

The City Council of the City of Anamosa met in Regular Session this February 12, 2018 in the Council Chambers at City Hall at 6:00 p.m. with Rich Crump, Kay Smith, John Machart, Rod Smith, Cody Shaffer and Betty Weimer present. Absent: None. Mayor Dale Barnes presided. Also present were Tammy Coons, Interim City Administrator/City Clerk; Dan Smith, Wastewater Superintendent; Rebecca Vernon, Library Director; Tyler Laing, Parks & Recreation Director; Bob Simonson, Police Chief, Travis McNally, Police Sergeant and Adrian Knuth, City Attorney. Guests Present Addressing the Council: Brian Darrow, Anamosa Veterinary Clinic; Chris Collins, 507 E. 1st St.; Randy Williams, MMS Consultants; Tom & Kim Durgin, 110 E. Main St.; Doug & KC Wortman, 106 E. Main St.; Mike Dearborn, 405 N. Division; John Broderson, 104 E. Main St.; Tammy Seeley, 117 N. Ford St.; Crystal Wherry, 207 S. Jones St.; and Randy Day, 304 S. Oak St. Mayor Dale Barnes called the meeting to order at 6:00 p.m. Roll call was taken with a quorum present.

Council Minutes

Motion by Weimer, second by Shaffer to approve the minutes from the January 22, 2018 Regular Council meeting. All Ayes. Motion Carried.

PUBLIC HEARING: NONE

Presentations

Brian Darrow, DVM, Anamosa Veterinary Clinic addressed the Council stating that he has known for several years that he should address the City Council on the current Pit Bull ban in the City of Anamosa. He first off wanted to preface this with the statement that a lot of dogs will bite and that in his business he assumes every dog will bite, until proven otherwise. He stated that there are responsible pet owners and irresponsible pet owners. Brian said that he was on the City Council years ago when this ordinance was enacted, but since that time the Pit Bull situation has changed. The Pit Bull breed is a very widespread breed in this country. He stated that singling out one particular breed is not good. He also stated that it would be very hard to defend. Brian stated that there are passionate people on both sides of this issue, but there are responsible people who want to own a Pit Bull. He stated that he believes the City of Anamosa needs to repeal this ordinance. Discussion followed on how this current ordinance came about. Adrian Knuth stated that he thought it was part of the overall ordinance codification and Brian stated that that's what was being done at that time. Brian also indicated that a few years ago communities started overturning these ordinances. He stated that from his own experience it can be very hard to determine just by looking at a dog if it has Pit Bull or is predominately Pit Bull. Brian was asked, in his opinion if Pit Bulls were more dangerous than any other breed and if he thought breed specific legislation works. Brian's answer to both questions were no. A member of the public present passed around pictures of multiple dogs that were half Pit Bull to illustrate how hard it is to tell by seeing the dog if it is predominately Pit Bull. Brian agreed and stated that the vicious or aggressive dog ordinance is the best way to address situations. Discussion followed on some statistics regarding other factors involved in dog bite incidents.

COMMUNITY BETTERMENT:

Ordinance Amending Chapter 55 of the City Code (Animal Protection and Control) to Drop Breed Specific Prohibition

Motion by Weimer, second by Crump to approve the **First Reading of Ordinance** Amending Chapter 55 of the City Code (Animal Protection and Control) to Drop Breed Specific Prohibition. Weimer suggested implementing a process to fine dog owners for not licensing their dogs. Adrian indicated that it could be processed as a simple misdemeanor for \$65 or as a municipal infraction which is up to \$750. Weimer asked how that would be determined. Adrian stated that we would have to get direction from the Council. Chris Collins, 507 E. 1st St. distributed a petition with 51 signatures, 47 of which are from Anamosa residents to remove the Pit Bull prohibition. He stated that he had spoken to multiple Humane Societies and they would be willing to register the dogs at the time adoption. Chris stated that he feels that requiring the dog owner to prove the breed by genetics testing violates due process. Adrian

stated that the issue is debatable. Chris also stated that landlords can deny Pit Bulls, as long the dog is not an emotional support or service dog. Chris cited the court case “Warren v. Del Vista Towers Condos” from 2015 (Florida) regarding emotional support dogs. Adrian stated that there is no legislation regarding emotional support dogs only on service dogs. Chris clarified that his information is regarding housing issues only. Rod Smith asked for clarification on the ordinance being considered and the result of voting yes or no. John Gorason addressed the Council asking for clarification on how this affects family or visitors bringing their dogs during a visit to Anamosa. Weimer clarified that she was only addressing dogs that belonged to residents here in Anamosa to be licensed. Roll Vote. 1- Nay, Rod Smith. All Remaining Ayes. Motion Carried.

Waiver to Subdivision Regulations Sections 166.07 – 166.12 for Plat of Survey Parcels 2018-13 and 2018-14

Tammy Coons, Interim City Administrator reviewed the background of the property and reason for the need for the waiver. Motion by Shaffer, second by Crump to grant a waiver to Subdivision Regulations Sections 166.07 – 166.12 for Plat of Survey, Parcels 2018-13 and 2018-14 as recommended by the Planning and Zoning Commission. Crump questioned the need for an easement for the fire hydrant located on the property. Randy Williams, MMS Consultants addressed the Council stating that this easement could be added before recording the plat. Discussion followed. All Ayes. Motion Carried.

Electric Line Easement for Interstate Power and Light Company from the City of Anamosa

Tammy reviewed the location of the proposed easement and stated that the City staff had reviewed the area to determine if there were any city utilities located in that area. There were none identified in that area, but there was a water line just to the east of that area, but this would be identified during the locate process. Motion by Shaffer, second by Machart to approve the Electric Line Easement to Interstate Power and Light Company by the City of Anamosa. All Ayes. Motion Carried.

Follow Up and Update on Previous Nuisance at 106 E. Main Street

Travis McNally, Police Sergeant addressed the Council that per the direction given at the 11/13/17 Council meeting this item is up for review and status update. Travis stated he did complete an inspection of both buildings and the smoke smell is substantially less. He invited both parties to comment, Wortmans and Durgns. Discussion followed. It was suggested and generally agreed upon by all involved parties that a follow up be done again the first Council meeting in June.

Motion by Shaffer, second by Crump to revisit the nuisance complaint at the first meeting in June, 2018 (6/11/18) to determine if the goal of no remaining smoke smell has been met. All Ayes. Motion Carried.

PUBLIC SAFETY:

Beer and Liquor Licenses

Motion by Rod Smith, second by Shaffer to approve the renewal of Class C Beer Permit with Sunday Sales Privileges for Tapken’s Convenience Plus. All Ayes. Motion Carried.

PUBLIC WORKS: NONE

FINANCE:

Resolution Setting the Date for Public Hearing on the Proposed Annual Budget for Fiscal Year Ending June 30, 2019

Motion by Shaffer, second by Rod Smith to approve **Resolution 2018-02** Setting the Date for Public Hearing on the Proposed Annual Budget for Fiscal Year Ending June 30, 2019. Roll Vote. All Ayes. Motion Carried.

Resolution Approving the Hiring and Setting Salaries of Part Time Employees for the Lawrence Community Center for Fiscal Year Ending June 30, 2018

Motion by Weimer, second by Crump to approve **Resolution 2018-03** Approving the Hiring and Setting Salaries of Part Time Employees for the Lawrence Community Center for Fiscal Year Ending June 30, 2018. Roll Vote. All Ayes. Motion Carried.

Purchase Option Price on 2017 Endloader and Required Notification

Motion by Crump, second by Shaffer to approve the purchase option price on the 2017 endloader finance contract in the amount of \$101,918.27 and authorize the Interim City Administrator to sign and send the required notification. All Ayes. Motion Carried.

CITY ADMINISTRATOR'S REPORT:

Tammy Coons updated the Council on the recent snow emergency event that began on February 8th. She explained that due to the wording in the notice that was placed with all local media stations and also on the City website, there was confusion by both the public and the media stations on the actual ending day and time of the snow emergency. Tammy stated that she had spoken to Chief Simonson on Saturday morning, February 10th when she became aware of the confusion and directed Chief Simonson to discontinue writing any snow emergency tickets from that point forward. She also stated to Chief Simonson that it would be at his discretion as to enforce or waive the tickets given after midnight on Friday, February 9th. Tammy stated that for future snow emergencies the midnight or noon times would not be used. The Council asked Chief Simonson how many tickets had been written after midnight on Friday and Simonson stated that there were 55 written. Chief Simonson asked for the Council's input regarding those tickets. Mayor Barnes asked that all those 55 tickets be voided.

MAYOR AND COUNCIL:

John Machart, Landfill – reported that they are still arguing with the land owner that violated their agreement.

John Machart, EMA/E911 – reported that EMA has a practice event scheduled in Cedar County. He also reported that E911 is working on updating both the Amber and Olin towers.

Public with Business with the Council on Items not on the Agenda

Mike Dearborn, 405 N. Division St. addressed the Council asking what the Council expects merchants and customers to do for parking during a snow emergency. He suggested that the City parking lots be cleared, at least partially so people have somewhere to park. Mike also questioned the City's current snow plowing process using tandem plowing. He then questioned the speed of the plowing on Main Street as that higher speed causing the snow being pushed all the way up against the Main Street businesses. Mike stated that the streets are not even being plowed from curb to curb.

John Broderson, 104 E. Main St. questioned if a skid loader should be used in the downtown area to pile the snow and also on other streets like Ford Street.

Doug Wortman, 106 E. Main St. stated that he noticed that the City of Monticello does not seem to have these snow plowing issues. Discussion followed.

Tammy Seeley, 117 N. Ford St. addressed the referencing the recent \$750,000 lawsuit that was settled for the City of Anamosa & Police Chief Bob Simonson and the continued employment of the Police Chief. She stated that the City has an obligation to provide a workplace that is free of harassment and discrimination. Tammy asked what the City's process was once the discrimination action was brought to the attention of the City. Adrian Knuth, City Attorney stated that a complaint was filed by Officer Ford with then City Administrator, Alan Johnson who met with Officer Ford and issued a summary report. He stated Officer Ford then chose to file a complaint with the Civil Rights Commission, who then issued a right to sue letter, from which Officer Ford then filed suit. Adrian stated that from the time of the complaint being filed with the Civil Rights Commission the matter was handled by the City's insurer, EMC Insurance and their primary counsel was Matt Novak from Cedar Rapids. The City's insurer was responsible for defending the City in both the Civil Rights complaint and the litigation that

followed. Tammy asked if the City had something in writing a policy to follow once these allegations are made.

Adrian said that as part of the personnel policy, if you believe there is discrimination it is brought to the attention of the supervisor and ultimately the City Administrator or in absence of the City Administrator the Mayor and then ultimately the Council if it goes beyond that point. Tammy then asked if placing an employee on non-disciplinary administrative leave would allow time to have a full and fair investigation and asked if anyone was placed on administrative leave during this investigation. Adrian stated no there wasn't and it wasn't as if the City was going to take on an independent investigation when the City pays premiums for the insurance and also for the very capable defense. Discussion followed on when the first complaint was made and when the complaint was filed with the Civil Rights Commission. Tammy then questioned again the City's policy on how a complaint is handled and what steps are followed. Adrian stated that the City has a contractual obligation with the insurer to provide them notice when a complaint is filed with the Civil Rights Commission and there is a potential of litigation. Tammy then confirmed that of the \$750,000 settlement, \$50,000 was paid by the City. She asked where that payment comes from. Adrian stated and Tammy Coons confirmed that it was paid out of the General Fund. Tammy asked who the Police Chief's supervisor was. Adrian stated that in the hierarchy the department heads report to the City Administrator and in the absence of the Administrator it would be the Mayor. Tammy then asked if evaluations are done on the Chief of Police and if so how often are they done. Adrian stated that if he understands the contract for the Chief of Police, evaluations are to be done annually by the Administrator and then in some fashion the City Administrator reports the results of the evaluation to the Council. Tammy then questioned the information that she read that indicated that this situation was identified over a period of time back to 2010 with a complaint to the sergeant. Tammy questioned how this information related to the evaluations. Adrian stated that he did not know if the Administrator was made aware of the complaint to the sergeant. Adrian stated that when a complaint was filed with previous City Administrator Alan Johnson, who met with Officer Ford and then issued a summary report and Alan did not find it to be a gender discrimination issue, but possibly more of a personality conflict. Tammy stated that someone thought it was a discrimination to pay a lawsuit for \$750,000. Adrian stated that there was no admission of liability and that decision was made by EMC Insurance and it was not something that the Council was consulted on or even he was consulted on. He stated he wasn't even sure if the defense counsel hired by EMC was even consulted on prior to the mediation session. Adrian stated that EMC made that decision based on the facts as they perceived them and the political and social climate of the times. This was December 2017 and it was nearly a "perfect storm" if you had a gender discrimination case. Adrian stated there are always a lot of factors that play into these type claims. Tammy asked if the Council had input on the suit and Adrian stated that the City's input was to commit up to \$50,000 if the case could be settled. He also stated that the parameters of the settlement were left in the capable hands of the insurer. Tammy questioned how the settlement would affect the City's insurance rates. Adrian stated that he did not know and that no discussions had been held regarding that with any representative of EMC. Tammy then expressed her concerns relating to the public image of the City and that she hopes that we hold the City officials accountable for their actions and teach our children and community members that we hold our City officials to a higher standard and that we employ people who have a higher integrity.

Crystal Wherry, 207 S. Jones St. addressed the Council expressing concern that the City swept a lot of that under the rug. She didn't feel that the officer's concerns were addressed and that \$50,000 could buy a lot of ballistic vests, like the one not provided to Officer Ford. Crystal expressed concern that Amy was being dismissed. Adrian clarified that he was only reciting the facts and not expressing any side on the issue. Discussion followed between Adrian and Crystal with Crystal asking that an admission be made that there was some sort of wrong doing and that the City was aware of it. Discussion followed on the timing of the initial complaint filing with the City and the complaint being filed with the Civil Rights Commission. Crystal asked what the plan would be moving forward and if there would a policy put into place. Adrian stated he did not know, but it would be a Council decision to review the personnel policies and do an evaluation of the Police Chief. Discussion followed on when the Police Chief's last evaluation was and what was listed in the Chief's employment contract. Crystal states that this information needs to be known. Crystal then went on to say how Officer Ford saved her son's life and

she tried to make a donation for safety equipment and training, specifically the training that Officer Ford had received for

being able to save her son's life and also to replace an expired vest for Officer Ford. She was told that a donation would go to the General Fund. She asked again what the Council was going to do moving forward. Adrian stated before the Council takes any action, he would like to review the Chief's employment contract to make sure that whatever action the Council takes, be within the letter of that contract. Discussion followed. Tammy Coons was directed to send a copy of the contract and personnel policies to City Attorney, Adrian Knuth and all Council members. Crystal asked if the public could be informed of when the last evaluation had been done on the Chief of Police and when the next was completed. Adrian stated that after review of the contract he would send out a memo to the Council and City Clerk identifying when and under what circumstances the evaluation could be implemented and the process to address it. Adrian said there will be a lot of documents to review. There may be some complications regarding what is available to us as there are two defendants' named in the case, the City and Chief Simonson. Adrian went on to suggest there may be a couple different ways to address this, one way being a committee. More discussion followed on the setting of the review such as a closed or open session per the Iowa Code.

Randy Day, 304 S. Oak St. reviewed emails from the court file on the case sent by Chief Simonson to a number of his subordinates. He gave the titles of the emails: "Jenny Craig for Men" "Do you remember the hoola hoop?", "Chinese Wedding Night" "Afternoon Sex" "Who Knew". Randy stated that the council needs to assess the behavior. He said he would appreciate it if the Council did the homework and get the facts.

Tammy Seeley asked the Council how long the Chief is under contract right now. Adrian and the Council did not know exactly. Tammy then asked if the City has an employee handbook and if the City employees get one and the last time the handbook was updated. Tammy Coons, stated that yes there is a personnel policy that all employees receive and it has been updated as policies and issues come up and she has not seen it reviewed and updated as a whole. Tammy Seeley asked if the handbook addressed harassment and discrimination, use of city equipment, electronic devices, text messages and emails. Tammy Coons stated that the handbook has sexual harassment defined and stated that city equipment cannot be used for personal use. Tammy Seeley asked about ethics and code of conduct. Tammy Coons stated yes that is addressed in the handbook. Tammy Seeley suggested that the handbook be reviewed completely.

Chris Collins addressed the Council stating he disagreed with the attorney representing the City to dismiss this young lady right here as this being a "perfect storm" as an excuse.

Crystal Wherry addressed the Council and explained why she felt the City was dismissive of the case. While she was out for a birthday party one night, she was at one of the bars down town and the Chief of Police walked into the bar. Crystal stated that she taken the change from one of the bartenders and put it in her bra strap as women sometimes do and the Chief walked up to her and says "What are you doing right there? And then he reaches for my shirt. Crystal said that this was absolutely not appropriate.

Adjournment

Motion by Shaffer, second by Rod Smith to adjourn at 7:43 p.m. All Ayes. Motion Carried.

Dale Barnes, Mayor

ATTEST:

Tammy Coons, City Clerk