

CITY OF OCONOMOWOC
COMMON COUNCIL MEETING MINUTES
August 17, 2010

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

Pledge of Allegiance

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

Staff Present: Mayor Daley, Gard, Frye, Beguhn, Gallo, Lamp, Kelliher, Duffy, Bednarski and Dehnert

Others present: Atty. Chapman

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

Public Hearing:

7:30 PM – The purpose of the hearing was to hear public comments on the petition filed by the City of Oconomowoc to create Section 17.914(2)(d) relating to the waiver of Special Use and Conditional Use regulations for uses within Planned Developments. The purpose of this ordinance change is to improve the development approval process by eliminating duplication of Special Use Permits or Conditional Use Permits.

The hearing opened at 7:32 PM. Chapman explained this section of the code is being amended to cut down on the time necessary to approve planned developments. This change makes special use and conditional use permits land uses by right. The ordinance does have safeguards however, so when in the general code there are general regulations that apply to special uses or conditional uses, they must be placed in the Precise Implementation Plan (PIP) and will then be in the Order approving the PIP. This change will assist by eliminating one of the public hearings now required for conditional use permits. No other comments were received. The hearing closed at 7:34 PM.

Minutes of August 3, 2010: Motion by Cochrane to approve the minutes of the August 3rd meeting as presented; second by Slattery. Motion carried 8-0.

Comments and suggestions from citizens:

- 1) Dave Falstad, District 1 County Supervisor, introduced himself stating his district covers about half of the City.
 - 2) Mike Inda, District 14 County Supervisor, introduced himself stating he replaced Bonnie Morris.
 - 3) Floss Whalen, 406 W. 3rd Street, representing the CDA spoke in support of the amended Loan Pool Program. She noted the majority of the CDA members believe the stretch of Wisconsin Avenue being added to the program is a gateway into the historic downtown and the Bank is in favor of it. She also spoke in regard to the High Speed Rail being the subject of the Closed Session, noting it is worrisome when government makes decisions behind closed doors.
 - 4) Denise Salamone, 454 W. Wisconsin Avenue, believes the price for high speed rail will go up and none of the numbers are solid. She believes most people use the train for getting to a destination, not to stop along the way.
- A) Proclamation – Patrick “Pat” Neary Accomplishments:** Daley read a Proclamation into the record in recognition of Pat Neary's 41 years of service as a baseball coach at OASD. A signed and framed Proclamation was presented to him. Applause and congratulations were given.

Consent agenda:

- A. Licenses
- B. Release Letter of Credit – Valley Road Development (Valley Road Commons)

Kohlenberg requested to remove Item B. from the Consent Agenda. Motion by Cochrane to approve the Consent Agenda for A) Licenses; second by Slattery. Motion carried 8-0. Motion by Nold to approve Item B. on the Consent Agenda; second by Cochrane. Kohlenberg asked for an explanation of Item B. Chapman explained this Letter of Credit was on the development of the Valley Road Commons, which is the old Summit School site. The City had a one year warranty period after public infrastructure was constructed and turned over to the City. The one year period has expired and the City has to release the Letter of Credit. Motion carried 8-0.

Finance – Nold, chr, Hall, Kohlenberg, secy:

- A: **Consider/act on Amending Procurement Policy Language Allowing City Attorney to Engage the Services of Legal Consultants:** Motion by Larsen to approve amending the Procurement Policy language as presented; second by Nold. Gard stated this amendment to the Procurement Policy will allow the City Attorney to retain outside legal counsel in an advisory role for consultation on City matters in an amount not to exceed \$5,000 upon approval of the City Administrator. Motion carried 8-0.

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

- A. **Consider/act on the Lettering for the Rhodee Memorial Band Shell:** Hall reported the Parks & Recreation Board reviewed four options by the American Legion Band for a plaque in recognition and honoring the Rhodee Family. They recommended Option #4 which is a 3' x 3' bronze plaque to be mounted next to the staircase on the newly renamed Rhodee Memorial Band Shell. Motion by Hall to approve the lettering for the Rhodee Memorial Band Shell; second by Miller. Motion carried 8-0.
- B. **Consider/act on Demolition Grant Agreement for Community Center:** Hall explained this Agreement is for a grant from Waukesha County in the amount of \$503,000 to be used towards the demolition of the Community Center. Kelliher noted there are two different timelines which need to be adhered to in order to get the money and timing is critical. Motion by Hall to approve the demolition grant agreement for the Community Center; second by Cochrane. Motion carried 7-1. Morgan voted no.

Plan Commission:

- A: **Consider/act on Conditional Use Permit for Michael's Italian Feast Restaurant, 511 E. Wisconsin Ave:** Motion by Kohlenberg to approve the CUP for Michael's Italian Feast Restaurant; second by Cochrane. Gallo reported this CUP is for a new restaurant in the former Burger King building. Plan Commission reviewed and there are two specific conditions which he outlined. The hours of operation were changed to seven days a week from 10:30 am to 10 pm, and there will be an outdoor patio. Nold questioned the hours and the Mayor pointed out the owners originally planned to close at 9 pm. The owner, John Schroeder, explained it is a restaurant where you come for dinner and can have a drink with your meal. Nold noted he didn't want them to have a problem if they decide to stay open longer at some point. Motion by Nold to amend the CUP for Michael's Italian Feast Restaurant to change the hours of operation from 10:30 am to 10 pm to 10:30 am to midnight, seven days a week; second by Kohlenberg. Motion carried 8-0. Original motion carried 8-0.
- B. **Consider/act on Ordinance to Create §17.914(2)(d) Relating to the Waiver of Special Use and Conditional Use Regulations for Uses within Planned Development Districts – 1st Reading:** Chapman explained this change to the code is being made to speed up the process for developers getting approvals within the City. Motion by Nold to give the ordinance its first reading; second by Cochrane. Motion carried 8-0.
- C. **Consider/act on Resolution for the Wisconsin Avenue Right-of-Way Plat No. 1371-08-20, Sheet Numbers 4.1 – 4.8 and Relocation Order:** Motion by Cochrane to approve the Wisconsin Avenue Right-of-Way Plat No. 1371-08-20, Sheets 4.1 - 4.8 and Relocation Order; second by Miller. Duffy reported the City was having difficulty securing property along W. Wisconsin Avenue in order to locate a lighting cabinet until they discovered an existing utility easement on Parcel 50. The Plat is being amended to accommodate this change. Motion carried 8-0.

New Business:

- A. **Consider/act on Resolution Issuing Alcohol Beverage Licenses (Class "B" & "Class C") for John C. Schroeder, LLC:** Motion by Kohlenberg to adopt the resolution issuing alcohol beverage licenses to John C. Schroeder LLC; second by Slattery. Motion carried 8-0.
- B. **Consider/act on Amending Resolution for the Downtown Business Development Loan Pool:** Motion by Slattery to adopt the resolution amending the boundary of the Downtown Business Development Loan Pool;

second by Cochrane. Duffy explained the area designated for the Downtown Business Development Loan Pool originally was intended for the commercial structures directly in the downtown. The CDA reviewed and recommended the plan be amended to extend east up to and including the east side of Thompson Street in an attempt to help those businesses considered to be in the gateway to the downtown. Kohlenberg explained he voted against the amendment at the CDA meeting out of concern that the funds would be depleted sooner if more businesses have availability to the pool. He doesn't believe it is the right time, not because he is against the other businesses, but that he would like to see the downtown prosper first. Nold said he pushed to have the area larger as he believes if you improve the area leading up to the downtown it will bring business to it. Slattery stated since only three people have come forward in four months to utilize these funds, she felt Kohlenberg's point could be revisited when the funds begin to run out. The Mayor clarified First Bank stated there may be more funds available when the funds are close to being extinguished. Kohlenberg changed his opinion after hearing the other members. Motion carried 8-0.

- C. **Consider/act on Release of Pabst Farms Development, Inc. Mortgage of Nineteen Acres:** Motion by Slattery to release the Pabst Farms Development, Inc. real estate mortgage; second by Kohlenberg. Chapman explained Pabst Farms is requesting the mortgage be released. When the Developers Agreement was entered into and the money was first borrowed, it was necessary for the City to enter into a very sophisticated method of computing square footage each year versus a simple method of computing value. Chapman noted there is enough square footage and the assessed value of the real estate has reached a level sufficient to repay the City's investment. Motion carried 8-0.
- D. **Consider/act on Agreement with Pabst Farms to Fund the Southeast Arterial:** Motion by Slattery to approve the agreement with Pabst Farms to fund the southeast arterial; second by Kohlenberg. Chapman explained this is an agreement to fund the SE arterial running from Pabst Farms Circle to the proposed DOT interchange which are both important projects for the development of the Town Center. The estimated cost to fund the arterial is \$4,654,768 of which the City would agree to contribute \$3,000,000 or 64.45% with the balance of the cost being the responsibility of the developer or 35.55%. Larsen felt it would be better for the City if the TIF contribution would be \$1.5 million, and he didn't agree with the farmland reclassification resulting in a tax break. Gard explained from a policy standpoint, it is up to the Council to decide what they are comfortable with, noting the City Attorney did the negotiating. Hall pointed out by changing the property from non-agriculture use to agriculture use there is a \$500,000 revenue loss on the tax roll for each year up to five years. The agreement gives them five years to break ground or until 2014 which is a \$2.5 million potential tax consideration being given to Pabst Farms. Nold stated this is a main road which will be a core development area that will add hundreds of millions of dollars of tax base. He thinks it is a minimal amount of money to spend on something that is going to be a huge benefit to the whole area. Motion by Kohlenberg to call the vote; second by Slattery. Motion carried 8-0. Main motion carried 6-2. Larsen and Morgan voted no.

Reports and Comments from the Aldermen: Larsen inquired if the train horns in the City would be ending soon. Frye noted there had been a slight modification at the Main Street crossing. Staff continues to move forward and he looks to have the Quiet Zone implemented yet this year.

Motion by Larsen to convene into Closed Session; second by Cochrane. Motion carried 8-0. Closed Session convened at 8:47PM.

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."
(Gas Explosion 4/08) and (High Speed Rail)

Motion by Nold to adjourn the Common Council meeting; second by Cochrane. Motion carried 8-0. The meeting adjourned at 8:47PM.

Chris Dehnert, Deputy City Clerk