

**CITY OF OCONOMOWOC
COMMON COUNCIL MEETING**

March 15, 2005

Mayor Sullivan called the meeting to order at approximately 7:30 p.m. and the Clerk confirmed that appropriate meeting notice had been given.

Mr. Richard Whalen led in the **Pledge of Allegiance**.

Roll Call: Aldermen present – Antonneau, Cochrane, Hollatz, Jones, Morgan, Gross and
Larsen

Aldermen absent – Snyder (a quorum was present)

Staff in attendance: Lamp, Sugden, Severson, Langohr, Caughran, Kitsembel, Duffy,
Schmidt, Leidel, Frye, Bednarski, Senfleben, Gard and Attorney Chapman

Minutes for approval: Common Council meeting of March 1, 2005 – The Clerk pointed out a correction to the minutes, as follows: The following correction is made to item B., under New Business: re: Development Agreement for the commercial Development of Market Place at Pabst Farms. (pg. 4) – The sentence beginning “He stated (referring to Attorney Chapman) should read as follows: He stated that the plans filed with the Plan Commission dated January 12, 2005, have been incorporated in the Conditional Use Permit and have now been incorporated in this Development Agreement. Moved by Ald. Jones, seconded by Ald. Cochrane to approve the minutes of the March 1, 2005 Common Council meeting, as corrected. Voice vote carried with no dissenting votes.

Comments and suggestions from citizens

A. Impact fees – Mayor Sullivan reported that the Council has been considering impact fees for some time, including a needs assessment and Ordinances. The Ordinances were before the Council last November, there were some concerns and they postponed acting on it at that time. The Council requested to have a presentation by Pabst Farms, and we intended to have a presentation by them and by our staff. However, by the end of last week with many conversations with Pabst, it appears there has been some consensus reached on impact fees. Presentations are therefore not scheduled this evening, by either. The verbal material, as discussed, will be put into writing and will come back to us on April 19th. The Ordinances will be brought before us at that time. The Mayor stated that, based on the information he has, the interests of the City, and that of the taxpayers, are protected, and Pabst Farms will dismiss their concerns presuming the agreement goes forward. In summary, the intent is not to have any presentation on impact fees tonight, and no action on the second readings of the ordinances. The ordinances will be given their second readings on April 19, together with the agreement that he referred to by that time.

Mr. Peter Bell, Pabst Farms, stated he confirms the mayor’s statements. Subject to working out the details of the agreement, he stated they will have no further objections to impact fees. They, too, are interested in a strong, fiscally sound Oconomowoc.

Mr. Dick Pas, 662 Juneau Ave., stated that on March 6th he drove around the Thurow Golden Estates Subdivision, with Ald. Larsen, and witnessed the erosion caused by melting snow. He stated rivers of muddy water were running down on either side of the road running into the storm drains, and into the parkland area, the river and ultimately into the lake. He stated he did

not see any erosion control retaining materials in the area to stop this erosion. He felt we need better control, and inspection in subdivision developments.

Ms. Florence Whalen, 406 Third St., congratulated Mayor Sullivan and the Plan Commissioners for their recommendation regarding a temporary moratorium of residential development. She felt this measure was long overdue and encouraged the Council to support it.

Ms. Gina Hansen, Metropolitan Builders' Association, stated she represents the building industry in southeast Wisconsin. She referred to the temporary moratorium, as well, and urged the City to complete their work within the targeted 6 months. She was pleased to hear that anything that has already been before the Plan Commission is exempt from the moratorium, as developers have already put a lot of money and hard work into their plans. She offered her assistance, if there is anything she could assist with.

Consent Agenda:

- 1) Licenses – The City Clerk read one additional operator's license for consideration
- 2) Treasurer's report

Moved by Ald. Hollatz, seconded by Ald. Morgan to approve the Consent Agenda. Carried unanimously.

Mayor Sullivan announced that there had been two committee meetings this evening. The Finance Committee approved vouchers; and the Public Services Committee recommended several items for Council consideration.

Committee Reports:

- A. Finance– no report
- B. Personnel – no report
- C. Protection & Welfare
- D. Public Services

1) Memorandum of Understanding re: Wisconsin Department of Transportation – Mr. Duffy stated that staff felt a memorandum detailing the three projects as a result of the jurisdictional transfer was necessary, so we are clear on our responsibilities vs. those of the State.

Moved by Ald. Larsen, seconded by Ald. Hollatz to approve the Memorandum of Understanding. Carried unanimously.

2) Consider/act on Agreement re: Highway Improvement Project (Sheldon Rd. to Concord Rd.) – Mr. Duffy pointed out this is the downtown piece, and will be shared on a 75%/25% basis, 25% being the City's share. This construction is scheduled for 2008.

Moved by Ald. Larsen, seconded by Ald. Hollatz to approve the Agreement. Carried unanimously.

3) Consider/act on Agreement re: Highway Improvement Project (N. Main St., Wisconsin Ave. to Oconomowoc Bypass) - Mr. Duffy stated this is Main St./Lake Dr., from Wisconsin Ave. north to the bypass. All costs will be covered by the Department of Transportation, including the N. Lake Rd. bridge, all curbs, etc. Construction is scheduled for 2007.

Moved by Ald. Larsen, seconded by Ald. Antonneau to approve the Agreement. Carried unanimously.

4) Consider/act on Agreement re: Highway Improvement Project (Wisconsin Ave., Concord Rd. to Oconomowoc Bypass-west) – Mr. Duffy pointed out that most of the area included is in the Town of Oconomowoc. The City's portion of cost in this project is only 9%. Included in this project is the replacement of the W. Wisconsin Ave. bridge. This construction is scheduled for 2009 – 2010.

Moved by Ald. Larsen, seconded by Ald. Antonneau to approve the Agreement. Carried unanimously.

5) Consider/act on three-party Design Engineering Services Contract between the City of Oconomowoc, Department of Transportation and MSA Professional Services – Mr. Duffy explained this is an agreement for the downtown section of Hwy. 16. The total amount of the contract is \$633,767.00, including MSA Services and Schreiber-Anderson services incorporating most of what we want in our downtown plan. The City's share is \$158,500.

Moved by Ald. Larsen, seconded by Ald. Hollatz to approve the three-party Agreement, with the understanding that any non-substantive changes may be approved by the City Administrator during the process. Carried unanimously.

The Mayor advised Mr. Duffy that there should be adequate publicity. Mr. Duffy stated that MSA includes a lot of public involvement, and there will be various meetings, property owners will be contacted and the Chamber will get the business community involved.

E. Utility – no report

Plan Commission recommendations

- A. Consider/act on application for a Conditional Use Permit for Rosati's Pizza and Pastaria @ Summit Centre Marketplace (Frontier Development) – Moved by Ald. Gross, seconded by Ald. Larsen to grant the Conditional Use Permit.

Attorney Chapman went over the permit with typical conditions, pointing out this is a infill restaurant in the Summit Centre Marketplace. The plan of operation and site plan have been submitted and approved. The permit contains all typical language, but pointed out specific conditions such as; no drive-through service; no outdoor dining proposed; 34 parking spaces are allowed for this business; signage & architectural appearance must be approved by the Architectural Commission; no outdoor storage except for one fully screened trash dumpster; no trash pick up before 8:00 a.m.; electric utility shall be approved by City electric utility staff; impact fees shall be paid.

Ald. Gross commented that there was a petition signed by several neighbors presented at the Plan Commission objecting to the additional traffic this would bring, lighting and a concern about outdoor dining. He understands that Mr. Erdmann has been talking with the neighbors and the concerns have been addressed. He is happy that an existing City business is expanding and staying in the City.

Motion to grant the Conditional Use Permit carried unanimously.

B. Consider/act on application for a Conditional Use Permit for EyeCom Wireless Internet on Olympia Ski Hill – Moved by Ald. Gross, seconded by Ald. Jones to grant the Conditional Use Permit.

Attorney Chapman stated that the Plan of Operation and Site plan has been filed and approved by City staff. In addition to the typical language, applicant may install one antenna on the existing pole, as indicated by the site plan last dated 2/14/05, total elevation may not exceed 42' above the ground; applicant shall provide a maintenance schedule, including an estimated number of trips per year to the location; applicant shall submit to the Planner a master plan for communications network operated in the City, including future needs; upon termination of use, all equipment shall be removed within 45 days.

Ald. Antonneau questioned whether there was insurance, and if so, would the insurance carrier advise the City if it lapsed? Attorney Chapman stated there is nothing in the Permit about insurance, but they do indemnify the City. Mayor Sullivan stated that staff will look into this and come back with a recommendation.

Motion to grant the Conditional Use Permit carried unanimously.

C. Consider/act on Certified Survey Map (CSM) (Frontier Development) - Ald. Gross reported that the Plan Commission unanimously recommends this CSM. Moved by Ald. Gross, seconded by Ald. Cochrane to approve the Certified Survey Map. Carried unanimously.

D. Ordinance Annexing Bielinski property from Town of Oconomowoc – 1st & 2nd readings – Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its first reading. Carried unanimously.

Ald. Gross questioned the reason for wanting two readings tonight, to which Attorney Chapman responded that we have already approved a plat, which includes this property, and part of it will be for a fire station. At the time we were not aware it was not in the City. Since this is being done to correct that situation, we thought it best to move quickly. Ald. Gross was not in favor of suspending the rules. The second reading will be at the April 5th Council meeting.

E. Ordinance Creating Temporary Residential Development Moratorium – Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its first reading.

Ald. Morgan moved to amend Section 6 by modifying the last sentence which reads “. . . and the extension shall not exceed 90 days.” He wanted to add the word each, so as

to read as follows: “. . . and each extension shall not exceed 90 days.” Motion died for lack of a second.

Motion for first reading of the ordinance carried unanimously.

Unfinished Business

A. An Ordinance to Create §27.09(5),(6),(7), and (8) and §27.10(5),(6),(7), and (8) of the Municipal Code of the City of Oconomowoc Relating to Impact Fees for Law Enforcement Facilities; Fire Protection and Emergency Medical Facilities; Parks, Playgrounds and other Recreational Facilities, and Highways and other Transportation Facilities – 2nd reading

B. Ordinance to Repeal §18.03(5A) of the Municipal Code of the City of Oconomowoc Relating to Parkland Improvement Fees and to Amend §18.03(5)(a)2.d. and f. Relating to the Park Fee in Lieu of dedication – 2nd reading

Mayor Sullivan stated that impact fees are important public policy. These ordinances should come back to the Common Council for second readings, together with an agreement, on April 19th, as earlier suggested.

Moved by Ald. Jones, seconded by Ald. Hollatz to postpone action on items A & B above, to April 19, 2005.

Ald. Antonneau stated he has respect for the staff and has no doubt that they are working for the best agreement for the City and the development. Ald. Larsen felt it should be acted on this evening. The Mayor stated that when the agreement is put into print, we will see how it protects the interests of the City and the interests of the taxpayers.

Motion to postpone to April 19th carried, with Ald. Larsen voting “no”.

New Business

A. Consider/act on 1st Amendment to Development Agreement for Berkshire development – Attorney Chapman stated that this amendment removes the need for the developer to provide the City with a mortgage. There is adequate security, and the City got the lot based on that value. He further stated that we could special assess, if necessary.

Moved by Ald. Jones, seconded by Ald. Cochrane to approve the 1st amendment. Motion carried, with Ald. Larsen voting “no”.

B. Resolution Supporting Amendment to the Absentee Voting Law – The City Clerk commented that in 1999 the Wisconsin Legislature enacted a law that allows anyone to vote absentee. Prior to that, the intent was for elderly, shut-ins, military, hospitalized or people who were going to be out of the City on election day, to vote absentee. The influx of absentee voters, as a result, has added considerable expense to the election process. This resolution supports an amendment to reinstate the law as it was prior to 1999, or ask the State to offer financial assistance to offset the cost of absentee voting.

Ald. Antonneau felt that the absentee voting privilege should be for those who cannot get to the poles, as originally intended, not as a convenience for all voters. That additional cost could be avoided.

Moved by Ald. Antonneau, seconded by Ald. Jones to adopt the resolution. Carried unanimously.

- C. Consider/act on 2004-2005 Dispatcher's Contract – Ms. Gard stated that the dispatchers have now accepted our final offer, which is a 3% increase in salary each year; and that sick time can be used to attend to a sick child, if they have at least 40 hours in their sick bank.

Moved by Ald. Antonneau, seconded by Ald. Larsen to approve the Dispatcher's Contract for 2004-2005. Carried unanimously.

- D. Consider/act on Development Agreement for Weston Meadows – Attorney Chapman stated this is the first phase, and is a typical agreement for single family development. All subsequent phases must go through the same process. The Developer must construct a street from Reddelien Rd. to Capitol Drive, in Phase II; all parkland and development fees must be paid and all special conditions must be met. Deed Restrictions must be approved by the City before recording thereof. Attorney Chapman reported that he received a Letter of Credit for \$1.6 Million, and has turned it over to the Finance Director.

Ald. Larsen questioned whether there was a tree inventory. It was pointed out that the trees are indicated on the plat, but an actual tree inventory may be a good idea for the future.

Moved by Ald. Gross, seconded by Ald. Cochrane to approve the Development Agreement for Weston Meadows. Carried unanimously.

- E. Consider/act on temporary leave request of Alderman Snyder – Ms. Gard stated that Alderman Snyder has requested a temporary leave of absence for 3 months, through June 7, 2005.

Moved by Ald. Cochrane, seconded by Ald. Hollatz to approve the request for a 3 month leave of absence, until June 7, 2005.

There was a brief discussion, and Attorney Chapman commented that Wis. Stats. allows a person to be appointed to temporarily act on behalf of an alderman with a temporary disability.

Motion to grant the 3 month leave of absence carried unanimously.

- F. Discussion of procedure to fill temporary vacancy of Alderman Snyder – Ms. Gard stated we want to move quickly and recommended that we put notices in both newspapers and accept letters/resumes through March 28th from 3rd District residents. Committee of the Whole will interview interested candidates on April 5th and make a recommendation to

Council, with a selection by Council at the April 5th Council meeting. This would be done by an open vote. That person would serve up until June 7th. This was agreeable to all.

Mayoral Appointments to Boards and Commissions, with Council confirmation – none

Staff Reports

- A. Administrator – no report
- B. Other – Mr. Stan Sugden, City Engineer, reported on the erosion issue that was brought up under “Comments”, and in light of the newspaper article regarding Thurow Golden Estates Subdivision. He has met with the developer and with the Department of Natural Resources (DNR) in this regard, and both are being pro-active in an effort to control the problem. At a meeting with the DNR on March 14, they suggested some changes which will be implemented tomorrow (March 16th). Mr. Sugden stated that the developer had many erosion control measures in place, but with the spring thaw it is hard to control.

Ald. Larsen thanked Mr. Pas for taking the pictures of the damage, and stated that a lot of mud was running into the river, and ultimately into the lake. He fears when people start fertilizing their lawns, chemicals will begin washing into the river, as well. The Mayor understood that there are weekly inspections done on the site. Mr. Sugden reinforced that, pointing out that different groups monitor the area, either the City, the developer and/or another firm during construction. Inspection forms are forwarded to the DNR weekly, and they come and check the site occasionally.

Announcements and Communications – none

Reports and comments from the Mayor – none

Reports and comments from the Aldermen – Ald. Larsen commented that he has seen mud in the street near the Berkshire Development, and felt the developer should be responsible for their own clean-up. Mayor Sullivan stated that staff will follow up on that. Ald. Morgan commended the Clerk in the handling of elections/polling places.

There being no further business to properly come before this body, a motion to go into closed session, per Wis. Stats. 19.85(1)(e) “Deliberating or negotiating . . . or conducting other specified public business, whenever. . . bargaining reasons require a closed session.” (fire negotiations/economics) and per Wis. Stats. 19.85(1)(e) “Deliberating or negotiating the purchase of public properties . . . whenever competitive or bargaining reasons require a closed session.” was made by Ald. Antonneau, seconded by Ald. Cochrane, and roll call vote carried unanimously.

Motion to adjourn was made by Ald. Jones, seconded by Ald. Antonneau, and carried. (9:16 p.m.)

Ardyce Senfleben, City Clerk