

**ABSTRACT/SYNOPSIS OF THE ESSENTIAL ELEMENTS OF THE OFFICIAL
ACTIONS OF THE COMMON COUNCIL OF THE CITY OF WHITEWATER,
WALWORTH AND JEFFERSON COUNTIES, WISCONSIN.**

May 19, 2020

The regular meeting of the Common Council was called to order at 6:30 p.m. by Council President Lynn Binnie. The meeting was held virtually (via electronic device) due to the Coronavirus pandemic. MEMBERS PRESENT: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. MEMBERS ABSENT: None. LEGAL COUNSEL PRESENT: Wallace McDonell.

It was moved by McCormick and seconded by Singer to approve the Council minutes of 5/5/20 and to acknowledge receipt and filing of the Finance Committee minutes of 2/25/20; the Public Works Committee minutes of 3/11/20; and the Financial Reports for April, 2020. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

CITY MANAGER REPORT City Manager Clapper provided an update on the COVID 19 pandemic data. Wisconsin has not yet experienced a 14-day period of declining cases of COVID. It was noted that over the weekend, Whitewater did see an increase in “night life” in the City. Clapper reminded residents that the State recommendation of avoiding large gatherings and gatherings with those not in our housing unit is still in effect. Clapper indicated that the City of Whitewater buildings are not yet open to the public. The public can access all Departments by phone or e-mail, although many employees are working from home. On June 1st, the City buildings will open in some capacity. Details will be forthcoming. The Library does plan on having a June 1st opening, with specifics to come. Clapper reported that the Milwaukee Street / Elkhorn Road project continues, with most of the storm sewer installed. The Clay Street project is moving along as well. Clapper announced that on May 23, 2020, from 9-1, the City will host an electronic recycling event. Binnie requested an update from City Manager Clapper on the research relating to other meeting software options to hold virtual meetings.

STAFF REPORTS: City Manager Clapper announced that the Whitewater Police Department received a commendation from the Department of Defense, recognizing their support for the Guard and Reserve.

CITIZEN COMMENTS: None. Binnie confirmed today that the American Legion will not be sponsoring the Memorial Day parade or ceremony.

FIRST READING OF CHAPTER 9.22, PROHIBITING PET STORES FROM SELLING DOGS AND CATS. Councilmember Brown had requested adoption of an ordinance prohibiting pet stores located within the municipality to sell “puppy mill” and “kitten mill” pets. In response to questions, City Attorney McDonell indicated the ordinance could be expanded to include other animals. Councilmember Schulgit also supported expansion. Numerous citizens spoke in strong support of adoption of the ordinance. Councilmember Binnie suggested that the definition of “pet store” be clarified. **It was moved by Schulgit and seconded by Allen to amend the proposed ordinance to add rabbits to the ordinance.** AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

ORDINANCE NO. 1998
FIRST READING OF AN ORDINANCE CREATING CHAPTER 9.22 PROHIBITING PET STORES FROM SELLING DOGS, CATS, AND RABBITS

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

CHAPTER 1. Whitewater Municipal Code Chapter 9.22 is hereby created to read as follows:

Chapter 9.22 – LARGE SCALE COMMERCIAL ANIMAL BREEDING PROHIBITED

9.22.010 – Purpose and Intent.

WHEREAS, Most puppies and kittens sold in pet stores come from large-scale, commercial breeding facilities where the health and welfare of the animals is disregarded in order to maximize profits (“puppy mills” and “kitten mills,” respectively). According to The Humane Society of the United States, an estimated 10,000 puppy mills produce more than 2 million puppies per year in the United States.

WHEREAS, The documented abuses endemic to puppy and kitten mills include over-breeding; inbreeding; minimal veterinary care; lack of adequate food, water and shelter; lack of socialization, exercise and enrichment; lack of sanitation.

WHEREAS, Pet store puppies are often sick and have behavioral problems due to the substandard conditions they were likely born into often including that they were taken from their mothers at a very young age; they were transported in trucks filled with other young puppies and they were placed in a pet store cage with or near other puppies who are often sick.

WHEREAS, Pet stores often mislead consumers as to where the puppies and kittens in the stores came from and make false health and behavior guarantees. Many consumers end up paying hundreds or thousands of dollars in veterinary bills and suffer the heartbreak of having their new pet suffer, and in some cases pass away.

WHEREAS, According to the U.S. Centers for Disease Control and Prevention, pet store puppies pose a health risk to consumers, as over one hundred Americans have contracted an antibiotic-resistant *Campylobacter* infection from contact with pet store puppies.

WHEREAS, Current federal and state regulations do not adequately address the animal welfare and consumer protection problems that the sale of puppy and kitten mill dogs and cats in pet stores pose. Federal oversight of the commercial breeding industry is severely lacking.

WHEREAS, Prohibiting pet stores from selling dogs and cats is likely to decrease the demand for puppies and kittens bred in puppy and kitten mills and decrease the burden that pet store puppies and kittens that end up in animal shelters place on local agencies and taxpayers.

WHEREAS, The huge majority of pet stores, both large chains and small and family-owned shops, are already in compliance with the proposed ordinance as they already do not sell dogs and cats but rather profit from selling products, offering services, and in some cases, collaborating with local animal shelters and rescues to host adoption events.

WHEREAS, This ordinance will not affect a consumer’s ability to obtain a dog or cat of his or her choice from an animal rescue, shelter, or breeder who sells directly to the public.

WHEREAS, The council believes it is in the best interest of Whitewater, Wisconsin to adopt reasonable regulations to reduce costs to Whitewater, Wisconsin and its residents, protect citizens who may purchase cats or dogs from a pet store, help prevent inhumane breeding

conditions, promote community awareness of animal welfare, and foster a more humane environment in Whitewater.

9.22.020 - Definitions

Animal care facility - an animal control center or animal shelter, maintained by or under contract with any state, county, or municipality, whose mission and practice is, in whole, or significant part, the rescue and placement of animals in permanent homes or rescue organizations.

Animal rescue organization - any not-for-profit organization which has tax-exempt status under Section 501(c)(3) of the United States Internal Revenue Code, whose mission and practice is, in whole or in significant part, the rescue and placement of animals in permanent homes. This term does not include an entity that is a breeder or broker or one that obtains animals from a breeder or broker for profit or compensation.

Breeder - a person that maintains a dog or cat for the purpose of breeding and selling their offspring.

Broker - a person that transfers a dog or cat from a breeder for resale by another person.

Cat - a member of the species of domestic cat, *Felis catus*.

Dog - a member of the species of domestic dog, *Canis familiaris*.

Pet store - a retail establishment where companion animals are sold, exchanged, bartered or offered for sale to the general public. Such definition shall not include an animal care facility or animal rescue organization, as defined.

9.22.030 – Restrictions on the Sale of Animals

No pet store shall sell, deliver, offer for sale, barter, auction, give away, or otherwise transfer or dispose of cats, dogs, or rabbits. Nothing in this section shall prohibit pet stores from collaborating with animal care facilities or animal rescue organizations to offer space for such entities to showcase adoptable dogs, cats, or rabbits provided the pet store shall not have any ownership interest in the animals offered for adoption and shall not receive a fee for providing space for the adoption of any of these animals. Dogs may not be kept overnight.

9.22.040 – Penalty

A pet store that violates this section shall be subject to a civil penalty of \$500, and each dog, cat, or rabbit offered for sale in violation of this section shall constitute a separate violation.

9.22.050 – Severability

If any section, subsection, paragraph, sentence, clause or phrase of this Ordinance shall be declared invalid for any reason whatsoever, such decision shall not affect the remaining portions of this Ordinance which shall continue in full force and effect, and to this end the provisions of this Ordinance are hereby declared to be severable.

9.22.060 – Effective Date

This ordinance shall become effective 90 days after passage.

Ordinance introduced by Councilmember Brown, who moved its adoption. Seconded by Councilmember Allen. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None. FIRST READING APPROVED: May 19, 2020.

SECOND READING OF ORDINANCE AMENDING CHAPTER 7.22.020, PENALTIES RELATING TO VIOLATION OF GRASS CUTTING ORDINANCE.

**ORDINANCE No. 1997A
SECOND READING OF AN ORDINANCE AMENDING SUBSECTION 7.22.020
NUISANCE DECLARED – FAILURE TO CUT – COSTS.**

The Common Council of the City of Whitewater, Walworth and Jefferson Counties, Wisconsin, do ordain as follows:

SECTION 1. Whitewater Municipal Code Chapter 7.22 Subsection 7.22.020 is hereby amended to read:

The common council further declares in exercise of its police powers that any grass or weeds of whatever nature in excess of seven inches in height on all private premises within the city are a fire hazard, a public nuisance, and a potential health hazard. If any person in the city neglects or fails to cut the same after having been given a five-day written notice (only one such notice need be issued per property per calendar year, thereafter enforcement action may proceed without prior notice) by the city manager or his appointed representative, the City may cut or cause to be cut the grass or weeds and the cost thereof shall be charged at a rate of \$100 per hour with a minimum charge of \$100. Work lasting more than one hour will be billed an additional \$25. Any subsequent cutting of grass or weeds, which takes place within six months of the prior cutting, will be charged at a rate of \$150 per hour, with a minimum charge of \$150. Work lasting more than one hour will be billed an additional \$25. If the City contracts the service out for cutting grass or weeds, the City shall bill back to the property owner the cost of the contracted services, plus a 10% administrative cost fee, or, at the City's discretion, the street department's going rate for the work. The cost of such removal shall be reported to the Finance Division in writing with a description of the premises and, if not paid within 30 days of the date of the invoice being sent to the owner of the premises, shall be and become a special tax and lien against the premises and, if not previously paid, shall be inserted in the next ensuing tax roll as a special tax and lien against such premises; and such costs may, in the discretion of the common council, be collected by suit against the owner or occupant of the premises.

Ordinance introduced by Councilmember Allen, who moved its adoption. Seconded by Councilmember Schulgit. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None. ADOPTED: May 19, 2020.

Cameron L. Clapper, City Manager

Michele R. Smith, City Clerk

APPOINTMENT OF CITIZEN MEMBERS TO BOARDS AND COMMISSIONS. The Nominations Committee met, and made the recommendations for the following appointments:

Patrick Taylor - Board of Zoning Appeals; Lukas Schreiber - Community Involvement and Cable Television Commission; Jon Kachel - Community Development Authority; Joanna Marr Baker - Disability Rights Committee; Pat Blackmer - Landmarks Commission; David Stone - Plan and Architectural Review Commission; and Nicholas Alt - Urban Forestry Commission. It was moved by Allen and seconded by Singer to appoint the nominees as presented. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

STREET CONSTRUCTION CONTRACT WITH PAYNE AND DOLAN. Director of Public

Works Marquardt indicated that three bids were received for the 2020 Street construction contract. Work planned includes pulverizing and paving Wisconsin street, from Milwaukee Street to Coburn Lane, as well as Starin Road, from Park Street to Fremont Street. Also included in the proposal is the paving of the parking lots for the Dog Park and for Moraine View Park. It was moved by Allen and seconded by Schulgit to approve a contract with Payne & Dolan, Inc. in a sum not to exceed \$194,920.75 for the 2020 projects. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

MEMORANDUM OF UNDERSTANDING WITH UW-W FOR UPGRADE OF PRAIRIE STREET STREET LIGHTS.

DPW Director Marquardt informed Council that the University has requested the upgrade of the lights on Prairie Street, from Starin Road, thence north approximately 935 feet. The replacement is requested based on a Whitewater Student Government safety study. There are seven poles, each with two light fixtures. The 250-watt HPS fixtures would be replaced with 165-watt LED fixtures. The upfront cost to We-Energies is approximately \$11,620. The total monthly charge per light fixture would be reduced from \$17.65 per month to \$14.12 per month. For the fourteen fixtures, this results in a savings of close to \$50 per month. After 84 months, there is a further reduction of \$1.03 per fixture. The University would pay the upfront cost, with the City reimbursing the University for half of the cost in January of 2021. The reimbursement amount would be \$5,810. It was moved by Schulgit and seconded by McCormick to approve the MOU with UWW for the upgrade to Prairie Street street lights. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

AUTHORIZATION TO SELL UNUSED CITY-OWNED PROPERTY AT AUCTION.

DPW Director Brad Marquardt presented a list of items that the City no longer uses or needs, and requested approval to sell the property. Items included a portable stick welder that had not been used in over 10 years, overhead garage doors removed from the Fire Department, a Dodge Caravan; a 1988 Chevrolet pickup and a 2009 Crown Victoria. Other miscellaneous items were listed as well. It was moved by McCormick and seconded by Singer to authorize the disposal of the listed items, and to sell them at auction. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

CANCELLATION OF JULY 7, 2020 COUNCIL MEETING.

It was moved by McCormick and seconded by Singer to cancel the July 7, 2020 Council meeting. AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None.

REQUESTS FOR FUTURE AGENDA ITEMS AND POLCO QUESTIONS. None.

EXECUTIVE SESSION.

It was moved by Binnie and seconded by Brown to adjourn to Closed Session, **not to reconvene**, per Wisconsin Statutes 19.85(1)(e) “Deliberating or negotiating the purchase of public properties, the investing of public funds, or conducting other specified public business whenever competitive or bargaining reasons require a closed session. Item to be Discussed: Potential purchase by the City of Whitewater of approximately 104 acres of vacant land in the area of Highway 12, Highway P and Willis Ray Road, located in the City of Whitewater and Town of Whitewater. The Tax Id #'s for the 5 parcels being considered for purchase are as follows: DW1000007 (16 Ac); DW1000007C (29.71Ac); DW1000008C (20 Ac); DW1000008 (21.16 Ac), (Land Locked; /WUP00275 (18 Ac). (Land Locked). AYES: Schulgit, McCormick, Brown, Binnie, Palmer, Singer, Allen. NOES: None. ABSENT: None. The regular portion of the meeting adjourned at 8:05 p.m.

Respectfully submitted,

Michele R. Smith, Clerk