

CITY OF WAUWATOSA
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COMMUNITY DEVELOPMENT COMMITTEE MEETING
Tuesday, October 29, 2002

PRESENT: Alds. Becker, Ecks, Heins, Herzog, Kopischke, Krol, Sullivan -7

EXCUSED: Ald. Treis

ALSO T. Wontorek, City Admin.; A. Kesner, City Atty.; E. Miller Carter, Asst. City Atty.;;
PRESENT: M. Meske, Sanitarian; J. Wojcehowicz, Water Supt.

Ald. Heins in the Chair called the meeting to order at 8 p.m.

Regulation of Animals Ordinance

The committee reviewed a proposed ordinance repealing and recreating Chapter 9.04 of the Code pertaining to the regulation of animals.

Mark Lemke, 7440 Melrose Avenue, asked if the ordinance's definition of pens would include electronic fences. Ms. Miller Carter said that under sections that do not pertain to animals declared dangerous, an electronic fence could be construed as a pen if it secures the dog on the property so that it doesn't run loose.

Karen Jaeckels of 1921 N. 71st Street, owner of The Dog Spot, 7707 W. State Street, commented that the proposed ordinance contains many positive things, particularly strengthening the definition of a dangerous dog by going from three incidents to two. She asked if a state certified humane officer would enforce the regulations and define dangerous or terrorizing behavior. She spoke of the need to understand the behavior of dogs that are protecting their families or their young and said she wants to be sure that determinations are made by someone with some training and understanding.

Ms. Miller Carter said that the health and/or police departments would determine if a dog is dangerous or violent. They would issue a notice to the owner based on statements made by observers, witnesses, and the owner. The owner has the right to produce his own witnesses if he disputes the notice and the matter goes to a hearing. Ms. Miller Carter noted that exceptions to the definitions recognize that an animal may be defending its young and its food or its owner against trespassers.

Ms. Jaeckels then asked about enforcement and fines for failure to remove excrement from public property and whether that has been deemed a public health problem in Wauwatosa. Ms. Miller Carter said that violations are subject to the general penalty provisions of the municipal code, which is the current law and is unchanged in the proposed ordinance. She noted that enforcement is contingent upon receiving reports. If the community is sensitive to it and reports it, then the City can look into it.

Mr. Meske said that excrement on another person's property or public property must be cleaned up immediately, although that requirement is not frequently enforced because the actual violation is rarely directly observed by the proper officials. The owner's own yard must be maintained in a sanitary manner,

typically being cleaned up within one to three days, although there may be extenuating circumstances with heavy snow or rain. In terms of enforcement of the latter requirement, written orders are typically issued, followed by a citation for \$100 plus court costs for non-compliance. It was noted that fines can go up to \$1,000 under the general penalty provisions.

Ms. Jaeckels next raised the question of enforcing shelter requirements, i.e., protecting an animal from heat or cold and providing water and food. Mr. Meske said that each case would be considered on its own merits by the police or health department.

Mr. Lemke said that the exceptions to “vicious” that are listed should take into consideration a dog defending its own property. He said that he received a vicious dog ticket on October 1 and has a December 11 court date. He described the incident involving his dog and another dog that was passing by. He felt that his dog was defending his yard or his property but said that “property” should be better defined in the ordinance.

Further comments, discussion, and debate followed regarding the need for a definition of “property” in the list of exceptions to dangerous or vicious dogs. There was concern about adequately providing an exception for a dog that defends itself or its owner or owner’s property without defining property too broadly. Ms. Miller Carter felt that reference to defending against a “trespasser” is clearly related to property and is adequate for enforcement purposes but said she could clarify terminology in order to provide adequate notice to the public.

The question of adding “electronic fence” to the “Leash Required” section was next discussed. Concerns were raised about power outages that would render an electronic fence ineffective and identification of sites with electronic fences. Ms. Miller Carter said that the owner is responsible for using other means of keeping the dog on the property if an electronic fence is rendered unworkable. She noted that definitions within the dangerous or vicious dog sections would prohibit the use of an electronic fence. Mr. Kesner added that the owner’s responsibility would be the same in the case of an inoperative electronic fence as it would be when any other type of fence is rendered ineffective.

Moved by Ald. Sullivan, seconded by Ald. Herzog to recommend adoption of the proposed ordinance subject to revisions by the City Attorney’s office at the City Attorney’s discretion as discussed by the committee, particularly in Section 9.04.010(1)k.6.b, insert “trespasser” after “defend itself against any person;” and in Section 9.04.020(1)a.6.d, Leash Required for Dog, add “electronic fence” –

Mr. Lemke reported that he has a sign wired to a tree in his front yard to inform people of his electronic fence.

(Ald. Ecks excused, 8:40 p.m. -6)

Upon further comments and discussion regarding the citation issued to Mr. Lemke, Mr. Kesner advised the committee that it is now up to the municipal court to hear the case and make a decision.

Vote on the motion, Ayes: 6

Negotiations with Milwaukee County Regarding Transfer of Services

Mr. Wontorek referred to his memo of October 25, 2002, requesting authorization to negotiate with Milwaukee County the terms of an agreement for transfer of various county services and facilities on the county grounds to the City of Wauwatosa. A Milwaukee County resolution drafted for County Board consideration suggests that “...such negotiated agreement shall address a phased-in implementation plan

which is compatible with the 2004 City of Wauwatosa and Milwaukee County Budget processes.” The outcome of the negotiations would have to be acceptable to both the Wauwatosa Common Council and the County Board. The County Board will vote on the resolution when they vote on the 2003 budget following ongoing budget hearings.

Ald. Sullivan expressed strong opposition to negotiating with Milwaukee County, stating that he does not want *any* transition of responsibility for services on the county grounds. Noting the projected increase in the City’s tax rate, he said he does not want to take on any services unless we can tax the County for them. Or perhaps the county wants to give us the county grounds, he suggested, letting Wauwatosa tax it and develop it as we see fit. Recognizing that it will have to be negotiated at some point, he said that any burden on City taxpayers or the City budget should be prevented, and there should be revenue to offset costs. He noted that private geographic members on the county grounds contribute over \$500,000 a year to Milwaukee County and the county cross-charges other county agencies for services. He expected that Wauwatosa would similarly bill those county agencies. Ald. Sullivan said he is concerned that somewhere down the road the county will not have the leadership or the budget to do what is fair in terms of paying their bills. We have granted them stormwater utility fee credits for building stormwater detention ponds on the county grounds, he pointed out, but they still haven’t lived up to that agreement.

Mr. Wontorek said he is looking into the issue of how long we should wait for the county to live up to the terms of the stormwater credit agreement. He noted that there is a history of signed agreements that the county has lived up to, such as the fire services agreement on which they make payments each year.

Mr. Wontorek said he expects some of the negotiations to be very difficult due to dealing with infrastructure in a condition that is unknown to us and possibly to the county as well. In the case of the water system, for example, he said that we might request that they bring it up to a certain level or compensate us for bring it to that level. If their information is insufficient, we may have to develop information through consultants, he indicated.

Ald. Kopischke said the county would love to say they have cut their taxes while municipalities are raising theirs when, in reality, it is just a cost shift. He felt that the detention ponds are quite relevant to these discussions. He said that if we are assuming this burden, then some control and authority over the land is appropriate, especially if we are taking on unknown risks. If we don’t negotiate, he asked, can they just abandon their responsibility? Whose responsibility is it to pick up the slack?

Mr. Wontorek said that the County Sheriff has taken the position that he is ultimately responsible for policing in Milwaukee County. Mr. Kesner said that these kinds of responsibilities, be they for law enforcement or infrastructure, would ultimately be the county’s responsibility on the county grounds. Ideally, an agreement would be reached that is mutually beneficial to both entities, as is the fire services agreement and as the stormwater agreement would be when it comes to fruition.

(Ald. Ecks returned, 8:59 p.m. -7)

Moved by Ald. Kopischke to authorize a team of City officials to enter into negotiations with Milwaukee County for the benefit of the City of Wauwatosa –

Ald. Kopischke reiterated that if the City is taking on a great deal of responsibility and risk, it should come with some authority and control as well. There is always potential for mutual benefit, he noted.

At the request of Ald. Heins, Ald. Ecks assumed the Chair.

The motion was seconded by Ald. Heins.

Ald. Heins reassumed the Chair.

The Chair expressed confidence that the individuals recommended for the negotiating team (Mayor, City Administrator, Director of Public Works, Chief of Police, Water Superintendent, and City Attorney) would not give the city away and would have the common sense to pull back at any point they felt we would have to sacrifice too much. She noted that authorizing negotiations does not commit us to anything.

Ald. Krol said that with the exception of fire protection, every other service provided within the county grounds is shared equally with every taxpayer in Milwaukee County. If the county is not able to save money by transferring services and we are not able to become more efficient by taking on those responsibilities, it is not a good deal for either party, he felt. With this year's budget looking at possible staff reductions, it would be difficult to take on more responsibility and to devote a lot of time to negotiating that may not be productive, he commented. He suggested looking at individual areas first and not negotiating everything all at once, perhaps initially looking at something we could take over and see if it is going to provide any mutual benefit. Also, he said, we want to make sure the infrastructure is brought up to speed, but the county wants to reduce costs and may not want to do that. It was a different economic time when we took over fire protection, he noted. He was uncertain if we would pick up a great amount of benefit from taking on these services.

The Chair commented that we won't know if there is any advantage for the City of Wauwatosa unless we begin negotiations. She was confident that our negotiating team would make every effort to work to our advantage.

Ald. Sullivan expressed confidence in Mr. Wontorek and the rest of the staff but said he looks at this as being a problem any way it comes out. He reiterated his concerns and said he doesn't want to be in the position of explaining to citizens that we ended up in a certain position as a result of steps that began here tonight.

Ald. Ecks said that we should approach this with our heads held very high as a community that has hosted the county grounds for many decades. We have been very honorable to the county, he felt. He noted that once again the City will award block grants that benefit the county. The Budget and Finance Committee just authorized \$75,000 for Camp Will-o-Way, \$50,000 in connection with rehabilitating the smallest of the Eschweiler buildings on the county grounds, and \$40,000 for enhancing Jacobus Park, which is part of the Milwaukee County park system.

Asked by Ald. Herzog if there is any silver lining in taking over control of the water system, Mr. Wojcehowicz said he wouldn't say it would be 100% to our advantage, but there is some potential utilization of existing facilities there that would help us, particularly with connections under the freeway and picking up an additional water tower. He said that he would treat the county grounds as a suburb of Wauwatosa to start with because we aren't interconnected and our system is set differently. Their system is based in the powerhouse now owned by WE Energies, and we would have to either hire WE Energies or somehow fund a new system that would tie everything together. Asked about rental fees for cellular facilities on county water towers, he said that income is not dramatic compared to the expenses of the utility.

Ald. Herzog asked if the county is talking about all four quadrants of the county grounds or if the southeast quadrant with the Medical College facilities would be excluded. Mr. Wontorek was uncertain of their intent but felt that the southeast quadrant would be included to the extent that utilities are provided there. Ald. Herzog agreed that we have to at least start negotiations in order to get more information, which is something we often do.

Ald. Krol was concerned about any items that will appear in the budget for negotiations or for consultants or other recommendations at this time. He was also concerned about the diversity of the negotiations and the amount of time involved.

Moved by Ald. Krol, seconded by Ald. Becker to amend the motion by limiting negotiations to police protection services on the county grounds –

Ald. Kopischke said that, strategically, he would not want to tie the hands of our negotiators. He would trust them to back off if there is no value or corresponding benefits.

Ald. Herzog said that we know the answer on policing—it is not beneficial to us to take over policing of the county grounds. He said that the negotiations have to be broader. The Chair also advocated looking at all the issues.

Vote on the amendment to the motion, Ayes: 4; Noes: 3 (Herzog, Kopischke, Heins)

Vote on the motion as amended, Ayes: 4, Noes: 3 (Kopischke, Sullivan, Heins)

The meeting adjourned at 9:25 p.m.

Carla A. Ledesma, City Clerk
Wauwatosa, Wisconsin