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COMMUNITY DEVELOPMENT COMMITTEE
Tuesday, September 24, 2002
Committee Room #1

PRESENT: Ald. Becker, Ecks, Heins, Herzog, Kopischke, Krol, Sullivan, Treis -8

ALSO PRESENT: N. Welch, Comm. Dev. Dir.; A. Kesner, City Atty; E. Miller-Carter, Asst. City Atty; N. Kreuser, Health Officer, M. Meske, Sanitarian; Capt. Bozicevich, Police; W. Wehrley, City Engineer

Ald. Heins as Chair called the meeting to order at 8:07 p.m.

Proposed ordinance requiring recording of ownership of buildings (for adoption)

Ald. Herzog asked if title companies would be notified of the requirement. Mr. Kesner said it is anticipated that if approved, enforcement would be implemented after the first of the year when a fee structure would be in place. Attorneys, title companies, etc. will be informed of the implementation.

Russ Drover, 7530 W. State Street, spoke in opposition to the proposed ordinance. He said he is a real estate broker and felt the ordinance discriminates against investors. There is no reporting requirement for owner occupied single family and duplex properties; asking investors to record ownership is unfair. Mr. Drover also felt that much of the information including the owner's telephone number is already available on transfer documentation filed with the county. This information is sent to the assessor by the county.

Ald. Herzog pointed out the idea behind the ordinance is for the city to be able to contact a building owner if there are difficulties with a property. The city is not singling out real estate investors, but merely trying to maintain an accurate listing of contacts.

Mr. Kesner said the ordinance is not an invasion of property rights by requiring property owners to provide some information. It gives the city a direct link to the owner. Information received from the county has not always been accurate or timely. This information will be useful to city staff for enforcement. The ordinance language is toned down from the Milwaukee ordinance, is much easier to read and understand.

Ald. Sullivan said his district has a large number of two and four family dwellings. It is imperative that the city be able to contact the property owners when needed. It is a case of balancing the inconvenience to some property owners versus the benefits.

Moved by Ald. Sullivan, seconded by Ald. Kopischke to recommend adoption --

Ald. Krol questioned the reason for asking for a property owner's date of birth. Mr. Kesner said date of birth is a standardized method of identifying a person.

Vote on the motion was Ayes: 8

Proposed regulation of dog ordinance (for introduction)

Dr. Kreuser said this issue began about a year ago when it was pointed out the current ordinance was less than what the state law requires. This update is consistent with state law.

She reported that in the past two years there have been more than 30 dog bites in the city. Thus far this year, there have been 25 dog bites, sometimes twice from the same dog. Citizens do not always report dog bites, and the current ordinance does not allow the city to act promptly. The city has received citizen complaints that they are feeling threatened by dogs, and Council members have alerted staff of complaints received. This ordinance is an attempt to address these issues with stronger language and better definitions and to be consistent with state law.

The draft ordinance was looked at by the police, Milwaukee Area Domestic Animal Control Commission (MADACC), the Wauwatosa Veterinary Clinic, the health department and the city attorney's office; with many discussions held. Vicious dog ordinances from other communities such as West Allis and the north shore communities were also studied.

The current ordinance requires two documented bites before the city can act on a vicious dog. The proposed ordinance provides that even if a dog only threatens to bite action can be taken. Some remedies for varying situations have been put in; i.e. dogs that are considered vicious in another community will not be allowed in the city. Dr. Kreuser said the rabies portion of the ordinance mirrors state law. There is also language describing care, maintenance and restrictions regarding dogs.

Ms. Miller-Carter said the goal of the ordinance is to protect the community and establish a good rapport among citizens to encourage reporting of incidents without fear of retribution. The ordinance gives the option of reporting vicious dogs to either the police or health departments. It also provides the city with more authority to enforce. The ordinance recognizes there is a large range of restrictions that can be applied, not merely automatically to remove the dog. Removal/destruction is reserved for extreme situations. The new ordinance allows people to sell, give away or transfer a dog. She gave the example of a recent situation where the owners gave their vicious dog away to someone living in a rural community in northern Wisconsin. Ms. Miller-Carter said there are strict conditions concerning leashing and/or enclosing dogs considered vicious, since concerns have been expressed about weak window/door screens. She said this ordinance regulates dogs, cats and ferrets. It is not trying to regulate exotic pets.

Patrick Paquin, 2437 N. 111th Street, said he has lived in Wauwatosa for 10 years and likes his neighborhood. However, two rottweilers live next door and he has a year old son. He said rottweilers weigh about 165-170 lbs. and have the potential to kill. Mr. Paquin said he understands everyone has the right to own the breed of dog they choose, but he should have the right to ask that a dog he considers to be a threat to be muzzled when in public. He said friends and family have told him they will not visit because of their concern about the rottweilers. He felt it is common sense to have an ordinance that does not wait until there are two documented bites before action is taken. He also said that insurance companies will not insure certain breeds of dogs on a homeowner's policy. Mr. Paquin asked how many of the dog bites in the past two years were serious bites. Mr. Meske said reported bites are not separated by severity. The city is more concerned with the issue of rabies, and rabies can be transmitted by a bite or by other means.

Mr. Kesner said this ordinance addresses the community's concerns better than the current ordinance by allowing the city to be proactive in taking intermediate measures such as requiring a muzzle to prevent a bite rather than react after two bites have occurred. He pointed out that the ordinance is not breed specific because of the possibility of missing some breeds.

Ald. Sullivan said he had some concerns regarding some of the wording in the proposed ordinance. He is pleased with the expanded definitions and said it was good to see the prohibition to bringing a dog into the city that was

declared vicious in another community. However, he said he did not see where in the current ordinance it says there had to be at least two documented bites. Ald. Sullivan said if a dog is determined vicious there should be no conditions that allow it to continue to reside in the city. He did not feel the need to accommodate owners of vicious dogs. He said he is much more comfortable saying it is unlawful to keep vicious dogs in the city and cut it off there. If the other language remains, it could be interpreted that the city is allowing people to keep a vicious dog. He suggested the proposed ordinance be rewritten to reflect this.

Ald. Treis said he has discussed the problem of vicious dogs with the city attorney. There was an incident in his district involving two rottweilers attacking a small dog, and another involving the same two dogs and a woman pushing a baby buggy where the dogs rushed her but did not attack. He felt everything should be put into the ordinance to eliminate vicious dogs. Anything we can do to prevent a vicioius dog from being in the city is an asset. Ald. Treis stated if insurance companies will not accept a dog under homeowner coverage, they should not be permitted in the city. Breeds thought to be vicious that are allowed as pets are the same as having an unlocked gun in a home with children. It is not fair to the community to expose them to that type of danger. He said he had seen dogs come through the screen door. When campaigning door-to-door, he was attacked and had to use pepper spray. Certain breeds of dogs show an inclination to viciousness. He felt the ordinance should contain language prohibiting dogs that insurance companies won't insure. He felt the city can't prevent everything but felt we need to put "teeth" into the ordinance by making it difficult for people to keep bad dogs.

Ald. Ecks agreed with Ald. Treis that the standard of insurability should be used. The city should require a dog must be covered under homeowner's insurance. He said he was also bitten by a dog during campaigning. He expressed concern about proving a dog's behavior as threatening. He also asked about penalties for owners of unlicensed dogs. He said he has a garden plot on the county grounds and often sees dogs at large.

Ald. Krol said he is looking forward to a change in the ordinance, but felt further revisions are needed.

> Moved by Ald. Krol, seconded by Ald. Kopischke to hold the item for two weeks to have an opportunity to obtain feedback from constituents and for staff to incorporate committee suggestions regarding wording and to investigate points about insurability --

Ald. Becker suggested the ordinance criteria consider whether or not the postal service refuses to deliver mail to a house with a vicious dog.

Ms. Miller-Carter pointed out that the proposed ordinance seeks to protect children in that a dog could be deemed vicious even if it doesn't leave its owner's property if it is intimidating or menacing. She said she appreciated the committee's comments and pointed out there are certain circumstances where it may not be appropriate to require the owner to get rid of the dog. The aim of the ordinance is to get the public to report dogs without fear of retribution. The enforcement and remedies in the ordinance range from removal of the dog down to muzzles and restraints. This gives the city the option to determine what is best within a given situation. She said she realized it is unpopular to allow dogs classified as vicious within the city, but the definition of vicious is much broader in the proposed ordinance.

Ald. Herzog suggested a two-tiered system of classifying vicious dogs with one tier requiring removal and the other less punitive measures. Ms. Miller-Carter said they are working on a grading system with 3 levels and gave the example of a dog that has been the subject of one complaint in a year versus a dog with many complaints or a dog that has cause injury/harm. Ald. Herzog suggested using the two bite rule to require removal of the dog, and other methods based on seriousness of offense.

Dr. Kreuser said the health department usually finds out about a dog bite after the fact. People tend to want to keep this information from police records. There are a variety of different types of dogs. The concern of the health department is rabies, not necessarily the viciousness of the bite. Many times it is a family member of the dog owner that is the one bitten.

Ald. Treis reiterated that when an insurance company refuses to insure certain breeds it has to mean that they have a propensity for being vicious and they should not be permitted in the city. He said this ordinance revision has been worked on for many months and suggested the committee move it forward for introduction with any revisions being made at the next meeting.

Mr. Kesner said he had concerns about adding insurability requirements to the ordinance. He felt insurance companies had more leeway than the city would and it could make the ordinance unconstitutional.

The Chair asked Ald. Krol as motioner and Ald. Kopischke as seconder if they would consider withdrawing the motion to hold. Ald. Krol was willing to withdraw his motion; however, Ald. Kopischke was not willing to withdraw his second.

Vote on the motion to hold for two weeks was Ayes: 5, Noes: 2 (Treis, Ecks)

Request for Proposals for development of the 17 acre landfill site

Ms. Welch indicated the landfill site on a map and said over a year ago the committee looked at and discussed sing out a Request for Proposals (RFP) for development of the site. Of the 24 firms that were sent the RFP, only 3 proposals came back. As a result, the Council decided not to proceed and put the matter on hold. One of the considerations was that considerable time and money would have to be spent to fill the site.

Ms. Welch reported that she has been approached by a number of developers interested in developing the site. In conversation with developers many said they did not respond to the first RFP because there were too many restrictions such as only light manufacturing, one story buildings, etc.

Ms. Welch said she has prepared a draft RFP that opens up the site to new possibilities for development. She is requesting approval to issue the RFP. Any responses received can be evaluated for things such as burden to the school system, neighborhood, etc. The committee and Council can decide whether the city is ready to proceed with the site.

Ald. Herzog said he did not feel there was a big need to raise the elevation of the site as high as was indicated previously. He said the site is low but not excessively so. He felt removing the requirement would not tie the hands of developers. Ms. Welch said depending the type of development proposed for the site could dictate the level of fill.

Moved by Ald. Krol, seconded by Ald. Becker to recommend approval
of sending RFPs in the format described --

Ald. Heins asked about concerns regarding some language that was omitted from the new RFP. Ms. Welch said the original RFP limited traffic to access off 113th Street because the Council did not want to see additional traffic on 116th Street. This was done because the RFP called for a light manufacturing use and it was thought the majority of the traffic would be semis that would hinder police. Some of the developers interested in a new RFP have expressed the potential of a residential development. This would change the nature and volume of the traffic and the new RFP leaves use of 116th Street open for consideration.

Vote on the motion was Ayes: 8

The meeting adjourned at 9:33 p.m.

Carla A. Ledesma, City Clerk
City of Wauwatosa

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