

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
June 15, 2010

Mayor Daley called the regular Common Council meeting to order at 8:30 PM.

Pledge of Allegiance

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

Staff Present: Mayor Daley, Kitsembel, Frye, Beguhn, Gallo, Lamp, Kelliher, Duffy, Bednarski, Steinbach and Coenen

Others present: Atty. Chapman and Stan Sugden

Treasurer's Report: Motion by Cochrane to approve the Treasurer's Report as presented; second by Miller. Motion carried 7-1. Kohlenberg voted no.

Minutes of June 1, 2010: Motion by Cochrane to approve the minutes of the June 1st meeting as presented; second by Slattery. Motion carried 8-0.

Consent agenda:

A. Licenses

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

Comments and suggestions from citizens:

- 1) Floss Whalen, 406 W. Third St. commented on the CDA's role and accomplishments, and stated that past recommendations from the CDA have not be accepted by Council. Feels Duffy needs a committee like Gallo has Plan Commission and Kelliher has Park & Rec. Asked Council to respond to things with more excitement.
- 2) Rev. Stephen Welch, 920 Oconomowoc Parkway commented on transportation for seniors and stated Silver Streak has been in operation since 1991. The cost is subsidized by the County and the City has and continues to give financial support.
- 3) Laurel Whelan, 514 Silver Lake St. mentioned that with all the vacancies in downtown, in the last 4 years at least 12 new businesses have invested in the downtown. She is supportive of the plans proposed by Fiesta Cancun. It is a quality project that will fill a vacant building.

Committee Reports:

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

1. **Consider/act on Changing Reserved "Class B" Alcohol License from Jose Zarate to Building at 124 E.**

Wisconsin Avenue: Larsen reported that Protection and Welfare discussed prioritizing licenses and recommend this reservation unanimously. Motion by Larsen to change the reservation of the "Class B" alcohol license from Jose Zarate to the building at 124-126 E. Wisconsin Avenue; second by Cochrane. Council discussed the pros and cons. To note a few; if a developer has a business that is ready to go, Council has the right to move the license, no one will invest if not guaranteed a license, Council should not have the latitude to issue a license based on a like or dislike of a project, reservation of this license sends a message to developers that we are not friendly, license should be available to all areas of the City, not just the downtown and to use as an incentive tool. Motion tied 4-4. Miller, Slattery, Morgan and Kohlenberg voted no. Daley cast the tie breaking vote explaining that this license can be issued to any proposed development that is presented to the City and Council approves. Motion carried 5-4.

Plan Commission:

- A. **Consider/act on Conditional Use Permit for Fiesta Cancun Restaurant to operate a restaurant with indoor and outdoor dining located at 157 E. and 159 E. Wisconsin Avenue:** Gallo reported that the CUP allows for the expansion of Fiesta Cancun Restaurant located at 159 E. Wisconsin Ave. to occupy 157 E. Wisconsin Ave. to accommodate additional indoor dining (100 seats) along with an outdoor patio (40 seats.) A Public Hearing was

held and the CUP has 22 conditions that were reviewed and recommended unanimously by Plan Commission. Motion by Nold to approve the Conditional Use Permit for Fiesta Cancun Restaurant for indoor/outdoor dining at 157 and 159 E. Wisconsin Avenue; second by Cochrane. Council questioned the 6 am outdoor seating start time and the timeline of the project. Gallo responded that the owners have an interest in serving breakfast in the future and the timeline is to complete the addition 60 days after State approval. Motion carried 8-0.

Old Business:

1. **Consider/act on Order Terminating Moratorium on Sewer Connections in the Town of Oconomowoc Utility District No. 1:** Daley reported that the developer had not signed the agreement and both the City and Town agree to hold off on the order until it is signed. Motion by Nold to postpone the Order Terminating the Moratorium on Sewer Connections in the Town of Oconomowoc Utility District No. 1 until the July 6th Council meeting; second by Cochrane. Motion carried 8-0.

Unfinished Business:

- A. **Consider/act on Ordinance to Create §9.947.013(1)(b) and Amend §9.947.013(2)(b) of the Municipal Code Relating to Harassment – 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 8-0. Motion by Nold for the ordinance to become law; second by Cochrane. Motion carried 8-0.
- B. **Consider/act on Ordinance to Repeal and Re-create §9.02 of the Municipal Code Relating to the Use of Firearms and Weapons – 2nd Reading:** Motion by Hall 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 Nold for the ordinance to become law; second by Cochrane. Motion carried 8-0.

New Business:

- A. **Consider/act on Codification Ordinance:** Daley reported that this is the semi-annual update of our municipal code which will incorporate all ordinances adopted from July 1, 2009 through December 31, 2009. Motion by Cochrane to give the ordinance its 1st reading; second by Miller. Chapman read the ordinance into the record. Motion carried 8-0.
- B. **Consider/act on Resolution Granting a New 2010-2011 “Class A” Alcohol Beverage License for Walgreen Co.:** Coenen reported that this resolution grants a new “Class A” license for the sale of alcoholic beverages at Walgreens located at 1021 Summit Avenue. Class A licenses are issued for the sale of alcoholic beverages in original packages for off-premises consumption. The applicant meets all Chapter 12 licensing requirements. Motion by Nold to adopt the resolution to grant a new “Class A” license to Walgreens Co.; second by Cochrane. Motion carried 8-0.
- C. **Consider/act on Resolution to Deny Application for a New 2010-2011 “Class B” Alcohol Beverage License for Bootleggers, LLC (Currently Landsharks at 137 E. Wisconsin Avenue):** Coenen stated that the premises at 137 E. Wisconsin Ave. currently has delinquent taxes and utilities and although this is a new application, City Code 12.04(5)(i) states that no license shall be granted for any premises for which taxes, assessments or other claims of the City are delinquent and unpaid. At this time, the owner of the property and current tenant are working to pay the claims, so staff recommends postponing action on this license until the Special Council meeting of June 22nd. Motion by Nold to postpone action on the new 2010–2011 “Class B” License for Bootleggers, LLC until June 22nd; second by Morgan. Motion carried 8-0.

Coenen stated that revised resolutions for Items D. & E. were placed at Council stations.

- D. **Consider/act on Resolution Granting Renewal 2010-2011 Alcohol Beverage Licenses:** Coenen reported that this resolution covers those renewal liquor and fermented malt beverage licenses, Class A, B and C that are in complete compliance with all City and State licensing requirements. The licenses take effect July 1, 2010 and expire June 30, 2011 and staff recommends adoption of the resolution. Motion by Cochrane to adopt the resolution granting renewal 2010-2011 alcohol beverage licenses; second by Nold. Morgan questioned the 8 additional licenses Pabst Farms is allowed through legislation and the 4 they currently hold. Motion by Morgan to non-renew 2 of the Pabst Farms licenses. Chapman stated that the 8 cannot be used until the City has no available licenses and the development call for 12 licenses. Morgan withdrew his motion. Motion carried 8-0.
- E. **Consider/act on Resolution Expressing Intent Not to Renew 2010-2011 Alcohol Beverage Licenses and Direct the City Clerk to send Notice of such Intent to Each Licensee and Set Hearing Date:** Coenen reported that this resolution is for the intent not to renew the alcohol license for each business listed because the premises/licensees are not in complete compliance with City codes, specifically Section 12.04(5)(i) and State Statutes. Staff recommends adoption of the resolution that directs the City Clerk to send notice of the intent not to renew the license to each licensee

and set a hearing date/time of June 22, 2010, 5:30 pm to allow each licensee the opportunity to be heard. Motion by Nold to adopt the resolution expressing intent not to renew 2010–2011 Alcohol Beverage Licenses and direct the City Clerk to send notice of such intent to each licensee and set the hearing date for Tuesday, June 22, 2010 at 5:30 pm.; second by Cochrane. Motion carried 8-0.

Reports and Comments from the Mayor: Daley read the proclamation into the record.

A. Proclamation – Mac Dorn

Reports and Comments from the Aldermen: Kohlenberg requested the documents for every road project completed since June 2009, including the name, cost and date of completion. Slattery asked for clarification of an open records request. Chapman stated that a public record is a document that can be provided. Questions for information can be asked of staff and should be answered. The City is not supposed to create a record in order to respond to a request.

Motion by Larsen to convene into Closed Session; second by Nold. Motion carried 8-0. Closed Session convened at 9:40 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.” (Rockwell Development)

Motion by Nold to adjourn the Common Council meeting; second by Miller. Motion carried 8-0. The meeting adjourned at 9:40 PM.

Diane Coenen, City Clerk