

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
July 6, 2010

Mayor Daley called the regular Common Council meeting to order at 7:49 PM.

Pledge of Allegiance

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

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

Others present: Atty. Chapman and Stan Sugden

Minutes of June 15, 2010 and June 22, 2010: Motion by Cochrane to approve the minutes of the June 15th and June 22nd meetings as presented; second by Miller. Motion carried 8-0.

Consent agenda:

A. Licenses

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

Committee Reports:

Finance – Nold, chr; Hall; Kohlenberg, secy

1. **Consider/act on Resolution Authorizing Staff to Prepare Grant Applications:** Kohlenberg reported that this resolution will allow staff to prepare and submit grant applications without having to get Council approval for the sole purpose of submitting the application. Finance Committee reviewed and unanimously recommend. Motion by Kohlenberg to adopt the resolution authorizing staff to prepare grant applications; second by Nold. Motion carried 8-0.

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

1. **Consider/act on City Hall Plaza Lease Agreement Between City of Oconomowoc and TKH, LLC (Todd's Grill):** Larsen reported that Todd's Grill approached the City about a lease agreement for outdoor dining on the City Hall Plaza. The lease allows for 8 tables, the rental fee will be \$150 per month, the lease expires 9/30/10 and the terms & conditions are similar to those approved for the Lakerz lease. Protection and Welfare reviewed and unanimously recommend. Motion by Larsen to approve the City Hall Plaza Lease Agreement between City of Oconomowoc and TKH, LLC; second by Cochrane. Motion carried 8-0.
2. **Consider/act on Ordinance Creating 10.03(12) of the Municipal Code Relating to Smoking – 1st Reading:** Larsen reported that this ordinance creates a new section in our code to address the recent smoking ban, which took affect July 5th. It also allows us to refer all smoking related violations to the Lake Country Municipal Court. Protection and Welfare reviewed and unanimously recommend. Motion by Larsen to give the ordinance its first reading; second by Cochrane. Chapman read the ordinance into the record. Motion carried 8-0.

Public Services - Kohlenberg, chr; Miller; Hall, secy.

1. **Consider/act on Ordinance to Repeal §7.016(3) and §7.05 of the Municipal Code Relating to Parking – 1st Reading:** Hall reported that Council previously postponed action on this item. Staff has revised the ordinance to address only repealing the speed limit on Lincoln Court and the operation of motor vehicles in the alley between Chase Bank and May Garden Center. Public Services reviewed and unanimously recommend. Motion by Hall to give the ordinance its first reading; second by Miller. Chapman read the ordinance into the record. Motion carried 8-0.

Utility - Miller, chr; Nold; Slattery, secy

1. **Consider/act on Retaining Mediator for YMCA Wastewater REC Charges Dispute:** Slattery reported that the YMCA has requested mediation on an unpaid sewer fee in the amount of \$78,324 which they are in disagreement with the City over. The City Attorney is recommending retaining former Judge Neal Nettesheim to provide mediation services. Nettesheim's fee is \$275/hour. Utility Committee reviewed and unanimously recommend. Motion by

Slattery to approve retaining former Judge Neal Nettesheim to mediate the YMCA sewer dispute; second by Miller. Council questioned the use of an attorney for this dispute and if Council approval is necessary. Gard gave a brief history stating that the City and the YMCA had reached an impasse and are looking at mediation to resolve it. Atty. Reuter will assist and his fee is \$250/hour. The basis for using Atty. Reuter is that in 2009 Council approved by resolution (which Gard read a portion of) use of an attorney for sewer disputes through 12/31/10. Chapman stated that in doing so it is not a violation of the Procurement Policy and it is not setting precedence. Motion carried 8-0.

Unfinished Business:

1. **Consider/act on Codification Ordinance – 2nd Reading:** Motion by Cochrane to give the ordinance its second reading in title only; second by Kohlenberg. 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.

Mayoral appointments to City Boards, Commissions, Authorities, etc. with Council confirmation:

Motion by Kohlenberg to confirm the appointment of Shannon Sander to the Board of Review; second by Cochrane. Sander was present and Kohlenberg asked him a few questions about his knowledge of the Board of Review. Motion carried 8-0. Rhoads was not present; therefore Daley explained his appointment was based on Rhoads' background in education, degree in mathematics and his variety of experience. Motion by Cochrane to confirm the appointment of Jeff Rhoads to the Board of Review; second by Nold. Motion carried 8-0.

Staff Reports:

- A. **Presentation of American Public Power Association Awards to Bednarski** – Gard presented Bednarski with two awards given to him by APPA for his leadership in the industry: Chair of the Transmission and Distribution Committee 2009-2010 and Chief Event Judge for 2010 Lineworker's Rodeo.
- B. **Vacation of Portion of Silver Lake Street** – Chapman passed out a Site Plan and Right-of-Way Transfer Map showing the portion of Silver Lake St. to be vacated. He explained the process/timeline to vacate the street and described the reasons why the area needs to be vacated. He further explained that the issues with Speedway were created due to the DOT required right-of-way acquisition of land for the reconstruction of E. Wisconsin Avenue and that both appraisers (City's and Speedway) set the damages at \$400K. Speedway is also entitled to attorney fees. A Quick Claim Deed will be recorded for the area vacated and the DOT has notified the City that there will be no adverse impact with this vacation.

Reports and Comments from the Aldermen: Larsen questioned, of the 35 ft. vacated on Silver Lake St. how much would be additional pavement. Chapman answered 20 ft. pavement and 15 ft. will remain green space. Larsen thanked Sander for his commitment to serve. Cochrane complimented the City for great fireworks. Kohlenberg questioned who will pay for the damages/atty. fees to Speedway. Chapman stated the DOT pays for damages and that Atty. Van Lieshout had done an excellent job for the City in this settlement.

Motion by Cochrane to convene into Closed Session; second by Larsen. Motion carried 8-0. Closed Session convened at 8:35 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." (Pabst Farms)

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

Diane Coenen, City Clerk