

COUNCIL MEETING – AUGUST 25, 2008

A regular meeting of the Council was held on Monday, August 25, 2008 at 7:00 p.m. and opened with the Pledge of Allegiance to the Flag.

The following were present: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

Also present: Dale Krajniak, City Manager, Jane M. Blahut, Finance Director/Clerk and Dennis J. Levasseur, City Attorney

Excused Absence: Councilmember Theokas

MINUTES – JULY 28, 2008

Mayor Heenan presented to Council for consideration the minutes of the July 28, 2008 meeting for approval as presented.

Motion by Councilmember Kennedy, supported by Councilmember Robson, to approve the minutes of the July 28, 2008 meeting as presented.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

TREE PLANTING BIDS

Mayor Heenan presented to Council for consideration the bids received in response to a request for tree planting bids collaboratively with Grosse Pointe City and Grosse Pointe Farms.

City Manager stated that Grosse Pointe Park would save \$45.00 per tree by bidding it out with the other Grosse Pointes. He noted that these trees would replace the Emerald Ash trees.

The Administration recommends that the bid be awarded to the low bidder, Marine City Nursery, in the amount of \$38,500.

Motion by Councilmember Denner, supported by Councilmember Clark, to award the bid to the low bidder, Marine City Nursery in the amount of \$38,500.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

ROCK SALT BIDS

Mayor Heenan presented to Council for consideration the bids received in response to a request for rock salt for the upcoming winter season.

The bids received were as follows:

	<u>Per Ton FOB Mine</u>	<u>Per Ton FOB Yard</u>	<u>Per Ton FOB – GPP</u>
Morton Salt	\$71.22	\$71.22	\$71.22
Cargill	Unable to bid		
North American Salt	Unable to bid		
Detroit Salt Company	Unable to bid		

The Administration recommends the bid be awarded to the only bidder, Morton Salt, in the amount of \$71.22.

Motion by Councilmember Clark, supported by Mayor Heenan, that the bid be awarded to the only bidder, Morton Salt, in the amount of \$71.22 per ton.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

ORDINANCE REVIEW

Mayor Heenan presented to Council for consideration an ordinance to amend the Code of the City of Grosse Pointe Park by revising, renumbering and amending Article II of Chapter 6 (Section 6-16 to Section 6-30) pertaining to dogs.

Dennis J. Levasseur, City Attorney, presented the ordinance as follows:

City of Grosse Pointe Park

Ordinance No. 193

**AN ORDINANCE TO AMEND THE CODE OF THE CITY OF GROSSE
POINTE PARK BY REVISING, RENUMBERING AND AMENDING ARTICLE
II OF CHAPTER 6 (SECTION 6-16 TO SECTION 6-30) PERTAINING TO DOGS**

The City Of Grosse Pointe Park ordains:

Section 1: Sec. 6-16 to and including Sec. 6-30 of the Code of the City of Grosse Pointe Park are amended, revised, renumbered, and added to read in their entirety as follows:

Sec. 6-16. Definitions.

For purposes of this Code, the term:

- (a) "Dangerous dog" means any dog that may reasonably be assumed to pose a threat to public safety as demonstrated by any of the following behaviors:
 - (1) Causes an injury to a person or domestic animal;
 - (2) Has been designated as a dangerous dog and engages in behavior that poses a threat to public safety as described immediately below;
 - (3) Without provocation, chasing or menacing a person or domestic animal in an aggressive manner;
 - (4) Running at large and impounded or owners cited by the Public Safety Department two (2) or more times within any 12-month period; and
 - (5) Acts in a highly aggressively manner within a fenced yard/enclosure and appears to a reasonable person able to jump over or escape.
- (b) "Injury" means any physical injury that results in broken bones or lacerations that requires medial treatment, including, but not limited to, sutures or cosmetic surgery.
- (c) "Proper enclosure" means secure confinement indoors or secure confinement in a locked pen, fenced yard, or structure measuring at least 6 feet in width, 12 feet in length, and 6 feet in height, capped if there is a dog house inside or if dog can climb fence, with secure sides, which provides proper protection from the elements for the dog, is suitable to prevent the entry of young children, and is designed to prevent the animal from escaping while on the owner's property.
- (d) "Owner" means any person, firm, corporation, organization, or department possessing, harboring, keeping, having an interest in, or having control or custody of a dog. Any person who shall permit any dog to remain about any premises owned or occupied by him for a period of five (5) days shall be deemed the owner of such dog for the purposes of this Code.

- (e) "Impound" means taken into the custody of the Public Safety Department or the organization authorized to enforce the dangerous dog law of this City.
- (g) The term "Responsible person," as used herein, means a person at least 18 years old who is familiar with the dog and has the size and experience to be able to keep the dog under complete control at all times.
- (h) "Pit Bull," as used herein, shall be defined as any of the following:
 - (1) A bull terrier breed of dog;
 - (2) A Staffordshire bull terrier breed of dog;
 - (3) An American Staffordshire bull terrier breed of dog;
 - (4) An American pit bull terrier breed of dog; or
 - (5) A dog of mixed breed or of other breed than the breeds listed in this section, which breed or mixed breed is known as a pit bull dog or pit bull terrier and has the appearance and characteristic of being predominantly of any of the breeds listed in this subsection or any combination thereof.

Sec. 6-17. Presumption of ownership.

Any person(s) who shall permit any dog to remain about any premises owned or occupied by him and/or her for a period of five (5) days shall be deemed the owner of such dog for the purposes of this Code.

Sec. 6-18 Licensing of Dogs.

- (a) No person shall keep or harbor any dog four (4) months old or older within the City without first obtaining a license for such dog from the Public Safety Department (including paying any fee prescribed by the Public Safety Department). Licenses shall be issued by the Public Safety Department. No license shall be issued for any dog six (6) months old or older unless satisfactory evidence of rabies immunization for such dog is presented with the application for such license. Evidence of vaccination within twelve (12) months of the date of application shall be deemed satisfactory evidence of immunization. Upon issuance of a dog license, the Public Safety Department shall provide a metal to be attached to the collar of the licensed dog.
- (b) The first violation of Sec. 6-18(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Sec. 6-18(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Sec. 6-18(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Sec. 6-18(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500

fine and/or 90 days in jail. The fines described in this section shall be in addition to cost assessments, expenses and/or damages assessed under the law.

Sec. 6-19. Running at large.

- (a) No person owning, possessing or having charge of any dog four (4) months old or older shall permit such dog to be at large, unless it is wearing the dog tag issued for it and is on a leash held by a person capable of restraining the actions of the dog. A dog shall be deemed to be at large, unless it is in a private building or within a completely fenced in area or is in a container or vehicle so closed as to prevent the dog's exit without a person's assistance.
- (b) The first violation of Sec. 6-19(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Sec. 6-19(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation of Sec. 6-19(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Sec. 6-19(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

Sec. 6-20. Removal of droppings.

- (a) No person having charge of any dog upon property other than that owned by such person shall allow such dog to defecate or cause a nuisance upon any public or private property, unless such person shall promptly remove such droppings and dispose of the same in a sanitary manner
- (b) The first violation of Sec. 6-20(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Sec. 6-20(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$100 fine. The third violation and all subsequent violations of Sec. 6-20(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$150 fine. The fourth violation of Sec. 6-20(a) within thirty-six months shall be a misdemeanor with a maximum penalty of a \$500 fine and/or 90 days in jail. The fines described in this section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

Sec. 6-21. Prohibited activities.

- (a) No person shall own, harbor, or keep any dog, licensed or unlicensed, which:
 - (1) Causes annoyance to the people in the neighborhood by loud or frequent or habitual barking, yelping or howling; or

- (2) Is a nuisance in the vicinity where kept because it destroys or trespasses upon the property of others.
- (b) The first violation of Sec. 6-21(a) within thirty-six months shall be a civil infraction with a maximum penalty of a \$50 fine. The second violation of Sec. 6-21(a) within thirty-six months shall be a civil infraction with a maximum penalty of \$100 fine. The third violation of Sec. 6-21(a) within thirty-six months shall be a civil infraction with a maximum penalty of \$150 fine. The fourth violation of Sec. 6-21(a) within thirty-six months shall be a misdemeanor with a maximum penalty of \$500 fine and/or 90 days in jail. The fines described in this section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

Sec. 6-22. Determination of a dangerous dog.

- (a) After an investigation, that shall be initiated within fourteen (14) days after the situation becomes known to the Public Safety Department, the Public Safety Department is authorized to make a determination whether a dog is dangerous based on the factors listed in Sec. 6-16(a), above, and shall notify the owner of the dog in writing by certified mail and/or hand delivery of that status within five (5) days after the completion of the investigation.
- (b) Following notice to the owner, if the Public Safety Department or its designee has probable cause to believe that a dog is a dangerous dog and may pose a threat to public safety and welfare, the Public Safety Department may impound the dog pending disposition of the case or until the dog owner has fulfilled the requirements of Sec. 6-24 of this Code. The owner of the dog will be liable to the City of Grosse Pointe Park for the costs and expenses of keeping the dog.
- (c) Upon notice, the owner may, within ten (10) business days after a determination that a dog is a dangerous dog, bring a petition to the municipal court seeking review of the determination. A decision by the municipal court overturning the Public Safety Department determination shall not affect the Public Safety Department's right to later declare a dog to be a dangerous dog, or to determine that the dog poses a threat to public safety, for the dog's subsequent behavior.

Sec. 6-23. Exceptions.

No dog shall be declared a dangerous dog if:

- (a) The dog was used by a law enforcement official for legitimate law enforcement purposes as determined by the Public Safety Department;
- (b) The threat, injury, or damage was sustained by a person:
 - (1) Who was committing, at the time, a willful trespass or other tort upon the premises lawfully occupied by the owner of the dog;

- (2) Who was provoking, tormenting, abusing, or assaulting the dog or who can be shown to have repeatedly, in the past, provoked, tormented, abused, or assaulted the dog; or
 - (3) Who was committing or attempting to commit a crime; or
- (c) The dog was:
- (1) Responding to pain or injury, or was protecting itself, its offspring; or
 - (2) Protecting or defending a human being within the immediate vicinity of the dog from an attack or assault.

Sec. 6-24. Consequences of a dangerous dog determination.

- (a) If the Public Safety Department determines that a dog is a dangerous dog under Sec. 6-22 of this Code, the owner shall comply with the provisions of Sec. 6-25 of this Code and any other special security or care requirements the Public Safety Department may establish.
- (b) The Public Safety Department may require impoundment of the dog (at the owner's expense) until the owner of the dog has satisfied all these requirements. The requirements must be met within thirty (30) days. If, after thirty (30) days, the owner has not satisfied all the requirements of the holding permit, the animal may be euthanized on the thirty-first (31) day.

Sec. 6-25. Dangerous dog owner responsibility.

It shall be unlawful to:

- (a) Not to ensure that the dangerous dog has a current rabies vaccination;
- (b) Permit a dangerous dog to be outside a proper enclosure unless the dangerous dog is under the control of a responsible person as defined in Sec. 6-16(g), muzzled, and restrained by a lead not exceeding four (4) feet in length. The muzzle shall be made in a manner that will not cause injury to the dog or interfere with its vision or respiration but shall prevent it from biting any person or animal;
- (d) Fail to notify the Public Safety Department immediately upon escape if a dangerous dog is on the loose, is unconfined, has attacked another domestic animal, has attacked a human being; within five (5) business days if the dog has died; and within twenty-four (24) hours if the dog has been sold or has been given away. If the dangerous dog has been sold or given away, the owner shall also provide the Public Safety Department or his/her designee with the name, address, and telephone number of the new owner of the dangerous dog;
- (e) Fail to surrender a dangerous to the Public Safety Department or his/her designee for safe confinement pending a disposition of the case when there is a reason to believe that the dangerous dog poses an imminent threat to public safety; or

- (f) Fail to comply with any special security or care requirements for a dangerous dog the Public Safety Department or his/her designee may have established pursuant to the finding that the dog was dangerous.

Sec. 6-26. Penalties.

An owner of a dangerous dog who violates any provisions of Sec. 6-24 through Sec. 6-25 shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed \$500 or imprisonment not to exceed 90 days. The fines described in this section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

Sec. 6-27. Pit Bull Prohibition.

- (a) The City of Grosse Pointe Park finds that the dog breeds commonly known as “pit bulls,” as defined in Sec. 6-16(h), cause and pose an inherent danger to the public health, welfare, and safety. Therefore, no person shall own, harbor or keep any dog commonly described as a bit bull terrier within the City.
- (b) Any such dog shall be impounded by the Public Safety Department and held until a determination is made by the municipal court that the animal is a pit bull terrier. The court shall order that any dog determined to be a pit bull shall be destroyed or removed from the City.
- (c) Any person who violates Sec. 6-27 (a) shall be guilty of a misdemeanor, and, upon conviction, shall be punished by a fine not to exceed \$500 and/or imprisonment not to exceed 90 days. The fines described in this section shall be in addition to cost assessments, expenses, and/or damages assessed under the law.

Councilmember Denner stated that there are pit bulls in the community currently, what is to become of them?

Dennis J. Levasseur, City Attorney, stated that the owner of the dog would have to comply with the ordinance and remove such dogs from the city.

Councilmember Robson recommended the landlord be responsible for the tenants owning pit bulls as well as the tenant.

Dennis J. Levasseur, City Attorney, stated that the owner of the dog would be held accountable the way the ordinance as proposed.

Councilmember Robson inquired if the owner would be responsible to carry a liability insurance policy and obedience training?

Director of Public Safety Hiller stated that the proposed ordinance does not require liability insurance or obedience training.

Councilmember Denner stated that he prefers the ordinance the way it is presented which holds the owner of the dog responsible rather than the landlord. Landlords are held responsible for their properties.

Councilmember Grano inquired what the definition of a fenced yard would be. Many residents install underground invisible fences.

Another resident of Harcourt presented the Council with evidence of the dangers to the public safety and welfare posed by pit bulls. Additionally, the Council has been provided with evidence that not only attacks by pit bulls within the Detroit Metropolitan area but also attacks throughout the United States and other countries. The Council was advised that communities throughout the Detroit Metropolitan area, including the City of Detroit as well as Grosse Pointe Woods have enacted or are considering the enactment of bans on pit bulls. The information provided to the Council is incorporated into these minutes.

Resident of Harcourt stated that he installed an invisible fence at a cost of about \$2,000. He noted that his dogs cannot leave his yard; however, other dogs can enter his yard. He noted he is very much in favor of adopting an ordinance that prohibits pit bulls.

Councilmember Clark stated that if a dog is loose and it happens too many times, there is a process in the court to follow.

Motion by Councilmember Denner, supported by Councilmember Kennedy to adopt Ordinance No. 193 as presented.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused absence: Councilmember Theokas

M.E.R.S. DELEGATE

Mayor Heenan presented to Council for consideration the appointment of Employer Delegate to the Municipal Employees Retirement System Conference scheduled for September 30, 2008.

Mayor Heenan appointed Jane M. Blahut as Employer Delegate to the Municipal Employees Retirement System Conference.

Motion by Mayor Heenan, supported by Councilmember Clark, to appoint Jane M. Blahut as employer delegate to the M.E.R.S. annual conference.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

PURCHASE OF BOBCAT/TOOLCAT

Mayor Heenan presented to Council for consideration the request to purchase a Bobcat/tool cat for the Department of Public Works.

City Manager stated that the only bid received was by Motor City for a 56HP Diesel engine in the amount of \$39,833.00.

The bobcat would be used for snow removal and general public works duties.

Motion by Councilmember Clark, supported by Councilmember Robson, to authorize the approval for the acquisition of a bobcat/tool cat from Motor City in the amount of \$39,833.00

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

EXECUTIVE COMMITTEE SESSION

Mayor Heenan requested that an Executive Committee Session be held immediately following the regular meeting pursuant to acquisition of real estate.

Motion by Mayor Heenan, supported by Councilmember Denner, that an Executive Committee Session be held immediately following the regular meeting pursuant to acquisition of real estate.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

CITIZEN COMMENT

Post Office:

A Wayburn resident expressed dissatisfaction of the mail delivery in her neighborhood. She requested the City pursue getting Grosse Pointe Park out of the Fox Creek Post Office.

Mayor Heenan directed the City Manager to forward a letter to the Fox Creek Post Office inquiring the same.

Blight Concern:

A Lakepointe resident informed the Council of the blighted property at 1311-13 Lakepointe and inquired what is being done?

City Manager directed the Public Service Director to drive by this property and follow up on the same.

LAKESHORE DISTRICT MEMBERSHIP COMMITTEE

Members of the Lakeshore District Membership Committee for the Boy Scouts of America presented a brief overview of the goals for the boy scouts. They provided contact information for anyone in the community interested in joining the Lakeshore District Membership for the boys in the community.

With no further business, the meeting recessed.

The meeting reconvened to open door session.

FOUNDATION PROJECT

Councilmember Denner presented to Mayor Heenan and Members of Council the proposed project of a putting and chipping green that would be constructed at Patterson Park and funded by the Grosse Pointe Park Foundation.

The Foundation Members are meeting on Tuesday, August 25, 2008 in the morning to vote on the project.

Motion by Councilmember Grano, supported by Mayor Heenan, to accept the proposed project of a putting and chipping green that would be constructed at Patterson Park and to graciously accept the Foundation's generous gift of funding the project.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

FINANCE REPORT – JULY 2008

Mayor Heenan presented the invoices exceeding \$5,000 for the month of July 2008 for review.

Motion by Councilmember Denner, supported by Councilmember Robson, to approve the invoices exceeding \$5,000 for the month of July 2008 as presented in accordance with Section 2.249 of the Charter.

AYES: Councilmember Clark, Kennedy, Denner, Robson, Grano and Mayor Heenan

NAYS: None

Excused Absence: Councilmember Theokas

With no further business the meeting adjourned.