

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
October 19, 2010

Public Hearings:

7:30 PM – The purpose of the public hearing is to hear comment on the petition of Developers Diversified Realty and Pabst Farms Retail Inc, to repeal and recreate Ordinance #08-O720 that created a Planned Development on approximately 184 acres, known as Planned Development PD 17-08. The lands include Parcels 5 & 6 of Certified Survey Map No. 9170 and Outlot 1 of Certified Survey Map No. 9171.

Bill Niemann, Pabst Farms, introduced Matt Casey, Dan Warren and Scott Lesser and stated that they had been working with City staff for over a year preparing plans for the PIP submittal for this planned development. Niemann thanked staff for all their efforts. He next outlined the differences in the new Developers Diversified Realty Planned Development versus the General Growth Planned Development adopted in 2008. No other comments were received. The hearing closed at 7:50 PM.

7:30 PM – The purpose of the public hearing is to hear comment on the application filed by Dan Warren, representing Pabst Farms Development, to create Section 17.707(4)(b)1., 2., and 3., relating to intensity of illumination adjacent to public highways in commercial districts. The purpose of this ordinance is to allow for more intense illumination levels at the property lines in commercial zoning districts and on commercial properties adjacent to road right-of-ways

Warren stated that as part of the Precise Implementation Plan process two lighting issues within the City's code surfaced. The first has to do with the larger parking field in the Town Centre and within it there will be different property owners who will own their building and parking area. The second is that the outlots in this development will have lighting projecting onto the street. No other comments were received. The hearing closed at 7:54 PM.

Mayor Daley called the regular Common Council meeting to order at 7:54 PM.

Pledge of Allegiance

Roll Call: Aldermen Kohlenberg, Miller, Slattery, Morgan, Nold, Larsen and Cochrane
Excused: Alderman Hall

Staff Present: Mayor Daley, Gard, Beguhn, Gallo, Kitsembel, Duffy, Frye, Lamp, Kelliher, Steinbach, Bednarski, Roush, Buerger, Pfister, Leidel, McKenna, Spencer and Coenen

Others present: Atty. Chapman

Treasurer's Report: Motion by Nold to approve the Treasurer's Report as presented; second by Cochrane. Motion carried 6 -1. Kohlenberg voted no.

Minutes of October 5, 2010: Motion by Cochrane to approve the minutes of the October 5th meeting as presented; second by Nold. Motion carried 7-0.

Comments and suggestions from citizens: Floss Whalen, 406 W. 3rd St. commented that the proposed 2011 budget is a responsible one and she supports it. She also suggested that Council not only look at it as spending, but as a community investment.

Consent agenda:

- A. Licenses
- B. Consider/recommend Budget Amendments for Grants Received – July 1st – September 30, 2010
- C. Utility Easement Agreement between Shumway Revocable Trust and City of Oconomowoc

Chapman requested that the License Resolution be removed from the Consent Agenda and acted on separately. Motion by Kohlenberg to remove the license resolution from the Consent Agenda; second by Larsen. Motion carried 7-0. Motion by Nold to approve the amended Consent Agenda; second by Cochrane. Motion carried 7-0. Motion by Miller to remove the Operator Licensee for Breakshots from the resolution; second by Slattery. Motion carried 7-0. Motion by Nold to approve the Class "B" Picnic License for the Knights of Columbus; second by Morgan. Motion carried 7-0.

Mayoral appointments to Boards and Commissions, with Council confirmation: Daley stated he is appointing Charlie Shaw to the Park & Recreation Board and asked for Council's confirmation. Motion by Miller to confirm the appointment of Charlie Shaw to the Park & Recreation Board; second by Slattery. Kohlenberg asked Shaw why he wanted to serve. Shaw responded that he has worked in the Park & Rec Dept. in Waukesha for 30 years and would like to offer his services to the City. Motion carried 7-0.

Protection & Welfare – Cochrane, chr, Slattery, Larsen, secy.

1. **Consider/act on Ordinance Amending Section 5.12(3)(a)(b)&(c) and Creating Section 15.12(3)(d) Related to Ambulance Service Fees – 1st Reading:** Leidel reported that staff reviews our ambulance user fee rates each year and consults with our billing company to determine if a rate increase is recommended. 911 Pro Billing has recommended a rate increase effective 1/1/11. Our last base rate increase was 1/1/05. Leidel then explained each of the recommended rate changes. He also stated that our expendable equipment charge was last increased on 1/1/07 and staff is recommending that the Fire Department charge a fee for disposable emergency medical service equipment and supplies used at medical emergency incidents. Protection & Welfare reviewed and unanimously recommends. Motion by Larsen to give the ordinance its first reading; second by Cochrane. Chapman read the ordinance into the record. Motion carried 7-0.

Public Services – Kohlenberg, chr, Miller, Hall, secy.

1. **Consider/act on Resolution to Purchase Brush Chipper:** Kelliher reported that Parks & Recreation has budgeted for replacement of a 20 year old brush chipper because it has required significant repairs in the last 5 years and the typical life span for this equipment is 15 years. The chipper is used for storm damage clean up and regular tree maintenance. Staff received 4 proposals and recommends the purchase from Bobcat Plus in the amount of \$34,209. The existing unit will be used as a trade-in. Public Services reviewed and recommends unanimously. Motion by Miller to adopt the resolution to purchase a brush chipper from Bobcat Plus in the amount of \$34,209; second by Nold. Motion carried 7-0.
2. **Consider/act on Resolution to Purchase Playground Equipment for Fowler Park:** Kelliher reported that the City has a comprehensive playground replacement program which identifies playgrounds that are not ADA accessible and/or do not completely meet safety performance standards. Fowler Park playground equipment was installed before the safety standards went into effect and is budgeted for replacement in 2010. The City received 12 proposals and staff is recommending the proposal from Minnesota/Wisconsin Playground in the amount of \$60,000. The vendor will install the playground equipment and perform safety inspections, and once installed, City staff will complete the playground area by installing wood fiber surfacing and restoring the surface area around the play structure. Public Services reviewed and recommend unanimously. Motion by Slattery to adopt the resolution to purchase playground equipment for Fowler Park from Minnesota/Wisconsin Playground in the amount of \$60,000; second by Miller. Council questioned the cost of the equipment. Kelliher stated that there are 2 styles of parks. A community based park has more components and is double in size than a neighborhood park which ranges around \$25K for equipment needs. Motion carried 7-0.

Utility – Miller, chr, Nold, Slattery, secy.

1. **Consider/act on YMCA Settlement Agreement for Sewer Availability Charges:** Steinbach reported that the City and the YMCA, through mediation on 9/13/10, reached a settlement agreement on the outstanding sewer availability charges for the full amount of \$78,324. The payments will be spread over a ten year period at 3% interest per year. Additionally, if the YMCA defaults, the charges will be placed on their property taxes. Motion by Nold to approve the Settlement Agreement with the YMCA for the outstanding sewer availability charges; second by Miller. Slattery expressed concerns that special treatment is being given to the YMCA and that they have not provided proof of hardship to the City. Steinbach answered questions on the deduct meter the YMCA had installed and how this issue came to be. He also stated that a rep for the YMCA indicated that they had cash flow problems and that they are a non-profit organization. Council also discussed that the sewer availability charges are not the same as monthly utility charges and that the YMCA has already paid \$160K based on the City's calculations. Additionally, Steinbach stated that Council previously approved mediation in hopes to remove the risk of litigation. Daley left his chair at 8:48 PM and Larsen took over the meeting. Daley stated that although all the points brought up are relevant, Council approved this process and the City's only concession is for the payment method. Daley returned to his chair at 8:50 PM. Motion carried 6-1. Slattery voted no.

Plan Commission

- A. **Consider/act on Conditional Use Permit for Meadows at Prairie Creek, Parcels OCOC-0540-999-005 and OCOC-0540-999-021:** Gallo reported that the developer is requesting to rezone the property and obtain a CUP to allow construction of multi-family residential buildings for a project known as Meadows at Prairie Creek. The lands are located within the City of Oconomowoc but fall under the Waukesha County Shoreland jurisdiction. The proposed rezoning and CUP would bring this use into compliance with the Waukesha County code requirements. Plan Commission reviewed and recommends. Motion by Nold to approve the CUP for the Meadows at Prairie Creek; second by Cochrane. Motion carried 7-0.
- B. **Consider/act on Conditional Use Permit for Eat Smart Restaurant, located at 1416 Summit Avenue:** Gallo reported that this CUP is to operate a restaurant/coffee shop located at 1416 Summit Avenue. The proposed restaurant will occupy existing vacant retail space (former Fashion Bug) and convert the interior space to accommodate the use. He noted that there are two amendments; the hours have been increased until 11 PM and the CUP allows for outdoor seating. Plan Commission reviewed and recommends. Motion by Nold to approve the CUP for Eat Smart Restaurant; second by Cochrane. Motion carried 7-0.
- C. **Consider/act on Conditional Use Permit for Eckert's Hometown Diner Restaurant and the Expansion of Outdoor Seating, located at 113 S. Main Street:** Gallo reported that the City currently does not have a CUP on file for this restaurant as it has been in operation over 70 years and is grandfathered. The owner is now looking to expand the existing restaurant to include an outdoor seating area with 6 tables and a smoker. The new hours of operation are from 6 AM to 12 AM seven days a week. Plan Commission reviewed and unanimously recommend. Motion by Cochrane to approve the CUP for Eckert's Hometown Diner Restaurant ; second by Slattery. Motion carried 7-0.
- D. **Consider/act on Ordinance to Create Section 17.707(4)(b)1., 2., & 3. Relating to Intensity of Illumination – 1st Reading:** Gallo reported that earlier this evening a public hearing was held for creation of this ordinance to allow additional lighting along the property lines of commercial and industrial properties. The proposed lighting may not exceed 3.0 foot-candles. The current standard of .5 foot-candles will remain for residential uses and lighting levels at the right-of-way line for commercial and industrial property lines may not exceed 1.2 foot-candles. Plan Commission reviewed and unanimously recommend. Motion by Nold to give the ordinance its 1st reading; second by Miller. Chapman read the ordinance into the record. Motion carried 7-0.
- E. **Consider/act on Ordinance to Repeal and Recreate Planned Development Ordinance #08-0720 that Created Planned Development PD 17-08, located on the NE corner of I-94 and STH 67 – 1st Reading:** Gallo reported that earlier this evening a public hearing was held to repeal the Planned Development Ordinance for PD 17-08 and to allow the substitution of Developers Diversified Realty's updated plans. The project will be a multi-building commercial and residential development known as Pabst Farms Town Centre. Motion by Nold to suspend the rules and give the ordinance its first reading in title only; second by Cochrane. Motion carried 7-0. Motion by Nold to give the ordinance its first reading in title only; second by Slattery. Chapman read the title into the record and gave an overview of the ordinance by outlining key information on each page. Motion carried 7-0.
- F. **Consider the Extra-Territorial Certified Survey Map located at N64 W35053 Road J, Town of Oconomowoc:** Chapman stated that the applicant submitted an ETZ-CSM to create two new lots in the Town of Oconomowoc and did not request a technical review, therefore Plan Commission took no action. He also stated that the County requires Lot 1 to have a certain floor area ratio and by adding the outlot it increases that ratio. The outlot cannot be used and must be sold with Lot 1. Council took no action.
- G. **Consider/act on the Resolution for the Acceptance of Lands on Park Street:** Chapman reported that the Plan Commission unanimously recommends denial of this donation and the City's insurance carrier also recommends denial. Nold reported that there are environmental concerns of fly ash on the property and the City has no reasonable use for the land. Council had questions about the use of the property. Frye stated that it was purchased by the owners for development, but the fly ash leaves the ground unstable, although it could possibly be used for storage. Motion by Larsen to adopt the resolution for acceptance of lands on Park Street; second by Cochrane. Motion failed 0-1-6. Kohlenberg abstained.

Old Business:

- A. **Consider/act on Ordinance to Repeal, Re-Create and Amend Chapter 13 Relating to Water Service and Sewer Availability Charges – 2nd Reading:** Motion by Nold to give the ordinance its second reading in title only; second by Cochrane. Chapman read the title into the record. Motion carried 7-0. Motion by Nold for the ordinance to become law; second by Cochrane. Motion carried 7-0.

- B. **Consider/act on Ordinance to Repeal, Re-Create and Amend Chapter 27 Relating to Impact Fees – 2nd Reading:** Motion by Nold to give the ordinance its second reading in title only; second by Miller. Chapman read the title into the record. Motion carried 7-0. Motion by Nold for the ordinance to become law; second by Cochrane. Motion carried 7-0.

New Business:

- A. **Consider/act on Initial Resolution Regarding Midwestern Disaster Area Revenue Bond Financing for The Meadows at Prairie Creek Project. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution:** Duffy reported that Wangard Partners is requesting adoption of an initial resolution that authorizes the issuance and sale of bonds for the construction of their proposed multi-family housing project to be known as Meadows at Prairie Creek. The financing requested is \$25,000,000 for land acquisition and construction of rental units. The City is not obligated for repayment of the bonds and accordingly this will not be reported as a liability in the City's financial statements. Motion by Cochrane to adopt the initial resolution regarding Midwestern Disaster Area Bond financing for Wangard Partners, Inc.; second by Nold. Council had questions on workforce housing, if there was any obligation to the City for this borrowing, Section 42 and the benefit to the City tax base. Staff and Tony DeRosa, Wangard Partners, answered all questions. Motion carried 7-0.

Reports and comments from the Mayor – Daley thanked all those involved in planning and hosting the German delegates that recently visited our City. He displayed a "Sister-City Partnership" glass plaque presented to the City by the Germans.

Reports and comments from the Aldermen – Larsen and Morgan thanked Shaw for his willingness to serve on the Park & Recreation Board. Slattery stated that everyone had a great time with our Sister City delegates and mentioned that a trip is being planned for July/Aug. 2011 to go to Germany. She also thanked Duffy for all his efforts. Kohlenberg mentioned that he requested a sign be placed in the passageway from Wisconsin Ave. to Fowler Lake that no vehicles are allowed and he also asked about leaf collection at the last Council meeting. Daley stated that Frye is putting together the information on the leaf collection issue and he will have staff clarify the sign issue.

Motion by Cochrane to convene into Closed Session; second by Slattery. Motion carried 7-0. Closed Session convened at 9:49 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." (Property Purchases)

Motion by Cochrane to adjourn the Common Council meeting; second by Slattery. Motion carried 7-0. The meeting adjourned at 9:49PM.

Diane Coenen, City Clerk