

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
November 4, 2008

Hearing:

7:00 PM – Hearing on Complaint brought pursuant to Wis. Stats. Sec. 125.12(2)(ar) regarding the revocation of the 2008-2009 “Class B” Alcohol Beverage License of Porticello, Inc., Anthony R. Pipito, Agent.

Roll Call: Aldermen Cochrane, Hollatz, Miller, Schmitter, Nold. Larsen and Antonneau

Absent: Alderman Morgan (Arrived at 7:05 PM)

Others present: Atty. Michael Schober and Brenda Young, Dodge County Reporter

Young swore in all persons intending to speak on the revocation hearing of the 2008-2009 “Class B” Alcohol Beverage License of Porticello, Inc., Anthony R. Pipito, Agent. Those being: Anthony R. Pipito and Diane Coenen, City Clerk.

Coenen stated the reason for the revocation hearing is because on June 26th Council made a motion to renew the “Class B” Alcohol License of Porticello, Inc. on the condition that an agreement is reached with City representatives by June 30th for delinquent chargeback s totaling \$18,696.25. On June 30th, Pipito agreed, in writing, to pay the sum of \$10,000.00 by September 30th to settle the chargeback claim. Coenen received a complaint from Diane Gard that the \$10K was not paid on 9/30/08. Additionally, two exhibits were handed out to Council: Ex. 1 – Copies of the summons served on 10/31/08 to Michael Krill (representing Pipito), the complaint filed by Gard dated 10/30/08 and a letter dated 6/30/08, signed by Pipito, agreeing to pay \$10K by 9/30/08; and Ex. 2 – Common Council meeting minutes of June 26, 2008.

Krill questioned the legality of City ordinances: 9.935 (fees), Section 4 (reimbursable costs), 17.905, 17.908 and 17.902 and questioned why the two applications filed by the Silver Lake Environmental Association (SLEA) were not charged back for the attorney fees incurred for the Zoning Board of Appeals (ZBA).

Pipito stated that he did not ask for an attorney to be present at the ZBA, but rather SLEA did. He had planned to use the \$10K reimbursement grant from the City to pay for the chargeback claim and questioned why the City Clerk denied him the grant, when Council should be the one making that decision. He also wanted to know who else had not received the grant reimbursement they applied for. He stated he did research on variance attorney fees and feels that those chargeback’s will stop people from applying for variances. He stated he did not have all the facts when he agreed to settle the chargeback claim for \$10K. He asks for justice as a taxpayer, resident and businessman and feels he has been treated wrong from the beginning. He has spent \$2M on the restaurant and has done everything the City has asked him to do. His deed title states the property is commercial and since 1915, the property has always been a restaurant. He stated that the Police Dept. did not respond properly to the issue of Peter Holmes destroying his property. No other comments were received. The hearing closed at 7:45 PM.

Public Hearings:

7:45 PM – The purpose of the hearing is to hear public comments on the 2009 Proposed City Budget.

Kitsembel reported that the Finance Committee and Committee-of-the-Whole had met, but no recommendation had been given yet for the proposed 2009 budget. She then reviewed information put together in a power point presentation format (copy of which is on file in the Clerk’s office and will also be distributed to the Aldermen) that encompassed the history of the property tax levy and levy increases, budget factors, compliance with levy limits, general fund revenue sources, expenditures, equalized value tax rate and taxes paid on an average house. In summary, the budget as proposed maintains service levels to the taxpayers although the State imposed levy limits presented challenges; includes a \$6M investment to improve City streets with no levy effect; includes expansion of City services for the new Fire Station #2 and maintains a low tax rate. She ended by referring to an article in the Journal/Sentinel where the writer of the article stated that Oconomowoc was one of three cities you should buy into. No other comments were received. The hearing closed at 7:57 PM.

7:57 PM – The purpose of the hearing is to hear public comments for the establishment of a special charge pursuant to §66.0627, Wis. Stats., for the collection and disposal of garbage and refuse for the year 2009. The proposed charge is \$175.00 for a single residential unit, which is an increase of \$10.00 from the 2008 charge of \$165.00. The special charge so established shall be payable in full at the time of the initial payment of real estate taxes for 2008.

Kitsembel reported that a \$10.00 increase (6%) in our annual charge from \$165 to \$175 is being recommended for the collection and disposal of garbage and refuse. Our garbage contract with Veolia Environmental Services is expected to be \$187 per unit in 2009 and we expect to use \$13,920 in reserves to support operations. We anticipate ending our fund balance in 2009 with approximately \$26K. No other comments were received. The hearing closed at 8:02 PM.

Mayor Sullivan called the regular Common Council meeting to order at 8:02 PM.

Pledge of Allegiance

Roll Call: Aldermen Cochrane, Hollatz, Miller, Schmitter, Morgan, Nold, Larsen and Antonneau

Staff Present: Mayor Sullivan, Gard, Frye, Lamp, Gallo, Kitsembel, Beguhn, Duffy, McKenna, Dodge, Huebner and Coenen

Others present: Atty. Michael Schober and Brenda Young, Dodge County Reporter

Minutes of October 21, 2008: Motion by Cochrane to approve the minutes of the October 21st meeting as presented; second by Antonneau. Motion carried 8-0.

Consent agenda:

- A. Licenses
- B. Joint Powers Agreement County 911 Emergency System between the City of Oconomowoc and Dodge County
- C. Resolution for the 2008 Utility Write-Offs

Motion by Hollatz to approve the Consent Agenda; second by Cochrane. Motion carried 8-0.

Committee Reports:

Utility Committee – Antonneau, chr; Larsen; Nold, secy

1. **Consider/act on Resolution for the Wastewater Treatment Rate Increase** – Nold reported this is the annual review by Ruckert and Mielke of our current rates for sanitary sewer service and based on their review, a 3.0% increase is recommended for City users in 2009. The Utility Committee unanimously recommends approval. Motion by Nold to adopt the resolution establishing the Wastewater Treatment Rate increase; second by Larsen. Motion carried 8-0.

Unfinished Business:

- A. **Consider/act on the Ordinance Consider/act on the Ordinance to repeal and recreate Chapter 20 Floodplain Zoning of the Municipal Code and to incorporate the Flood Insurance Rate Maps – 2nd Reading** - Motion by Antonneau to give the ordinance its second reading in title only; second by Cochrane. Sullivan read the title into the record. Motion carried 8-0. Motion by Antonneau for the ordinance to become law; second by Cochrane. Motion carried 8-0.
- B. **Consider/act on the Ordinance to rezone 64.15 acres identified by Tax Key Number OCOC-0540-999-005 and part of Tax Key Number OCOC-0540-999-021, located south of Lake Drive, west of Brown Street (CTH P) and north of Lisbon Road from SR-3 (Suburban Residential) to MR-6 (Mixed Residential) – 2nd Reading** - Motion by Antonneau to give the ordinance its second reading in title only; second by Cochrane. Sullivan read the title into the record. Motion carried 8-0. Motion by Antonneau for the ordinance to become law; second by Cochrane. Motion carried 8-0.
- C. **Consider/act on Ordinance to Create a Planned Development for property located south of Lake Drive, west of Brown Street (CTH P) and north of Lisbon Road to be Designated PD-19-08 and the General Development Plan for the Meadows at Rosenow Creek – 2nd Reading** - Motion by Antonneau to give the ordinance its second reading in title only; second by Cochrane. Sullivan read the title into the record. Motion carried 8-0. Motion by Antonneau for the ordinance to become law; second by Cochrane. Motion carried 8-0.

- D. **Consider/act on the Ordinance to rezone 7.17 acres identified as part of Tax Key Number OCOC-0540-999-021 located in the NW corner of Lisbon Road and Brown Street (CTH P) from SR-3 (Suburban Residential) to SO (Suburban Office) – 2nd Reading** - Motion by Antonneau to give the ordinance its second reading in title only; second by Cochrane. Sullivan read the title into the record. Motion carried 8-0. Motion by Antonneau for the ordinance to become law; second by Cochrane. Motion carried 8-0.

New Business:

- A. **Consider/act on Resolution Ordering the Revocation of the “Class B” Alcohol Beverage License of Porticello, Inc., Anthony R. Pipito, agent - Per Hearing** – Atty. Schober stated that the legal issue posed earlier during the hearing regarding the chargeback’s had not been aired yet and this issue should be resolved before proceeding. He recommends deferring/tabling this item until all questions are answered. Council discussed the need for more information on the \$10K grant reimbursement, chargebacks and clarification on City ordinances. They agreed not to interrupt the business while staff conducts research. Motion by Nold to lay on the table this resolution until all information is received; second by Cochrane. Motion carried 8-0.
- B. **Consider/act on Resolution Approving the 2009 Municipal Court Budget** – Beguhn reported that the municipal court budget is presented each year to Council for approval. Motion by Antonneau to adopt the resolution approving the 2009 Municipal Court Budget; second by Cochrane. Motion carried 8-0.

Atty. Schober left the meeting at 8:23 pm and Young left the meeting at 8:25 pm.

Mayoral Appointments to Boards and Commissions, with Council confirmation: Sullivan referred to his memo asking for Council confirmation of one new appointment to the Zoning Board of Appeals, and one new and two re-appointments to the Architectural Commission. Motion by Cochrane to confirm the appointments as listed by Mayor Sullivan; second by Antonneau. Motion carried 8-0.

Reports and Comments from the Aldermen: Nold mentioned the 7:00 am congestion at the high school due to the election on Nov. 4th and the students and noted that it should be looked at for the next presidential. Morgan has received complaints about the end of Franklin Street. Miller gave a letter he received from David Graupman regarding the Pabst Farms Development to the Clerk to copy and distribute to Council.

Motion by Antonneau to adjourn the Common Council meeting; second by Miller. Motion carried 8-0. The meeting adjourned at 8:35 PM.

Diane Coenen, City Clerk