

**CITY OF NEENAH**  
**Public Services and Safety Committee Meeting Minutes**  
**Tuesday, March 11, 2014 - 7:00 P.M.**  
**Council Chambers - City Administration Building**

**Present:** Chairman Hillstrom, Aldermen Hamblin, Kunz, Lendrum and Stevenson

**Also Present:** Mayor Scherck, City Attorney Godlewski, Director of Public Works Kaiser, Police Chief Wilkinson, Superintendent of Parks Fink, Alderman Pollnow, Melissa Thomaschefskey, Traci Krutz, Lori Wallene, Karen Gibson

A quorum of the Common Council was present, but no action of the Council was taken.

**MINUTES: MSC Kunz/Stevenson to approve the minutes of the February 25, 2014, regular meeting.** All voting aye.

**APPEARANCES:** None

**PUBLIC HEARING:**

Appeal of Dangerous Animal Designation Pursuant to Neenah Code §3-16 - Melissa Thomaschefskey, c/o Country View Animal Hospital, 425 Tullar Road: City Attorney Godlewski outlined the procedures to be followed for this hearing. City Attorney Godlewski placed witnesses under oath as they were called to testify. The dangerous animal declaration was made following a bite incident involving the dog "Kale". Kale is described as a 9-month old male American Staffordshire/Labrador Retriever mix weighing approximately 65 pounds. Kale bit his owner, Lori Wallene, on the right hand on January 23, 2014.

Ms. Thomaschefskey clarified the ownership arrangement for Kale. She is employed by Country View Animal Hospital, where the dog was taken after the bite incident. She has been a veterinary technician for 22 years. Since the incident, Lori Wallene has signed over ownership of Kale to her. Ms. Thomaschefskey resides in Appleton. She also noted that the veterinary clinic is not involved in the matter. She intends to re-home Kale and is seeking a suitable permanent arrangement.

Chief Wilkinson reviewed his letter to Ms. Wallene and the police report for the bite incident that occurred at the home of Lori Wallene. Officer Carrow met the bite victim at Aurora Clinic where she was being treated. At that meeting, the victim/owner indicated that she wanted the dog euthanized. The dog was held for the required quarantine period at Country View Animal Hospital. Upon following up on the case, Chief Wilkinson found that Kale was not going to be euthanized, so he reviewed the case and subsequently made the declaration that Kale was a dangerous animal. Based on the information available, he believed that the bite was unprovoked. Chief Wilkinson indicated that he had spoken to the victim several times but didn't have any further information to provide to the Committee other than the notes already provided.

Ms. Thomaschefskey called Lori Wallene as a witness. She described events leading up to the bite incident and what occurred after the incident. She stated that her two dogs were outside when she needed to leave the house. She called the dogs inside. One of them responded, but Kale didn't. Approximately 10 minutes later she attempted to call Kale inside

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again, but he still didn't respond. She took a leash and looped it over Kale's neck and Kale started to come to the door. When she opened the door and stepped through, Kale balked and she began to pull the leash, which began to tighten around Kale's throat. As she pulled Kale into the house, the door hit Kale when it slammed shut. The dog appeared panicked because of the tight leash around its throat and having been struck by the door. Kale tried to shake the leash off. She was trying to loosen the leash when Kale clamped onto her right hand twice, the second time breaking a finger. She shut the dog off in the kitchen and called her fiancé who took her to the clinic. She acknowledged that she stated at the clinic that she wanted the dog euthanized. Kale was taken to the veterinary clinic for quarantine because she did not want the dog back in her home. On Monday, January 27, 2014, she met with Ms. Thomaschefskey at the veterinary clinic and met Kale. The dog was a little jumpy but did not respond to her with any fear or aggression. She determined that the dog was not appropriate for her household because of its high energy level but she did not want the dog euthanized. Upon questioning from Ms. Thomaschefskey, Ms. Wallene noted that Kale didn't growl at other dogs. She also stated that she did not handle the dog properly during the incident because of her frustration.

Chief Wilkinson questioned Ms. Wallene about the circumstances leading to her ownership of Kale. She related that she had found Kale in a box near some dumpsters while shopping at Woodman's in Appleton. She immediately had the dog evaluated. Kale was approximately 2-3 weeks old at the time. She crate trained Kale and took him through a training program with Lynn Shaw to get the dog socialized and comfortable with being touched. Kale passed that training. She did not proceed with follow-up training. Upon questioning from the Committee, she stated that the reason for not following with the additional training was not time or money related. She had intended to talk to Lynn Shaw because Kale was becoming more stubborn. She also stated that after her reunion with Kale on January 27, she realized that Kale was not the right dog for her household and she did not have the time to properly train and handle the dog. Ms. Thomaschefskey stated that in her conversation with Ms. Wallene they discussed the amount of time that would be needed to properly train Kale and the need to establish consistent, firm boundaries for the dog.

Upon additional questioning, Ms. Wallene indicated that she had struggled with Kale 2 to 3 minutes prior to the bite. She didn't feel that he had any choice but to bite since he felt threatened. The bite occurred on her hand where the leash was. She also stated that she had chosen to use the leash instead of grabbing Kale's collar because she thought that Kale might think that he was going to be taken for a walk and would more willingly go into the house.

Ms. Thomaschefskey stated that, based on her experience, Kale needs an owner with a firm hand who tells him what to do and makes him follow the rules. He needs consistent boundaries along with daily mental stimulation and exercise.

Upon additional Committee questioning, Ms. Wallene stated that Kale was jumpy at the January 27 reunion because he was excited. She stated that she is not afraid of the dog and that, knowing what she now knows about the breeds in Kale's mix, she would have realized

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that this type of dog was not a good fit for her family. She admitted that the bite was provoked by her actions. In reply to Chief Wilkinson's questions she reviewed her hand injuries. She also noted that Kale did not "air snap" and did not growl at people or other dogs.

Chief Wilkinson asked Ms. Thomaschefskey of the signs that Kale would exhibit if he doesn't receive mental stimulation and exercise. She noted that he would be prone to doing destructive, annoying things. She also stated that she is up-front with all of the families that she is interviewing for Kale's placement.

Ms. Thomaschefskey called Traci Krutz as a witness. Ms. Krutz is a veterinary technology student and was a foster home for Kale for about three weeks after the quarantine period. She stated that Kale acclimated very quickly to the other dogs in her household. She never witnessed growling or other aggressive behavior. She affirmed that she would keep Kale if circumstances allowed. Upon Committee questioning, she stated that she was firm in her approach with Kale but did not need to use a leash in order to get him to follow instructions.

The Committee noted that Ms. Thomaschefskey is not a city resident and questioned her goal in appealing the declaration. She stated several motivations for the appeal: 1) she is trying to clear Kale's name since she feels that the bite was provoked; 2) this declaration will follow the dog and could limit or discourage possible owners; 3) the declaration would prevent a Neenah resident from owning Kale. She reiterated that she is providing all available information about the incident to potential owners. Ms. Thomaschefskey then showed several videos of Kale taken since the bite incident.

The Committee questioned Chief Wilkinson on the rationale behind his declaration. He noted that these situations are not always clear-cut and the basis for the decision was the information provided in the Incident Report. He also indicated that if the information presented at the hearing had been available, his conclusion may have been different.

Ms. Thomaschefskey noted that none of the current candidates to adopt Kale live in Neenah, but she is concerned about the ramifications of what the declaration means if they own the dog. They want to give Kale a second chance. She also stated that trainer Lynn Shaw has offered the second training class for free.

The Committee noted that the dog's behavior was part of the reason that the incident escalated and wondered if it were possible that Kale would react that way again since provocation can happen in many ways. Ms. Thomaschefskey noted that Kale exhibited defiant behavior but had passed a temperament test admitted by a trainer where the dog is pestered to try to provoke a response.

City Attorney Godlewski clarified that if the declaration is upheld, any new owner of Kale would be subject to the provisions of the dangerous animal ordinance. If the declaration is overturned, only the normal rules relative to dogs would apply. Discussion followed on the dog licensing and its relevance in this case.

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**MSC Lendrum/Kunz to convene into Closed Session, pursuant to Wis. Stat. §19.85(1)(a) for the purpose of conducting deliberations regarding the Dangerous Dog Designation Appeal by Melissa Thomaschefskey, c/o Country View Animal Hospital, 425 Tullar Road. All voting aye**

**MSC Stevenson/Kunz to reconvene into Open Session to announce result of deliberations on appeal of Dangerous Animal Designation by Melissa Thomaschefskey, c/o Country View Animal Hospital, 425 Tullar Road. All voting aye**

Upon reconvening, City Attorney Godlewski read the Committee Findings and Conclusion of Law:

Committee Findings:

1. Lori Wallene, 1254 Honeysuckle Lane, Neenah, was bit by her dog, Kale, on January 23, 2014.
2. Lori Wallene's actions inadvertently choked Kale and provoked Kale to bite Lori Wallene.

The Conclusions of Law were:

1. The Appellant's dog Kale, based on the fact that Kale was provoked to bite, does not constitute a dangerous animal as defined at Neenah Code §3-1.
2. That, because Kale's actions in biting after provocation means that Kale does not constitute a dangerous animal, the Chief's designation of Kale as a dangerous animal under §3-16 is not justified.

**MSC Stevenson/Kunz to recommend Council approve the Committee document as presented and to confirm the Committee Findings and Conclusions of Law, which overturn Chief Wilkinson's designation of the Defendant-Appellant's dog as a Dangerous Animal under Neenah Code §3-16. Motion passed 4-1 (Ald. Lendrum voting No)**

REPORT

**COUNCIL REFERRALS:** None

**UNFINISHED BUSINESS:** None

**NEW BUSINESS:**

**Parks and Recreation:**

Emerald Ash Borer Management Plan: Committee reviewed with Parks Superintendent Fink the Emerald Ash Borer (EAB) Management Plan. The plan recommends removing all of the ash trees on park property or in public right-of-way over the next 5 years. This phased approach will allow a steady number to be removed. Sup. Fink noted that there is currently no cure for EAB, but if one is found in the future, the plan can be revisited to address that. He also noted the approach presented can be accomplished within current budgets. Committee discussed the safety of pesticides used for treatment. Ald. Hillstrom noted several lessons learned from Michigan and Ohio and expressed support for the plan. He cautioned that there will be some citizen upset with implementation of this plan, which is why

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it is important for the Council to understand and support it. Discussion followed on the progression of the beetle observations and options for using the felled trees. Sup. Fink noted that Neenah lies in a quarantine area and the nearest beetle observation is 15 miles from Neenah. Ald. Pollnow expressed concern with the plan expenditures in light of the fact that no beetles have been observed in Neenah. Sup. Fink noted that the purpose of the plan is to address the inevitability that the beetle will reach Neenah and manage the ash trees in a way that stays within budget and minimizes city liability. He also stated that the first phase of ash tree removal has started in the parks by getting rid of unhealthy trees. The next phase is removal and replacement of small terrace trees. Following discussion, **MSC Kunz/Lendrum to recommend Council approve the Emerald Ash Borer Management Plan.** All voting aye

**Police Department:** None

**Community Development Department:** None

**Public Works Department:**

Request to Purchase One (1) 2014/15 Tandem Axle Chassis (Fleet #1) with Equipment Package and One (1) 2014/15 Single Axle Chassis (Fleet #5) with Equipment Package: Committee reviewed the proposals received for the purchase of replacements for Fleet #1 and Fleet #5. The low proposal for the chassis was from Truck Country, but the quoted equipment did not meet the specifications for warranty or engine torque. The recommended chassis proposal was from Packer City International in the amount of \$182,975. The low proposal for truck equipment was from Monroe Truck Equipment in the amount of \$148,780. Committee reviewed the vehicle condition reports, pictures and maintenance history reports for current Fleet #1 and Fleet #5. Staff proposes to place the current fleet vehicles on Ebay. Committee discussed the truck life expectancy, the specified truck equipment, potential use of alternative fuels in fleet purchases and the use of WisconsinSurplus.com for disposal of the current equipment. Following discussion, **MSC Lendrum/Kunz to recommend Council approval for purchase of both chassis from Packer City International for a total of \$182,975 and both equipment packages from Monroe Truck Equipment for a total of \$148,780.** All voting aye

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Request to Purchase One (1) 2014 Skidsteer with Cold Planer: The Committee reviewed the proposals received from 4 vendors for the purchase of a skidsteer. The low cost proposal was received from Bobcat Plus, Inc., for a 5570 Bobcat for a cost of \$45,308 with a \$7,650 trade-in for a net cost of \$37,658. The Committee discussed the vehicle condition reports, pictures and maintenance history reports for the current 1995 Gehl skidsteer along with the use of this equipment and the attachments needed. Following discussion, **MSC Lendrum/Kunz to recommend Council approval for purchase of a skidsteer with cold planer from Bobcat Plus, Inc. for \$37,658 with budgeted funds (\$38,000) from 2013 CIP.** All voting aye

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Ordinance 2014-6 Noxious Weeds and Maintenance of Vegetation: Committee reviewed Ordinance 2014-6 relating to noxious weeds and maintenance of vegetation. This ordinance is a revision to the current nuisance ordinance related to noxious weeds and natural lawns. It is intended to simplify both the regulation of planned natural landscaping and the approach to unmanaged plant growth, including noxious weeds.

Director Kaiser reviewed several minor differences between the ordinance and the draft previously presented to Committee. Ald. Kunz, while supporting the proposed ordinance, expressed a concern with the phrasing of the definition for "Unmanaged Plant Growth". Following discussion, **MSC Lendrum/Hamblin to recommend Council approve Ordinance 2014-6 relating to noxious weeds and planned natural landscaping.** All voting aye

### Public Works General Construction and Department Activity:

1. (Contract 4-13, Storm Sewer and Bell Street Trail) The real estate consultant has contacted all parcels that are considered nominal purchases. Appraisals are being prepared for the CTI Paper parcel and the Work Adjustment Services parcel. Council approved the purchase for the Webex parcel. Staff is reviewing options for moving the sidewalk along the north side of Breezewood Lane closer to the street.
2. (Contract 10-13, Tullar Garage Fuel System Upgrade) The system has been operating for about two months. A final payment request will be brought to a future Board of Public Works.
3. (Contract 1-14, Plummer/Gruenwald/Chestnut) The bids were opened on March 11. An award recommendation will be brought to the March 19 Board of Public Works and Council meetings.
4. (Contract 2-14, Concrete Pavement Construction) Plans are being prepared in preparation for a late April bid.
5. Fuel System Contamination Detection - REI Engineering has performed their initial site investigation and has provided documentation to the WDNR.
6. Several locations of frozen storm sewer have been located and a number of strategies were used to try to clear them. On Friday, we located a section of sanitary sewer that had frozen. An examination of other relatively shallow, low flow sanitary sewer segments was being made to determine if freezing issues were more widespread.
7. Design of the traffic signal upgrade for the intersection of Commercial Street and Nicolet Boulevard is nearly complete. Staff will be meeting with the City of Menasha at the end of the month to review the proposed layout. Committee discussed the extent of the work involved in the upgrade.
8. Pavement markings are being evaluated as the pavement clears for development of this year's epoxy pavement marking contract. Our goal is to bid that work in April. Committee inquired as to plans to modify any current pavement marking.

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**Licenses:**

Beverage Operator License Applications: The Committee reviewed the beverage operator license applications for Audrey C. Murphy, Lisa A. O'Neill and Dustin J. Ross. Following discussion, **MSC Stevenson/Kunz to recommend Council approve beverage operator license applications for Audrey C. Murphy, Lisa A. O'Neill and Dustin J. Ross.** All voting aye.

Announcements/Future Agenda Items: None

**MSC Hamblin/Kunz to adjourn at 10:05 p.m.** All voting aye

Respectfully submitted,

Gerry Kaiser  
Director of Public Works

C.A.