

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
March 17, 2009

Mayor Sullivan called the regular Common Council meeting to order at 7:30 PM.

Pledge of Allegiance – Led by Mike Farrell

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

Staff Present: Mayor Sullivan, Gard, Kitsembel, Bednarski, Duffy, Lamp, Gallo, Beguhn and Coenen

Others present: Atty. Chapman

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

Comments and Suggestions from Citizens:

- A. Lead by Example Presentation – Bednarski introduced Mike Farrell, President of Sentry Equipment who conducted a Power Point presentation (17 slides). A folder containing information was placed at Council stations.
- B. Annual Lake Country Municipal Court Report – Judge Stern handed out to Council the Monthly Return to Participating Communities Annual Report. He summarized the report and stated the Lake Country Municipal Court is in a stable financial position. The court now has seventeen communities on board.
- C. Citizen Comments –
 - 1) Darrell Dyson, 214 Summit Avenue has filed a claim with the City's insurance company for damages to his vehicle he alleged happened while entering the Library parking lot. He is asking the City to reimburse him the cost of materials to repair his car; \$775.00.
 - 2) Florence Whalen, 406 W. Third Street thanked Council for their support of this exciting and meaningful Lead by Example program.

Consent agenda:

- A. Licenses
- B. Resolution Approving Amendments to the 2009 Budget for Continuing Appropriations
- C. Treasurer's Report

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

Plan Commission:

- A. **Consider/act on Resolution for Property Acquisition at 317 E. Wisconsin Avenue in accordance with State Statute §62.23:** Antonneau reported that in February 2009, the Common Council directed staff to finalize and negotiate the acquisition of 317 E. Wisconsin Avenue. This parcel is on the southwest corner of the roundabout and is part of the gateway to the downtown. The purchase will come out of TID #4 funds. Closing on the sale is set for the end of March 2009. The Plan Commission reviewed and recommends unanimously. Motion by Antonneau to adopt the resolution for property acquisition at 317 E. Wisconsin Avenue; second by Cochrane. Motion carried 8-0.

Unfinished Business:

- A. **Consider/act on Ordinance to Create §7.15 Relating to and Regulating Neighborhood Electric Vehicles (NEV) – 1st Reading:** Motion by Antonneau to give the ordinance its second reading in title only; second by Cochrane. Chapman 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:

Kitsemel stated that property assessment values are determined for a parcel as of January 1 of each year. The City hires a professional assessor to determine the assessed values for each property. If property owners do not agree with the value they can meet with the assessor at an "open book" meeting. If they are not satisfied with the value after open book, they have the right to file an objection with the Board of Review (BOR). The BOR is a quasi-judicial body empowered with the ability to adjust assessments when they have been proven incorrect by sworn testimony and evidence presented at a hearing. State Statute requires at least one member of the BOR to be certified every two years by attending training and currently 3 of the 5 members of the BOR are certified. Once the BOR has conducted a review and issued a determination, the property owner has further appeal options. The property owner can appeal the BOR decision with the Department of Revenue, file an action in circuit court, or file a claim for excessive assessment with the City. In order to file a claim for excessive assessment, the taxes must be paid timely and the claim must be filed by January 31st of the year in which the tax is payable. If the property owner files a claim with the City and it's denied, they may then appeal the matter to circuit court within 90 days. If this happens the claim is filed with the City's insurance company. Council's general approach is to deny assessment claims because the assessments are presumed to be correct under Wisconsin law, the City hires a professional assessor who is trained in determining values of properties and the BOR has reviewed the assessment prior to the appeal being filed.

- A. **Consider/act on Resolution Denying Claim for Unlawful Taxes – WHPC-Dominium, LLC:** Motion by Antonneau to adopt the resolution denying claim for unlawful taxes by WHPC-Dominium, LLC; second by Cochrane. Motion carried 8-0.
- B. **Consider/act on Resolution Denying Claim for Excessive Assessment – WY Oconomowoc, LLC, Prairie Creek Shopping Center, LLC, Prairie Creek Shopping Center, LLC, Rosenow Creek SW, LLC and Unisource Centres, LLC:** Motion by Antonneau to adopt the resolution denying claim for excessive assessment by WY Oconomowoc, LLC, Prairie Creek Shopping Center, LLC, Prairie Creek Shopping Center, LLC, Rosenow Creek SW, LLC and Unisource Centres, LLC; second by Cochrane. Motion carried 8-0.
- C. **Consider/act on Resolution Denying Claim for Excessive Assessment – James and Mary Funke:** Motion by Antonneau to adopt the resolution denying claim for excessive assessment by James and Mary Funke; second by Cochrane. Motion carried 7-1-0. Larsen abstained.
- D. **Consider/act on Resolution Denying Claim for Excessive Assessment – Paul G. Eggers:** Motion by Antonneau to adopt the resolution denying claim for excessive assessment by Paul G. Eggers; second by Cochrane. Motion carried 7-1-0. Hollatz abstained.
- E. **Consider/act on Resolution Denying Claim for Excessive Assessment – Paul C. Goetzke:** Motion by Antonneau to adopt the resolution denying claim for excessive assessment by Paul C. Goetzke; second by Cochrane. Motion carried 7-1-0. Hollatz abstained.
- F. **Consider/act on Resolution Disallowing Claim of Darrell Dyson:** Motion by Antonneau to adopt the resolution disallowing claim of Darrell Dyson; second by Cochrane. Chapman read the resolution into the record. Council asked to see the pictures of the parking lot taken that day by the Library Director and questioned the functionality of the parking lot drain. Chapman stated the insurance company denied the claim because they did not find the City to be negligent. Council asked Dyson several questions and discussed postponing action in order to have the insurance company reevaluate. Antonneau voluntarily withdrew his motion. Motion by Antonneau to postpone action to a subsequent Council meeting in order for the insurance company to reevaluate and report back; second by Cochrane. Motion carried 8-0.
- G. **Consider/act on Resolution Granting a New 2008-2009 "Class B" Alcohol Beverage License to Ricky A. Garvens:** Coenen reported that on February 20, 2009 James Johnson, owner of JJ's at 137 E. Wisconsin Ave. submitted a letter surrendering his "Class B" Liquor License because he had closed the business. On the same day, Ricky A. Garvens, owner of the property at 137 E. Wisconsin Ave. applied for the "Class B" Liquor License to open and operate Ricky's. Garvens had previously operated "See Whose Out" at this location, but sold the property to Johnson under a land contract. Garvens has now taken ownership back of the property. Motion by Antonneau to adopt the resolution granting a new 2008-2009 "Class B" Alcohol Beverage License to Ricky A. Garvens; second by Cochrane. Motion carried 8-0.

Mayoral appointments to Boards and Commissions, with Council confirmation:

- A. John Gross, Zoning Board of Appeals: Motion by Cochrane to confirm the appointment of John Gross to the Zoning Board of Appeals; second by Hollatz. Motion carried 8-0.

Staff Reports:

- A. Porticello/Pipito Issues from November 4, 2008 Hearing: Gard reported that at the November 4th Council hearing statements were made by Michael Krill and Tony Pipito regarding attorney's fees, variance applications, \$10,000 grant application, report of damage to Pipito property and signage. Gard investigated each and has determined that these statements are false. Additionally, Atty. Schober was asked to review the legal basis for requiring reimbursement of attorney fees related to variance applications filed with the Zoning Board of Appeals. Atty. Schober's opinion is that state statute probably allows for the imposition of such fees but that the City's ordinance is probably not explicit enough to be upheld if challenged. Staff is working with Atty. Schober on revising our ordinance language and we will bring that to you at a future date. Based on Atty. Schober's legal opinion, Gard recommends that the City not pursue the revocation of Pipito's liquor license. Sullivan addressed two other comments made by Pipito at the hearing. The first was a comment about race (wasn't white enough for the City). That comment does not deserve a reply. The second was a harassment claim due to the opening of his business without the necessary permits. A citation was issued by the City, a ruling was handed down by the court and a fine was issued. An appeal was filed by Pipito, a court date was set and Pipito or his representative did not show up for the hearing. The appeal was dismissed.

Announcements and Communications:

- A. Spring Election – April 7, 2009 (Coenen)

Reports and comments from the Aldermen:

Miller has received calls about semis parking on Hwy 67 (Target) and that a tree was knocked down a few weeks ago in the median. Larsen thanked the Lead by Example team and Farrell for the presentation. Antonneau inquired about signage for the cemetery.

Motion by Antonneau to convene into Closed Session; second by Morgan. Motion carried 80. Closed Session convened at 8:40 pm.

Closed Session:

Per Wis. Stats. 19.85(1)(e) "Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session."
(Future Fire Station-Pabst Farms)

Motion by Antonneau to adjourn the Common Council meeting; second by Cochrane. Motion carried 8-0. The meeting adjourned at 8:40 PM.

Diane Coenen, City Clerk