

REVISED
CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
December 1, 2009

Public Hearings:

7:30 PM – The purpose of the hearing is to hear public comments on the City of Oconomowoc 2030 Comprehensive Plan. The Comprehensive Plan sets forth a statement of overall objectives, policies, goals and programs of the City to guide the future development and redevelopment of the City over a 20 year period.

The hearing opened at 7:37 PM. Adam Sayre, Associate Planner, gave a Power Point presentation outlining the reasons to create the City's plan, each of the ten chapters which include programs and policies as required by the State, and the adoption process. He also handed out to the Council a 11/11/09 memorandum on the Comprehensive Plan changes with various maps and information. He stated that the City's current plan expires 12/31/09 and State law requires a new plan be adopted by 1/1/10. Additionally, this document pulls in all past plans such as the Riverwest Plan, Southwest Plan, Downtown Plan, etc. and guides the City for future years. The Plan Commission held a Public Hearing on 11/5/09 and has been in the process of reviewing comments. The Plan Commission will make a recommendation to Council on 12/9/09.

Mariette Andersen stated that there are 3 properties owned by Baysari where the density has been reduced and she objects to the proposed density of 3 units per acre. The owner will accept 6 units per acre in order to preserve the marketability of the property. She also mentioned past agreements with the City and that the most recent entitled the property to 10 units per acre.

Atty. Mike Schober, representing Baysari, stated he did an extensive review of the records for the 3 Baysari properties. The density started at 19.2 units per acre in 1969 and when the property was rezoned in 1988 the density was reduced to 10 units per acre. The property has always reflected a higher density and the owner would agree to 6 units per acre and is willing to enter into a pre-development agreement.

Florence Whalen, 406 W. Third St. stated this is the best Comprehensive Plan she has seen but that it needs a much stronger statement in regards to groundwater issues. She feels the resource chapter underestimates the need to preserve groundwater and conservation efforts for both water and energy. She also feels that density should be looked at more closely as food production land is critical. On a final note she stated that in 1988 when she was Mayor, the Magna properties, 8, 24 & 48 acre parcels owned by Baysari, were approved with a density of 10 units per acre. She feels this is a moral obligation by the City and urges Council to address it. No other comments were received. The hearing closed at 8:10 PM.

Mayor Sullivan called the regular Common Council meeting to order at 8:10 PM.

Pledge of Allegiance

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

Staff Present: Mayor Sullivan, Gard, Beguhn, Gallo, Kitsembel, Duffy, Frye, Bednarski, Steinbach, Roush, Molitor and Coenen

Others present: Atty. Chapman

Minutes of November 17, 2009: Motion by Cochrane to approve the minutes of the November 17th meeting as presented; second by Antonneau. Motion carried 8-0.

Comments and suggestions from citizens: Judge Douglas Stern addressed Council about the 2010 Municipal Court Budget and Successor Agreement. He passed out a handout that contained information on the Court's history, a chart showing the yearly return to all participating communities from 2002 - 2009, the 2010 Municipal Court Budget and a spreadsheet listing the 2009 monthly amounts returned to each of the participating communities. He ended by stating that the court is self-funding and the Successor Agreement is being updated due to communities being added and Statutes changing since its inception.

Consent agenda:

A. Licenses

B. Resolution for the 2009 Utility Write-Offs

Kohlenberg asked for Item B. – 2009 Utility Write-Offs to be removed from the Consent Agenda. Motion by Cochrane to approve Item A. Licenses on the Consent Agenda; second by Morgan. Motion carried 8-0. Motion by Antonneau to adopt the resolution for the 2009 Utility Write-Offs; second by Larsen. Kohlenberg asked for an explanation of the \$10K Lac La Belle Golf Club write-offs. Gard stated that the corporation was dissolved and the new club was an asset purchase only. Chapman stated that utility bills do not constitute a lien. He reiterated that the corporation had serious financial issues and that these accounts go back two years. Kitsemel added that utility deposits are collected for new customers only and that the PSC only allows the deposits to be kept for so long. The actual amount of delinquent utilities is approx. \$7K and the rest is penalties. Larsen stated that when this item came before the Utility Committee, they were satisfied with the explanation. Motion carried 8-0.

Committee Reports:Finance – Larsen, chairman, Antonneau, Cochrane, secy.

- 1. Consider/act on Purchasing Policy Revisions:** Cochrane reported that staff redrafted the purchasing policy based on concerns raised at the 9/1/09 Council meeting. Changes have been made in the language for change orders and professional services. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to approve the revised Purchasing Policy; second by Antonneau. Council asked for an explanation of the changes. Kitsemel stated the first change is on Page 1, Paragraph 7. The language changed from “15% of the original contract price or \$10K, whichever is greater” to \$25K. The second change on Page 3, Paragraph 4. now requires a Committee recommendation and Council approval prior to engaging in services for legal, planning and engineering services. Council questioned what other services meant and if there is a dollar amount limit a Department Head can authorize. Kitsemel stated that other services pertain to as needed services and those services are governed on Page 3, Paragraph 3. – “Purchase of Goods” section thresholds. Motion carried 8-0.
- 2. Consider/act on Ordinance to Amend Section 27.09(2)(b), (3)(b), (4)(b) and (c), (5)(b) and (c), (6)(b) and (c), (7)(c) and (8)(c) relating to Impact Fees-1st Reading:** Cochrane reported that City ordinances allow for an annual increase to various impact fees. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to give the ordinance its first reading; second by Antonneau. Kitsemel reported that the increase to recover costs of existing facilities are based on the average LGIP rate (.0083%) and the fee increases for future facilities are based on the construction cost index (.0033%). Council questioned if a study was conducted and wanted code verification if we are required to increase fees. Kitsemel stated that a study was not conducted in 2009, but rather a needs analysis was done. The code allows Council to increase fees annually, but it is not required. Council further questioned if they could increase fees as little as \$0.00 and when a study was done, how did we compare? Kitsemel stated Council does not have to increase fees if they so choose to and compared to a 2008 study, the City was in the middle of the pack without interceptor fees. Some Council members feel that increasing fees is a deterrent to development. Kitsemel stated policy decided new growth should pay for the infrastructure instead of the ratepayers and that the increases are minimal. Motion tied 4-4 (Nold, Kohlenberg, Miller and Morgan voted no.) In the case of a tie, the Mayor casts the deciding vote. Motion failed 4-5 (Mayor voted no.) **Note:** *Chapman did not read the ordinance into the record.*
- 3. Consider/act on Ordinance to Amend Section 13.63(3)(a) relating to Sewer Availability Charges-1st Reading:** Cochrane reported that minimal increases are recommended in our sewer availability charges. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to give the ordinance its first reading; second by Antonneau. Chapman read the ordinance into the record. Council discussed the timing of increasing these fees and some members agreed that the increase was not necessary. Motion tied 4-4 (Nold, Kohlenberg, Miller and Morgan voted no.) In the case of a tie, the Mayor casts the deciding vote. Motion failed 4-5 (Mayor voted no.)
- 4. Consider/act on Ordinance to Amend Section 8.04(1)(c) relating to the Street Excavation Fee-1st Reading:** Cochrane reported that as part of the 2010 fee review, staff recommends increasing the street excavation fee from \$20.00 to \$35.00 in order to recover our costs. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to give the ordinance its first reading; second by Antonneau. Chapman read the ordinance into the record. Council asked for an explanation of this fee. Kitsemel stated that when a developer needs to tear open our street, they must post a bond. The cost covers the administrative process to accept the application. Council discussed the necessity of this fee and asked when the last increase was. Kitsemel stated the last increase was four years ago. She also stated that these fees were included in the approved 2010 City Budget. Council asked how many street excavation fees were received in 2009. Gard stated 11, with revenue of \$165. Council discussed the City underwriting these costs and the fact that this fee strictly covers the City cost to process an application. Motion carried 5-3 (Nold, Kohlenberg and Miller voted no.)

5. **Consider/act on Ordinance to Amend Section 9.13(2)(b), (3)(b), (4)(b) and (c), (5)(b) and (c), (6)(b) and (c), (7)(c) and (8)(c) relating to Impact Fees-1st Reading:** Cochrane reported that as part of the 2010 fee review, staff recommends increasing our vehicle impound storage fee, the annual parking permit fee and penalty fee for parking violations in order to recover our costs. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to give the ordinance its first reading; second by Antonneau. Chapman read the ordinance into the record. Motion carried 8-0.
6. **Consider/act on Resolution to Amend Section 12.03(10)(a) Animal Impoundment Fee -1st Reading:** Cochrane reported that as part of our 2010 fee review, staff recommends increasing animal impound fees from \$5.25 to \$8.00 in order to recover our costs. Finance Committee reviewed and recommend unanimously. Motion by Cochrane to adopt the resolution to amend Section 12.03(10)(a) animal impoundment fee; second by Antonneau. Motion carried 8-0.

Personnel – Cochrane, chairman, Morgan, Miller, secy.

1. **Consider/act on Resolution Establishing Compensation for all Non-Union Employees:** Miller reported that the Personnel Committee reviewed on 11/16/09 and recommends the compensation adjustments. Sullivan stated the resolution proposes a general wage increase of 2.9% for the full-time and permanent part-time non-union employees for 2010 and elected officials for 2011-2012. It also proposes an increase in 2010 to the employee contribution for health insurance from 5.0% to 7.5%. This recommendation is consistent with the four union contracts previously settled and no other adjustments are recommended. Motion by Miller to adopt the resolution establishing compensation for all non-union employees; second by Cochrane. Kohlenberg requested that the resolution be separated into four items; 1) Staff, 2) Elected Officials, 3) Department Heads and 4) City Administrator and that they be voted on separately. Nold asked for an explanation as to why Council is voting on the 2011-2012 elected officials compensation now. Gard stated that Aldermen cannot vote themselves a raise. Antonneau gave kudos to the City Administrator and staff for bringing about the change in employee health care contributions. Motion carried 7-1 (Kohlenberg voted no.)

Protection & Welfare – Schmitter, chairman, Kohlenberg, Miller, secy.

1. **Consider/act on Resolution to Purchase Two New 2010 Crown Victoria's for the Police Department:** Miller reported that this purchase is for 2 new marked squads that will replace 2 - 2008 squads. Ewald Automotive Group presented the lowest bid using the Waukesha County V.A.L.U.E. Bid Program. This is a budgeted purchase. Protection & Welfare Committee reviewed and recommend unanimously. Motion by Miller to adopt the resolution to purchase 2 - 2010 Crown Victoria squads from Ewald Automotive Group for a total of \$43,720; second by Cochrane. Motion carried 8-0.

Public Services – Nold, chairman, Schmitter, Larsen, secy.

1. **Consider/act on Resolution to Purchase Rotary Paid for Roundabout Sculpture:** Larsen reported that the City and the Oconomowoc Rotary Foundation have been working together to finalize a design to be placed in the center of the roundabout. Quotes were requested from three firms and only one responded - Duwe Metal Products. The Rotary committed \$45K to this project at the 8/19/08 Council meeting and Council accepted their offer. Public Services reviewed and recommend unanimously. Motion by Larsen to adopt the resolution to purchase the Rotary paid for sculpture; second by Nold. Council expressed some concerns about vision obstruction. Kohlenberg passed around three documents. The first depicted a sculpture from the 3rd Ward and he feels that Council does not have the expertise in public art and suggested hiring a curator to help with the design. The second showed the Chamber rings logo in color. The third was an article about copyright violations from the Olympic Committee and he asked if research had been done on trademark infringement because of the O's. Duffy stated that Thiel Design, the designer of the Chamber rings logo checked with the Olympic Committee and it is not an infringement. Council asked if the Architectural Committee approved the design. Duffy stated yes - unanimously. Motion by Kohlenberg to amend the motion to delay the motion to get a legal opinion from Thiel Design on infringement; second by Larsen. Motion failed 3-5 (Nold, Antonneau, Cochrane, Miller and Schmitter voted no.) Original motion carried 5-3 (Antonneau, Kohlenberg and Morgan voted no.)

Utility Committee – Antonneau, chairman; Larsen; Nold, secy.

1. **Consider/act on Pole Attachment Agreement with tw telecom of wisconsin l.p.:** Nold reported that tw telecom is a telecommunications provider who is requesting the right to be able to attach to City owned poles. The City Attorney and Utility Committee have reviewed the agreement and recommend approval. Motion by Nold to approve the Pole Attachment Agreement with tw telecom of wisconsin l.p.; second by Antonneau. Motion carried 8-0.
2. **Consider/act on Resolution for Joint Purchase from AEDGrant.com:** Nold reported that the Electric Utility, Fire Department and Wastewater have requested approval to proceed with the purchase of AED equipment. Utility Committee reviewed and recommend unanimously. Bednarski stated that 9 quotes were received and the low quote of AEDGrant.com in the amount of \$28,850 is being recommended. Motion by Nold to adopt the resolution approving the joint purchase from AEDGrant.com; second by Larsen. Motion carried 8-0.
3. **Consider/act on Resolution for the Purchase of Chemical Scales from Hawkins, Inc.:** Nold reported that the Water Utility obtained quotes for 3 - 2,000 pound chemical scales to be located at the Powerhouse Booster Station,

Well #1 and Well #2. Staff recommends the low quote of \$2,6K per scale from Hawkins, Inc. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution approving for the purchase of 3 chemical scales from Hawkins, Inc. in the amount of \$7,800; second by Larsen. Motion carried 7-0. (*Kohlenberg vacated his seat at 9:23 PM.*)

4. **Consider/act on Resolution for the Purchase of Copper Wire and Inventory Items from Border States:** Nold reported that the Utility is in need of 500 ft. of 1000 MCM copper wire at the Summit Substation, which they were able to purchase promptly from Border States stock. In addition, utilities obtained quotes for tap connectors to replace depleted inventory. The quote of Border States was compared to others and found to be the most reasonable. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution approving the purchase of budgeted inventory items from Border States; second by Larsen. Motion carried 7-0.
5. **Consider/act on Resolution for the Purchase of Budgeted Inventory Items from HD Water Supply:** Nold reported that the Utility is in need of 20 ¾" PMM water meters and 2 cut-in sleeves as their inventory levels have been depleted. These purchases are included in the Utility budget and are vendor-specific. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution approving budgeted inventory purchases from HD Water Supply; second by Larsen. Motion carried 7-0.
6. **Consider/act on Resolution for the Purchase of Budgeted Inventory Items from Resco:** Nold reported that the Electric Utility is in need of 60 5/8" hole transformer blocks as their inventory is low. Quotes were received from various vendors and the purchase recommended meets best pricing. Additionally, these purchases are included in the Utility budget. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution approving budgeted inventory purchases from Resco; second by Antonneau. Motion carried 8-0. (*Kohlenberg returned to his seat at 9:26 PM.*)
7. **Consider/act on Resolution for the Wastewater Treatment Rate Increase:** Nold reported that Ruckert-Mielke reviewed our current rates for sanitary sewer service and based on their review, a 3.0% increase is recommended for City users in 2010. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution establishing the wastewater rate increase at 3%; second by Larsen. Motion carried 7-1 (Kohlenberg voted no.)
8. **Consider/act on Resolution for the W. Wisconsin Ave Wastewater and Water Utilities Infrastructure (Project No. 1001 – Concord Road west to Marks Road):** Nold reported that in preparation for the W. Wisconsin Ave. project due to begin in 2010, the Utility requested bids for upgrades to the existing sewer and water mains serving the area from Concord Road west to Marks Road. The project includes a base bid and two alternates for additional water main work. Bids were opened on 10/21/09 and Advance Construction, Inc. is recommended for both the base and alternate bids. Utility Committee reviewed and recommend unanimously. Motion by Nold to adopt the resolution contracting with Advance Construction Inc. in the total bid amount of \$1,305,002.25; second by Larsen. Council asked how the bid compared to the projected estimate. Steinbach stated less; estimate was \$1.7M. Motion carried 8-0.
9. **Consider/act on Resolution to Contract for Professional Services for Land Surveyor Services - W. Wisconsin Avenue Project:** Nold reported that the Electric Utility is planning on relaying facilities along W. Wisconsin Ave. in conjunction with the DOT reconstruction project. Due to a problem with a legal description between two lots, it was necessary for the City Attorney to contact a land surveyor. These professional services will be used on an as needed basis through December 2010. Motion by Nold to adopt the resolution for professional services from Mark Powers for land surveying through December 31, 2010; second by Larsen. Motion carried 8-0.

Old Business:

- A. **Consider/act on Ordinance for the Zoning Code text amendment to create Section 17.406(6), amend Section 17.407(1)(b), repeal and recreate Section 17.910(A)(2), create 17.910(A)(2)(a) and Section 17.910(A)(2)(b), all relating to flag pole structures – 2nd Reading:** Motion by Nold to give the ordinance its second reading in title only; second by Antonneau. Chapman read the title into the record. Motion carried 8-0. Motion by Nold for the ordinance to become law; second by Cochrane. Motion carried 8-0.

New Business:

- A. **Consider/act on Resolution approving the 2010 Municipal Court Budget:** Motion by Larsen to adopt the resolution approving the 2010 municipal court budget; second by Cochrane. Motion carried 8-0.
- B. **Consider/act on Successor Agreement for the Operation of the Lake Country Municipal Court for Western Waukesha County:** Chapman stated that the original Successor Agreement for the operation of the Lake Country Municipal Court was executed approximately 21 years ago and included 9 municipalities. Due to changes over the years in the operation of the court system, State Statute changes and the addition of 8 municipalities, a new agreement has been drafted. Motion by Nold to approve the Successor Agreement for the operation of the Lake Country Municipal Court; second by Larsen. Motion carried 8-0.

- C. **Consider/act on Resolution granting a 2009-2010 Class "A" Fermented Malt Beverage License for Speedway SuperAmerica, LLC, 403 E. Wisconsin Avenue:** Sullivan reported that Speedway SuperAmerica has applied for a Class "A" beer license for their convenience store/gas station located at 403 E. Wisconsin Avenue. The applicant meets all code requirements. Motion by Antonneau to adopt the resolution granting a 2009-2010 Class "A" Fermented Malt Beverage License to Speedway SuperAmerica, LLC; second by Miller. Motion carried 8-0.

Staff Report:

- A. **D. Bednarski: Promotion of Renewable Resources Certificate – Ald. Nold** – Bednarski stated that on average 2.2% of the State's electric customers buy into renewable energy. Due to the City's promotion, Mayoral Challenge and Business Challenge, the City of Oconomowoc has surpassed that average with a 3.6% customer base purchasing green blocks of power. This certificate acknowledges that achievement. Nold was presented with the plaque.
- B. **D. Gard: Public Management Essentials Certificate – S. Kitsemel** – Gard stated that Kitsemel had completed 65 hours of workshops and technical training from the University of Wisconsin – Green Bay. Kitsemel was presented with her certificate.

Announcement and Communications: Coenen stated the Annual Christmas Parade is Saturday, 12/5/09 at 3:00 PM.

Reports and Comments from the Aldermen: Miller acknowledged the Police Department's work in solving the City's murder investigation. For the record, due to a comment by Kohlenberg when talking about the roundabout sculpture, Schmitter stated that he is not a registered architect. Nold stated Council is receiving the 2030 Comprehensive Plan late and he agrees with the density M. Andersen is asking for.

Motion by Antonneau to convene into Closed Session; second by Miller. Motion carried 8-0. Closed Session convened at 9:45 PM.

Closed Session: Per Wis. Stats. 19.85(1)(g) "Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved." (Notice of Circumstances – City Administrator)

Motion by Antonneau to adjourn the Common Council meeting; second by Nold. Motion carried 8-0. The meeting adjourned at 9:45 PM.

Diane Coenen, City Clerk