The City of Porterville and Porterville Police Department are in receipt of the Grand Jury Report related to your investigation and review of a citizen's complaint regarding concerns of horse neglect in the 700 block of East Worth in Porterville. Our notice from the Tulare County Grand Jury is labeled as ***War of the Horses*** for your reference.

Response:
In review of the report and its findings, the Police Department, which oversees the function of Animal Control, reviewed all calls for service related to this incident. The circumstances of this incident were unique in that the area which surrounded the fenced area where the horses were kept is *within* the incorporated area of the City of Porterville. The immediate area where the horses were located was determined to be within the jurisdiction of Tulare County. The address given in all complaints received was 720 East Worth, which is a city address. Our Police Department began receiving numerous complaints regarding the condition of the horses during the time of February 13, 2012, to April 10, 2012. The direction given to our personnel was to effect a resolution to the incident; receiving complaints for nearly two months with no closure was unacceptable and having a negative impact on our calls for service.

In every call received by our Police Department, the Tulare County Sheriff's Department was notified of the incident, along with the Tulare County Animal Control. Our personnel documented an incident report 12-3076 on April 10, 2012, and requested the Tulare County Sheriff's Department and Tulare County Animal Control to meet at the East Worth location. It was on this date that the owner of the horses was located and the incident resolved.

It is not, nor has it ever been, the position of the City of Porterville or its Police Department to provide our services outside our jurisdiction, but we do pride ourselves on responding to the needs of our community and providing quality service to our customers.

ATTACHMENT 1

We appreciate the service of the Tulare County Grand Jury, and the input and feedback that you provide. Please be assured of our continued cooperation on all matters of mutual interest and concern.

Sincerely,

Chuck McMillan, Chief of Police

John D. Lollis, City Manager

Virginia R. Gurrola, Mayor

Attachment: Map

Cc: Honorable Judge Gary Paden
Tulare County Board of Supervisors

Legend

- County Parcels
- City Parcels
- 720 East Worth

N
W
E
S

0 0.125 0.25 0.5 0.75 1 Miles

RECEIVED

JAN 24 2013

CITY OF PORTERVILLE
CITY MANAGER

TULARE COUNTY GRAND JURY
5963 S Mooney Boulevard
Visalia, CA 93277
PHONE: (559) 624-7295
FAX: (559) 733-6078
E-MAIL: grnd_jury@co.tulare.ca.us
WEB: www.co.tulare.ca.us

ATTENTION: Porterville Mayor Virginia Gurrola
AGENCY: Porterville City Council
ADDRESS: 281 N Main, Porterville, CA 93257

California Penal Code §933.05 (f) mandates that the Tulare County Grand Jury provide a copy of the portion of the final Report that affects that agency or person of that agency two working days prior to its public release. Advance release or disclosure of a Grand Jury Report is prohibited prior to its public release.

Attached is a copy of your portion of the 2012-2013 Tulare County Grand Jury Final Report.

California Penal Code §933(c) requires a response to said document. Depending on the type of respondent you are, a written is required as follows:

- **PUBLIC AGENCY:** The governing body of any public agency that is required to respond must do so within NINETY (90) DAYS.
- **ELECTIVE OFFICER OR AGENCY HEAD:** All elected officers or heads of agencies that are required to respond must do so within SIXTY (60) DAYS.

YOU MUST SEND YOUR RESPONSE TO EACH OF THE FOLLOWING:

The Honorable Judge Gary Paden
County Civic Center, Room 303
221 S Mooney Blvd
Visalia, CA 93291

Tulare County Grand Jury
5963 S Mooney Blvd
Visalia, CA 93277

Tulare County Board of Supervisors
2800 W Burrel Ave
Visalia, CA 93291

Received by: _____ Date: _____

Report Name: WAR OF THE HORSES Response Due by: 05/01/2013

Delivered by: Kat Harris Date and Time: 1/24/13 1150 Hrs

Release Date: 01/29/2013

DAVID SERPA, Foreman 2012-2013 Tulare County Grand Jury

PREPARE A SEPARATE RESPONSE FOR EACH REPORT

California Penal Code §933.05 mandates the manner of how responses are to be answered.

See reverse for Penal Code §933.05 information.

ATTACHMENT 2

§933.05. **Response to Grand Jury Recommendations--Content Requirements; Personal Appearance by Responding Parry; Grand Jury Report to Affected Agency**

(a) For purposes of subdivision (b) of §933, as to each grand jury finding, the responding person or entity shall indicate one of the following:

(1) The respondent agrees with the finding.

(2) The respondent disagrees wholly or partially with the finding, in which case the response shall specify the portion of the finding that is disputed and shall include an explanation of the reasons therefore.

(b) For purposes of subdivision (b) of §933, as to each grand jury recommendation, the responding person or entity shall report one of the following actions:

(1) The recommendation has been implemented, with a summary regarding the implemented action.

(2) The recommendation has not yet been implemented, but will be implemented in the future, with a timeframe for implementation.

(3) The recommendation requires further analysis, with an explanation and the scope and parameters of an analysis or study, and a timeframe for the matter to be prepared for discussion by he officer or head of the agency or department being investigated or reviewed, including the governing body of the public agency when applicable. This time frame shall not exceed six months from the date of publication of the grand jury report.

(4) The recommendation will not be implemented because it is not warranted or is not reasonable, with an explanation therefore:

(c) However, if a finding or recommendation of the grand jury addresses budgetary or personnel matters of a county agency or department headed by an elected officer, both the agency or department head and the board of supervisors shall respond if requested by the grand jury, but the response of the board of supervisors shall address only those budgetary or personnel matters over which it has some decision-making authority. The response of the elected agency or department head shall address all aspects of the findings or recommendations affecting his or her agency or department.

(d) A grand jury may request a subject person or entity to come before the grand jury for the purpose of reading and discussing the finding of the grand jury report that relates to that person or entity in order to verify the accuracy of the findings prior to their release.

(e) During an investigation, the grand jury shall meet with the subject of that investigation regarding the investigation, unless the court, either on its own determination or upon request of the foreperson of the grand jury, determines that such a meeting would be detrimental.

(f) A grand jury shall provide to the affected agency a copy of the portion of the grand jury report relating to that person or entity two working days prior to its public release and after the approval of the presiding judge. No officer, agency, department, or governing body of a public agency shall disclose any contents of the report prior to the public release of the final report.

WAR OF THE HORSES

BACKGROUND

On March 9, 2012, Tulare County Animal Control (TCAC) received a citizen's complaint concerning neglected horses that were located outside the Porterville city limits. The citizen claimed the horses were unusually thin and one horse was injured. On March 12, an Animal Control Officer responded to the location of the horses. His findings, based upon a Henneke Rating Scale (see Attachment), were that the horses were actually a little over weight and they had plenty of water. No food was stored on the property due to thefts.

This initial contact with TCAC was just the beginning of a long process. Concerned citizens called TCAC on a daily basis in addition to the Porterville Police Department (PPD) and Porterville Animal control (PAC). There were calls from as far away as Los Angeles and Sacramento. Each time a call was received, TCAC responded and checked on the welfare of these horses.

In early March 2012, the PPD and PAC dispatched an officer to check on the welfare of the horses. It was determined that the horses were in general good health. All of the responding officers witnessed citizens feeding the horses.

On May 1, 2012, the *Porterville Recorder* wrote an article concerning the neglect of these horses and the apparent lack of care for them.

REASON FOR INVESTIGATION

The 2012-2013 Tulare County Grand Jury received a citizen's complaint concerning the horses mentioned in the background.

PROCEDURES FOLLOWED

1. Interviewed relevant witnesses
2. Reviewed relevant documents

FACTS

1. There were numerous citizen calls to TCAC, PPD and PAC.
2. TCAC, PPD and PAC all responded to check on the welfare of the horses.

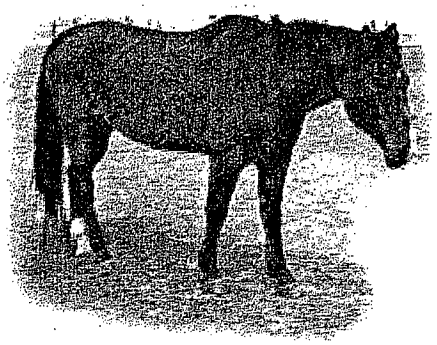
RECOMMENDATIONS

1. Porterville Police and Porterville Animal Control refer all county issues to Tulare County Animal Control or the Sheriff's Department.

2. Without a cooperative agreement with the County of Tulare, the Porterville Police Department and Porterville Animal Control should not respond to animal control issues not in their jurisdiction.

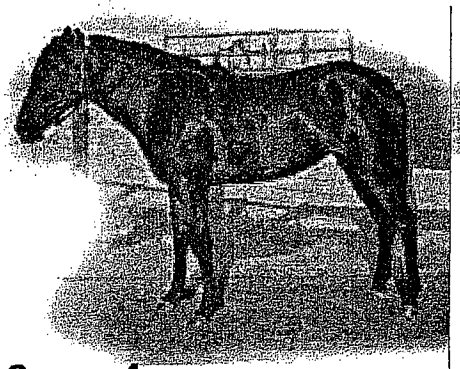
REQUEST FOR RESPONSES

- Porterville Animal Control
- Porterville City Council
- Porterville Police Department



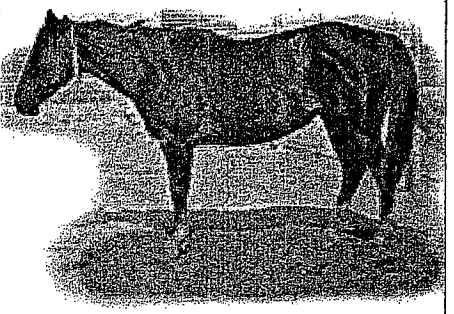
Score: 3 (Thin)

- Fat about halfway up spinous processes; transverse processes cannot be felt.
- Thin fat layer over ribs.
- Spinous processes and ribs are easily discernable.
- Tailhead prominent, but individual vertebrae cannot be visually identified.
- Hook bones appear rounded but not easily discernable.
- Pin bones not distinguishable.
- Withers, shoulders and neck are accentuated.



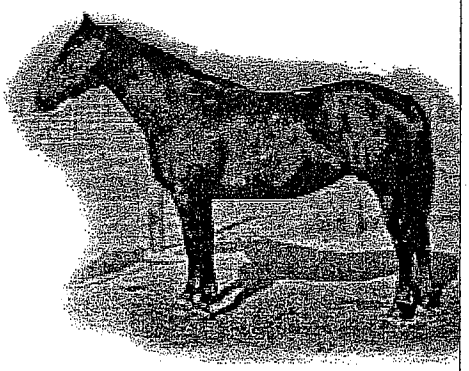
Score: 4 (Moderately thin)

- Ridge along back.
- Faint outline of ribs discernable.
- Tailhead prominence depends on conformation; fat can be felt around it.
- Hook bones not discernable.
- Withers, shoulders and neck are not obviously thin.



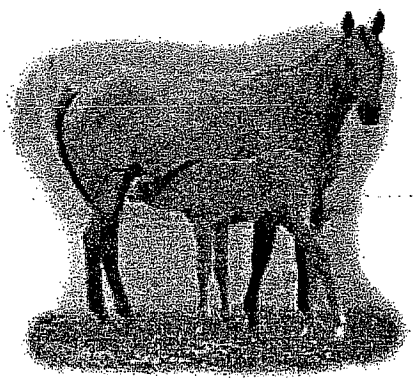
Score: 5 (Moderate)

- Back is level.
- Ribs cannot be visually distinguished but can be easily felt.
- Fat around tailhead beginning to feel spongy.
- Withers appear rounded over spinous processes.
- Shoulders and neck blend smoothly into body.



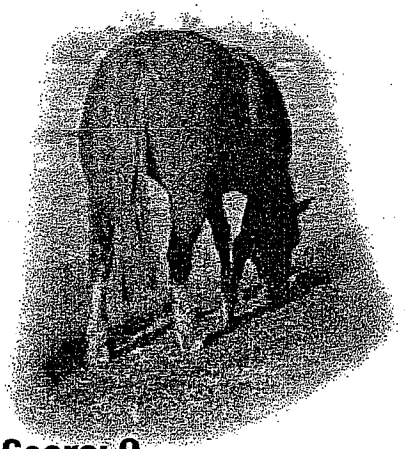
Score: 7 (Fleshy)

- May have crease down back.
- Individual ribs can be felt, with noticeable filling between ribs with fat.
- Fat around tailhead is soft.
- Fat deposited along withers, behind shoulders and along neck.



Score: 8 (Fat)

- Crease down back.
- Difficult to feel ribs.
- Fat around tailhead very soft.
- Area along withers filled with fat.
- Area behind shoulder filled in flush.
- Noticeable thickening of neck.
- Fat deposited along inner buttocks.



Score: 9 (Extremely fat)

- Obvious crease down back.
- Patchy fat appearing over ribs.
- Bulging fat around tailhead, along withers, behind shoulders and along neck.
- Fat along inner buttocks may rub together.
- Flank filled in flush.

BCS

A USEFUL TOOL

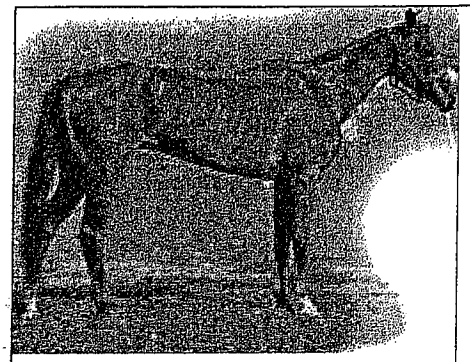
Don Henneke's nine-point scale takes the guesswork out of evaluating equine body fat levels.

The body condition score (BCS) system offers an objective method of estimating a horse's body fat levels.

Developed 25 years ago by Don Henneke, PhD, as part of his doctoral research, the BCS scale ranges from 1 (poor) to 9 (obese). Horses are scored based on visual and hands-on appraisal of six body areas where fat tends to accumulate in a predictable pattern (see diagram below).

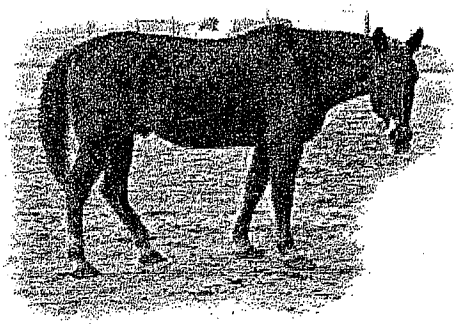
At right is an illustrated guide to the BCS system. Each score is accompanied by the notable physical attributes described in Henneke's original BCS research. The key terms used include:

- **crease**—a "gutter" over the spine created by fat buildup on either side of the bone.
- **hooks**—the pelvic (hip) bones that jut out to the side of a horse's rump.
- **pins**—pelvic bones near the tail that poke out the back of a horse's rump.
- **spinous processes**—bony protrusions at the top of the vertebrae of the torso.
- **tailhead**—the root of the tail where it blends in with the body; highest movable point on the tail.
- **transverse processes**—bony protrusions on each side of the vertebrae.



Score: 1 (Poor)

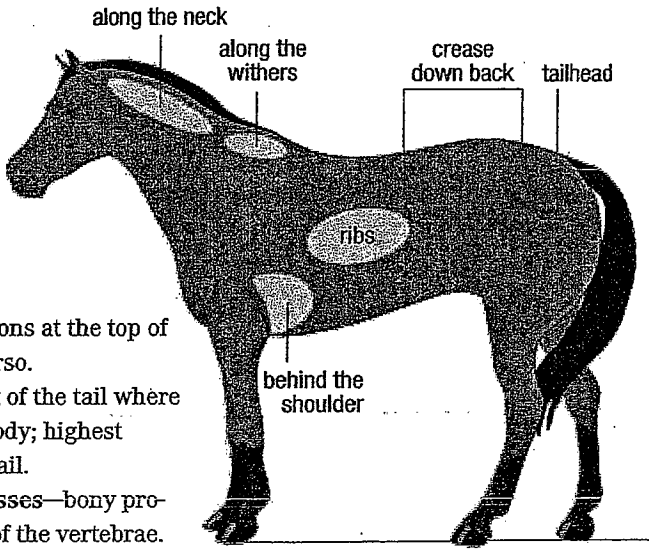
- Extreme emaciation.
- Spinous processes, ribs, tailhead, and hooks and pins are prominent.
- Bone structure of withers, shoulder and neck is easily noticeable.
- No fatty tissue can be felt.

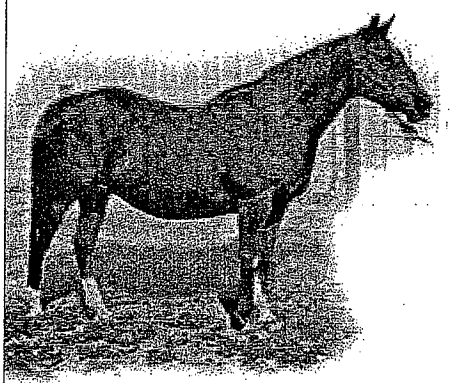


Score: 2 (Very thin)

- Emaciated.
- Thin layer of fat over base of spinous processes.
- Transverse processes of lumbar vertebrae feel rounded.
- Spinous processes, ribs, tailhead, and hooks and pins are prominent.
- Withers, shoulders and neck structures are faintly discernable.

GETTING FAT: Horses develop body fat in a predictable pattern, starting behind the shoulder, moving back over the ribs, up over the rump and finally along the back forward to the neck and head. A horse's BCS is based on an appraisal of fat accumulation in these areas.





Score: 6 (Moderate to fleshy)

- May have slight crease down back.
- Fat over ribs feels soft and spongy.
- Fat around tailhead feels soft.
- Fat beginning to be deposited along sides of the withers, behind the shoulders and along the sides of the neck.

PHOTOS COURTESY, DON HENNEKE, PHD; ILLUSTRATION BY CELIA STRAIN