

**CITY OF OCONOMOWOC**  
**COMMON COUNCIL MEETING**

**April 18, 2006**

**Mayor Sullivan** called to order the Ceremonial Common Council Meeting, and explained that this is a brief meeting and anyone wishing to speak tonight may want to do so in the regular Common Council meeting which will take place following the swearing in of the newly elected officials. The Clerk confirmed that appropriate notice had been given.

Chief Martin led in the **Pledge of Allegiance**.

**Roll Call:** Aldermen present – Cochrane, Hollatz, Jones, Snyder, Morgan, Gross, Larsen and Antonneau (all present)

**Staff in attendance:** Lamp, Gallo, Langohr, Maurer, Duffy, Martin, Leidel, Frye, Senfleben, Gard and Attorney Chapman

**Others present:** Christy Kramer, of Ruckert & Mielke Engineers, Officers Rich and Pfister and several 2<sup>nd</sup> shift Police Officers

**Comments and suggestions from citizens – none**

**Staff Reports – none**

**Reports and comments from the Aldermen – none**

**Reports and comments from the Mayor – none**

**Adjourn sine die –** Motion was made by Ald. Cochrane, seconded by Ald. Jones to adjourn **sine die**, and carried.

**Public Swearing in of newly elected Officials & presentation of Certificates of Election**

**Public hearing** re: Lisbon Road Water Main Extension. Mayor Sullivan declared the public hearing open at approximately 7:38 p.m, and asked Mr. Mark Frye, Water Operations Manager, to address this subject.

Mr. Frye stated that this is water main extension from Lapham St. to Indian Head Trail, and properties that will benefit from it will be assessed. Public input was then invited.

The following people spoke: Mr. Jim Mikalsky, 36794 Lisbon Rd.; Mr. Harry Snyder, W368 N5654 Indian Head Trail; and Mr. Scott Lauer, 36788 Cherokee Rd. – among their concerns was the surprise of receiving the assessment notice; referral in the notice of annexation; why wasn't it done when the sewer came through a few years ago; there are a lot of septic problems in the area, they need sewer more than water. Mr. Frye stated that no laterals were put in for sewer because they are Town properties, and no water laterals will be put in between Lapham and the bypass. Mr. Frye further stated that when the land behind these properties is developed, water would be brought in at that time. It was explained that no assessment would be due unless or until they hooked up to the water, or until they were annexed at some future

time. Ms. Gard stated that there would be no interest charged until such time as they would hook up. The Common Council adopted a Preliminary Resolution last July for this project, but the Engineer's Report was just completed so these notices could now be sent out. This is to notify the property owners that water is going to be installed, but that they are not going to be hooked up or charged at this time. The assessment is for the water main from Lapham St. to Indian Head Trail. Regarding the concern of annexation, nobody knows that date.

The Mayor felt we need to schedule another meeting with these property owners to go through the project in more detail so it is clearly understood. Property owners will be notified of a future meeting on this subject. The public hearing closed at approximately 7:56 p.m.

**Mayor Sullivan** called the regular Common Council meeting to order at 7:56 p.m. and the Clerk confirmed that appropriate notice had been given.

**Roll Call:** Aldermen present – Cochrane, Hollatz, Jones, Snyder, Morgan, Gross, Larsen and Antonneau (all present)

**Staff in attendance:** Lamp, Gallo, Langohr, Maurer, Duffy, Martin, Leidel, Frye, Senfleben, Gard and Attorney Chapman

**Others present:** Christy Kramer, of Ruekert & Mielke Engineers, Officers Rich and Pfister and several 2<sup>nd</sup> shift Police Officers

**Comments and suggestions from citizens –** Awards presentation by Public Safety Director. Public Safety Director, Hugh Martin, stated that 2005 was the year of the 2<sup>nd</sup> shift, pointing out that they exceeded the other shifts in citations and warrants. He recognized Officer Andy Rich, awarding him "Officer of the Year" for 2005, and a Medal of Merit badge, for his diligence and investigative success in obtaining a confession in the jewelry theft at the YMCA at Pabst Farms.

Public Safety Director, Hugh Martin, then recognized Officer Jim Pfister with the "Leadership Award" for his efforts in often acting as officer in charge of 2<sup>nd</sup> shift, and making it a very cohesive group and the goals that he and the 2<sup>nd</sup> shift officers were able to attain which make Oconomowoc a safer place to live.

Sgt. Mark Schrang is also being recognized with a Leadership Award for his continued exemplary work with the officers. Sgt. Schrang, however, could not be here tonight. Officer Rich stated that Sgt. Schrang has done a great job, and wanted to thank him for that and stated that he deserves a lot of credit.

Chief Martin thanked Lt. Buerger for working the streets tonight so the 2<sup>nd</sup> shift officers could attend this ceremony.

The following people spoke regarding the Beach House ("Club Porticello") Mr. Mark Brewer, 37402 Valley Rd.; Mr. Edward Mohr, 37710 Valley Rd.; Mr. Jay Potter, 3322 N. Silver Lake Dr.; Ms. Margie Inscore, 3322 N. Silver Lake Dr.; Mr. Nate Rice, 37803 Valley Rd.; and Mrs. Lois Erdmann, 37909 Valley Rd. Mr. Nate Rice spoke at length, he being an officer of the Silver

Lake Environmental Association, giving many statistics. Among their concerns were the noise the new restaurant could create in this quiet neighborhood, with a liquor license that allows it to be open until 2:00 a.m.; there would probably be drinking out on the pier; concerns about the proximity of the building to the lake, and to the road; will variances be granted and is that legal; safety concerns with the parking lot across the road from the restaurant; the restaurant should be built on the north side of the road; concerns about the 50% rule in renovating the building; concerns about the property assessment; questioning whether this was illegal; when the southwest wall is removed the building will lose its non-conforming status, as it must retain its present footprint; further concerns about parking and traffic which may keep people from going there; there is no space for trucks/staging area during construction; just want to make sure the law is followed and extreme erosion control measures are required. Mrs. Erdmann, stated she has lived on the lake for 38 years and is also a member of the Silver Lake Environmental Association. The members of that association have never been asked to vote on this project, and she and/or her husband have attended every meeting. She stated she has no objection to the proposed restaurant and is looking forward to having the property improved. She further felt it would enhance their property values and could be a real asset.

**Consent agenda:**

A. Licenses B. Treasurer's Report and C. EMS contract for ambulance service, with the Town of Summit – Moved by Ald. Hollatz, seconded by Ald. Antonneau to approve the Consent agenda. Voice vote carried with no dissenting votes.

**Committee Reports**

- A. Finance – no report
- B. Personnel – no report
- C. Protection & Welfare – no report
- D. Public Services
  - 1) Ordinance to Amend §21.091 of the Municipal Code of the City of Oconomowoc which Prohibits Horses in Parks and other Public Areas – Moved by Ald. Larsen, seconded by Ald. Hollatz to give the Ordinance its first reading. Carried unanimously.
  - 2) Consider/act on request from Bruno Independent Living Aids, Inc. to allow horses in Roosevelt Park for a company picnic – Moved by Ald. Larsen, seconded by Ald. Antonneau to grant the request. Carried unanimously.
  - 3) Consider/act on Real Estate Services Contract (G.J. Miesbauer & Associates, Inc.) – Moved by Ald. Larsen, seconded by Ald. Hollatz to approve the contract.

Ald. Morgan felt the contract fee was excessive. Mr. Duffy, Director of Economic Development, stated that this firm is a WisDOT approved acquisition specialist, and has been reviewed and reduced on the City's behalf to get to this.

Vote on motion carried, with Aldermen Morgan and Larsen voting against it.

- E. Utility – no report

**Plan Commission recommendations**

- A. Consider/act on Conditional Use Permit to operate a Subway @ 1320 Pabst Farms Circle, Suite 100 (Steven D. Shelp) – Moved by Ald. Gross, seconded by Ald. Antonneau to grant the Conditional Use Permit.

Attorney Chapman stated this is a standard Conditional Use Permit for restaurants, which includes no drive-through, adequate parking, approved lighting and signage, community dumpster must be maintained, no outdoor storage, no junk shall be allowed to accumulate, all fire protection requirements must be met, a grease trap is required and a sampling manhole. A building permit must be obtained, all impact fees must be paid and all required licenses and/or permits obtained. The Plan Commission reserves the right to review the operation and amend the conditional use permit as it deems appropriate.

Motion to grant the Conditional Use Permit to Subway carried unanimously

- B. Consider/act on Conditional Use Permit to operate China 1 @ 419 E. Wisconsin Ave. (Lin Xi) – Moved by Ald. Gross, seconded by Ald. Cochrane to grant the Conditional Use Permit.

Attorney Chapman stated that all standard conditions for restaurants apply. Motion to grant the Conditional Use Permit for China 1 carried unanimously.

- C. Consider/act on Conditional Use Permit for on-site real estate sales office @ 1330 Wood Creek Drive (Pamela Jacques) – Moved by Ald. Gross, seconded by Ald. Cochrane to grant the Conditional Use Permit.

Attorney Chapman stated this is for a sales office in the garage of a model home in Wood Creek, and the permit would expire on April 12, 2008. This is a typical permit for this type of operation. Motion to grant the Conditional Use Permit for the on-site real estate sales office carried unanimously.

- D. Ordinance Rezoning property at 1258 W. Wisconsin Ave., from SR-4 Suburban Residential District to UR-10 Urban Residential District – Moved by Ald. Gross, seconded by Ald. Cochrane to give the ordinance its first reading.

Attorney Chapman pointed out that Lutheran Homes has purchased this small parcel and want to zone it like the rest of their contiguous property. Motion carried unanimously.

- E. Consider/act on Conditional Use Permit for a six-tenant office building to be located in the Northwest quadrant of the intersection of STH 67 (Summit Ave.) and CTH B (Valley Rd.) for Titan Procurement Alliance, LLC (Beau Monde) – Moved by Ald. Gross, seconded by Ald. Cochrane to grant the Conditional Use Permit.

Attorney Chapman stated this is a Conditional Use Permit for a particular building, located at Hwy. 67 and Valley Rd. The building is 37,568 sq. ft. in size and is a multi-tenant office building. They have received approvals from the Architectural Commission. They have a bank tenant with proposed drive-through lanes and future office tenants. They must obtain an access permit from Waukesha County. Lighting and landscaping has been approved; outdoor storage will be in the northwest corner and will be screened and maintained. The asphalt from the former

frontage street will be removed and that area will be incorporated into their landscaping plan. Only trees to be removed are those that may be in the building area, and the remaining trees are to be protected during construction.

Motion to grant the Conditional Use Permit to Beau Monde carried unanimously.

E. Consider/act on Conditional Use Permit for a restaurant at 685 E. Valley Rd. (Club Porticello/Michael Krill, Icon Development) – Attorney Chapman addressed the concerns that were earlier brought up in this regard. He made it clear that we want to make sure everything is done legally. He stated that the Council has approved the Planned Unit Development (PUD) Ordinance providing for condos and a restaurant, and the order approving the Precise Implementation Plan (PIP), and those documents tie together with this Conditional Use Permit. This is a high class development, and if there is noise that disturbs the peace, the condominium owners would complain and there are ways of controlling noise through our ordinances. Variances are a problem, but will have to be granted for both distance from the lake and distance from the road, according to the Waukesha County Shoreland Ordinance. A restaurant is a permitted use and is a legal use in this building. No conditional use needs to be sought or granted by the County for this use. He explained at great length how the 50% rule applies to this renovation, having met in Madison with the Assistant Attorney General and representatives of the DNR and agreed on what is structural changes and what is not structural. The estimated cost of renovation is \$1 million, and \$250,000 is structural and \$750,000 is non-structural. This comes within the 50% County requirements. Attorney Chapman has had contact with Mr. O'Malley at the Department of Natural Resources (DNR), and have agreed to send him copies of all documents. He has a draft copy of this Conditional Use Permit and he has suggested a more precise erosion control plan for between the building and the lake, which staff has been concerned with. The developer must come in with a plan to be approved by the City and the DNR, which must be extensive. He is satisfied with the wording that is before you tonight.

Mayor Sullivan asked if there was any reason that this development is unlawful, based on the opinions that the County and DNR have expressed, to which Attorney Chapman stated there, is no reason that this is unlawful. He went on to say that Wis. Statutes provide that non-conforming uses cannot be prohibited. They are non-conforming, so they may have more requirements. Regarding the assessment, he stated we have a very good assessor and Mr. Grota has checked with the state, and his assessment is appropriate. He used a good assessment practice. We have agreed to abide by the most restrictive ordinance, City or County, and it is the City's call, not the County Park & Planning's call. We have addressed pyramiding and the 50% rule, and all the other issues. It is the City's responsibility to enforce our ordinance. He stated that he took issue with any reference to "illegal" in the earlier comments.

Motion was made by Ald. Gross, seconded by Ald. Cochrane to grant the Conditional Use Permit for a restaurant at 685 E. Valley Rd. (Club Porticello)

Attorney Chapman gave highlights of the Conditional Use Permit, in addition to the standard conditions. They must apply and obtain variances; the DNR will address typical plantings/landscaping; they must comply with the City's ordinances and the Precise Implementation Plan; there are extra conditions to protect the lake. We must send copies of

the application for a building permit and contracts to Mr. O'Malley at the DNR at least 12 days before the building permit can be issued for his review and approval in these areas.

There was discussion, Ald. Gross commenting that we will be very sensitive about this project, and he felt the liquor license would control activities at the restaurant. They would need an extension of their liquor license to drink on the pier, and our ordinances can control the noise factor. It was pointed out that only the condo owners are entitled to use the beach and pier. He didn't think the developer would want to put his million dollar development in jeopardy in any way. Ald. Morgan felt we are circumventing the Waukesha County regulations, and wants to see the restaurant built on the north side of the road. Ald. Larsen felt that Waukesha County and the DNR are looking for the City to do the right thing, and not grant the Conditional Use Permit in this case. This is a \$40 Million project, with units selling at \$450,000 plus. Ald. Snyder stated that this is in his and Ald. Jones' district, and they have had no complaints from any of their constituents.

Motion to grant the Conditional Use Permit for the restaurant "Club Porticello" carried, with Aldermen Morgan and Larsen voting against it.

- F. Consider/act on Condominium Plat of Vespera at Porticello @ Valley Rd. & St. Andrews Drive (Michael Krill, Icon Development) – Attorney Chapman pointed out that this doesn't look like the average subdivision plat, because it is an expandable condominium plat. It will expand depending upon where people want to purchase. This is a good thing because each time they expand they must come back to staff and the Plan Commission with the expanded plan for approvals. This does meet statutory requirements.

Moved by Ald. Gross, seconded by Ald. Cochrane to approve the the Condominium Plat of Vespera at Porticello. Motion carried with Ald. Morgan and Larsen voting against it.

### **Unfinished Business**

- A. An Ordinance to Amend §9.24(3)(c) of the Municipal Code of the City of Oconomowoc Relating to Smoking Prohibited on Certain Premises, the Amendment being limited to statutory reference – 2<sup>nd</sup> reading. Moved by Ald. Cochrane, seconded by Ald. Hollatz to give the ordinance its second reading by title only. Carried unanimously.

Motion was made by Ald. Snyder, seconded by Ald. Cochrane that the ordinance become law. Roll call vote carried unanimously.

### **New Business**

- A. Consider/act on Development Agreement for Club Porticello (Anthony Pipito) – In addition to the standard Development Agreement requirements, developer is responsible for construction of the Valley Rd. improvements according to the Waukesha County Department of Public Works approved plans; developer will mill and resurface St. Andrews Drive after sewer and water laterals have been installed and after no further street openings are required. This shall be done at the direction and timing of the City Department of Public Works; all private streets within the condominium development shall be designed to support 75,000 pound fire

apparatus; building 20 will be sprinkled, otherwise all interior streets will be wide enough for fire trucks; if the developer or condo association fail to maintain the stormwater facilities in a manner acceptable to the City, the City has the authority to provide the maintenance and charge cost back to the developer. They have their Chapter 30 permit, and they are requested to get a Chapter 19 permit for erosion control. They will have an early start permit.

Motion to approve the the Development Agreement for Club Porticello was moved by Ald. Gross, seconded by Ald. Cochrane. Motion carried, with Aldermen Morgan and Larsen voting against it.

B. Resolution re: Annexation Petition (Marks & Herro) – Attorney Chapman stated this is approving the form and statutory requirements. If approved it will go on to the Plan Commission. Moved by Ald. Cochrane, seconded by Ald. Gross to adopt the Resolution. Carried unanimously.

C. Acceptance of attachment Petition for referral to the Plan Commission (Frontier Development) – This parcel is in the Town of Summit, in the Reddlein Rd. area and they are requesting attachment, per the Border Agreement we have with the Town of Summit. Moved by Ald. Cochrane, seconded by Ald. Jones to accept the attachment Petition and refer it to the Plan Commission for review. Carried unanimously.

D. Ratification of IBEW contract for 2006-2008 – Ms. Gard, City Administrator, stated that we have reached a 3 year agreement with IBEW, recognizing that employees need to begin contributing to health insurance. For 2006 a 3% wage increase and the City contributing 105% of health insurance; for 2007 a 3.75% wage increase and the City contributing 98% toward health insurance; and for 2008 a 3.75% wage increase and the City contributing 95% toward health insurance. There was some language change regarding CDL licenses. An employee who loses their CDL can remain a City employee. The City is not required to make accommodations for more than one person.

Moved by Ald. Cochrane, seconded by Ald. Antonneau to ratify the IBEW Contract for 2006-2008. Carried unanimously.

**Mayoral appointments to Council Committees announced** – In talking with the aldermen, most were happy where they were. The Committees for 2006-2007 are:

Finance – Jones, chairman, Cochrane, Larsen, secy.  
Personnel – Cochrane, chairman, Morgan, Antonneau, secy.  
Protection and Welfare – Snyder, chairman, Antonneau, Hollatz, secy.  
Public Services – Cochrane, chairman, Hollatz, Larsen, secy.  
Utility – Snyder, chairman, Antonneau, Gross, secy.

**Appointment by Council of Common Council representative to Plan Commission** – Motion was made by Ald. Snyder, seconded by Ald. Hollatz to appoint Ald. John Gross as Council representative to the Plan Commission. There being no further nominations, a unanimous ballot was cast for Ald. Gross.

**Election of Council President by Aldermen** – Motion was made by Ald. Cochrane, seconded by Ald. Hollatz to elect Ald. Joe Snyder as Council President. There being no further nominations, a unanimous ballot was cast for Ald. Snyder.

**Election of Council Vice-president by Aldermen** – Moved by Ald. Antonneau, seconded by Ald. Snyder to elect Ald. Lora Mae Cochrane as Council Vice-President. There being no further nominations, a unanimous ballot was cast for Ald. Cochrane.

**Mayoral appointment of City Comptroller, with Council confirmation** – Mayor Sullivan appointed Ald. John Gross as Comptroller for the coming year.

Moved by Ald. Snyder, seconded by Ald. Jones to confirm the Mayor's appointment of Ald. John Gross, as Comptroller. Voice vote carried unanimously.

### Staff Reports

- A. Administrator – no report
- B. Other – Mark Frye will report on lead and copper test results. Mr. Frye reported that information will be sent out to everyone in the 53066 zip area regarding water testing. He stated that we do test for lead and copper in our water, and it comes from households. We have been in compliance since we have been adding polyphosphate. Recently, in testing, 4 samples exceed the lead content, and only 3 are allowed. As a result we have to go through the public education and notification process. He stated that they are meeting with the Department of Natural Resources, and there are several additional steps that must be met. We are using the proper method for treating our water, and we feel that this is a site problem, not a system problem.

Jim Lamp, Engineering Operations Administrator, gave an update on the 2005 Street project. The contractors began with concrete work last week, replacing broken sidewalks, planter boxes, landscaping and brick pavers. After the final layer of asphalt is applied, the brick paver crosswalk areas will be done. Brick work will be done first. The project should be complete in June and later in the summer, trees will be planted.

### Announcements and Communications

- A. **Reminder of League of Wisconsin Municipalities Regional Dinner Meeting @ Olympia on May 25<sup>th</sup>** – The Clerk pointed out a misprint on the agenda, which stated the dinner was April 25<sup>th</sup>. It is May 25<sup>th</sup>, and she asked those who plan on attending to let her know so adequate reservations can be made.
- B. **Proclamation re: Arbor Day – April 28<sup>th</sup>**. Mayor Sullivan read the proclamation proclaiming April 28<sup>th</sup> Arbor Day.
- C. **Proclamation re: Knights of Columbus Days to Aid Citizens with Mental Handicaps** - Mayor Sullivan read the Proclamation proclaiming April 28, 29 & 30<sup>th</sup> Knights of Columbus Days to Aid Citizens with Mental Handicaps.

**Reports and comments from the Aldermen** – Ald. Cochrane thanked Deputy Fire Chief and his department for their efficiency in rescuing a fire victim with the use of the “stair chair”, and a

great job of handling the recent downtown fire. Ald. Jones also acknowledged our Fire Department's fast response in handling the fire. Ald. Morgan thanked everyone involved in the recount, and stated that it is an honor to be here. Ald. Larsen commented about the new street lights, they look very nice and add a touch of class to the downtown.

**Reports and comments from the Mayor** – Mayor Sullivan agreed that the new lights are a great addition to the downtown.

There being no further business to properly come before this body, a motion to adjourn was made by Ald. Jones, seconded by Ald. Cochrane, and carried. (9:55 p.m.)

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Ardyce Senfleben, City Clerk