

**CITY OF OCONOMOWOC
COMMON COUNCIL MEETING**

February 18, 2003

Public Hearing re: Consider the petition of Jerome Erdmann d/b/a Sheldon Knoll, LLC, to apply the Planned Development Overlay District to lands in the Southeast one-quarter of Section 27, Township 8 North, Range 17 East, City of Oconomowoc, Waukesha County, Wisconsin, which were recently rezoned SR-3 Suburban Residential District (71.82 acres)

Mayor Kohlenberg declared the public hearing open at approximately 7:32 p.m. - Mr. Erdmann, 1101 Christopher Ct., gave an overview of his proposed development, pointing out its mixed use on approximately 73 acres of land. There will be 188 living units in all, i.e. 55 duplexes; 4 - 3 family; 11 - 6 family. There are 9 different plans for the duplexes. All units will have a minimum of a 2-car attached garage plus 2 parking stalls. The units will range in price from \$160,000 to \$275,000, depending on size. He intends to phase this development in over a 5 - 6 year period. He mentioned a bikepath to the west and sidewalks to the east on Hwy. Z. There is a creek which they will protect, and he is working with the DNR in an attempt to put a bridge across it. He is proposing 100' setbacks from the wetland, which is greater than the requirement, and will put in tall prairie grass to provide habitat for birds. Mr. Erdmann stated that his proposal is in compliance with the Master Plan, is the highest potential use of the land and provides for the community. He stated there is a minimum of public road in the development that the City would maintain. There will be heavy landscaping along the road and around the units. There would be an entrance on Hwy. P and on Hwy. Z.

There being no public input, the public hearing was closed at approximately 7:40 p.m.

Mayor Kohlenberg called the regular Common Council meeting to order at 7:40 p.m. and the Clerk confirmed that appropriate meeting notice had been given.

The Pledge of Allegiance was recited.

Roll Call: Aldermen present - Gross, Larsen, Antonneau, Cochrane, Hollatz, Jones, Snyder and Nold (all present)

Staff in attendance: Tonn, Sugden, Langohr, Lamp, Endl, Kitsembel, Duffy, Martin, Leidel, Frye, Jarocki, Senfleben, Gard and Attorney Chapman

Minutes of previous meetings: Regular Common Council meeting of February 4, 2003 - Moved by Ald. Jones, seconded by Ald. Cochrane to approve the minutes of the February 4, 2003 Common Council meeting as written. Voice vote carried unanimously.

Committee of the Whole meeting of February 4, 2003 - Moved by Ald. Jones, seconded by Ald. Cochrane to approve the minutes of the Committee of the Whole meeting of February 4, 2003, as written. Voice vote carried unanimously.

Comments and suggestions from citizens - Mayor Kohlenberg stated that because of the heavy agenda this evening, there will be a 3 minute limit per person.

Mr. Tom Ziety, 1101 Emerson Dr., on behalf of the Badgerland Waterski Show, and is requesting permission to use Fowler Lake and park from Memorial Day to Labor Day for a family-oriented waterski show, as in the past. He pointed out that the City, the Chamber of Commerce and the Pabst Farms Development have referred to the waterski show in their promotional materials. Fourteen of their waterski members were invited by the Chinese Government to China to put on shows, all expenses paid. The Gov. McCallum then declared Oconomowoc the "Waterski Capital of the world". In a waterskiing publication, Badgerland was endorsed by the U.S. Olympics. He stated they went over to China as ambassadors of the United States, and of Oconomowoc. He urged the Council to vote in favor of allowing them to again perform for the citizens of Oconomowoc.

Ms. Stephanie Phillips, Executive Director of the Chamber of Commerce, read a letter she had written to the Park and Recreation Board and to the Common Council supporting the Badgerland Waterski Show, pointing out the many benefits it affords the City, such as good family-oriented entertainment and it is free to the public. She urged the Council to act favorably on this matter.

Mr. Gary Tessman, 433 N. Lake Rd., stated that he lives on Fowler Lake and he is opposed to the show. He felt that Fowler Lake, being approximately 81 acres, is too small for it. He pointed out that Dr. Jeff Thornton, of SEWRPC, has recommended that Fowler is not an appropriate lake for the show. He is an expert, and we should listen to him.

Mr. Carl Daeger (phoenetic), W339 N5085 Road O, stated that he supports the team. He is a boat driver, and is also concerned about water environmental issues.

Mr. Doug Breese, Department of Natural Resources, supported the waterski show. Water quality has been tested before and after a show and there was no evidence of any damage and he has not heard anything contrary to that opinion. He agreed that the horsepower on the motors is high, but they are operated at less than half of their capacity. There is wave action, but their boats are designed to have a flat wake and their engines are fuel-injected, so as to run clean. He asked the Council to give this serious consideration.

Ms. Delores Johnson, 507 Grove St., read her lengthy letter, stating her reasons for opposing the waterski show, as she lives on Fowler Lake. She referred to an incident in the past where one of her windows was broken out. The show has done a lot of damage to her shoreline.

Mr. Dross (phoenetic), Hillcrest Drive, stated that he was a former executive director of the DNR regarding use of public waters and environmental issues. He pointed out that the area near the gazebo is the most environmentally sensitive. He further stated that erosion has been an issue for over 100 years, and boat wakes are negligible in their effect. He pointed out that Badgerland uses only one-third of the lake for approximately 20 hours per season. He asked for support for the ski show.

Mr. Derek Zwart, 226 Pleasant St., lives on Fowler Lake and felt that Badgerland put on a good show, but would like fewer shows per season (1 or 2 per month). He felt the show should follow the same rules as any other boater, being at least 100' from the shoreline. He pays more taxes to be on the lake, and felt he has a rite to have time on it.

Mr. Mike Perrow, 3820 Southwood Dr., stated that he was invited to this meeting by the Mayor, and voiced his opinion against the development proposed for N. Summit Center Drive. They are attempting to compromise in an attempt to resolve the issues they have. He maintains that there are some mistakes in the zoning procedures. The Master Plan was adopted in 2000, reflecting SO (Suburban Office) zoning for N. Summit Center Drive. That property is in the Town of Summit, so the City cannot zone it until Summit agrees to detach it. You propose zoning that land SC (Suburban Commercial), and that change from SO to SC would require a public hearing. He stated the City should follow proper procedures.

Mayor Kohlenberg stated that we are not permitted to respond at this point. We will respond by you stopping in to my office, and with the City Attorney, or a public agenda item.

Ms. Florence Whalen, 406 W. Third St., referred to a news article regarding the YMCA and the TIF district. Although she felt that the City should accept the present YMCA building, she questioned the method in which the exchange took place. It was a done deal before the public knew anything about it, and she questioned the legality of how it was handled.

Mr. Todd Sivak, 950 Summer Creek Rd., stated he has lived in Oconomowoc for 3 years, and has become involved as a Chamber Ambassador. He was concerned to see that letters went out from Mayor Kohlenberg only to certain people who are opposed to the waterski show. He stated he appreciates all the time and effort people put into City matters, but if it is for a personal vote or personal intentions, he felt that was not proper.

Consent Agenda:

A. Licenses; Treasurer's Report; Resolution combining Wards; and Fire Contract w/Town of Oconomowoc (\$96,030.00) - Moved by Ald. Cochrane, seconded by Ald. Hollatz to approve the consent agenda. Carried unanimously.

Committee Reports:

A. Finance

1) Resolution Designating Collection Agency - Moved by Ald. Jones, seconded by Ald. Larsen to adopt the resolution. Ms. Kitsemel, Finance Director, pointed out that the agency we have been using in the past for collection of ambulance bad debts has gone out of business. She has gotten 4 quotes, and recommends Waukesha County for future collections, it being in the best interest of the City.

Motion to adopt the resolution carried unanimously.

C. Protection & Welfare

1) An Ordinance to Amend §12.01(6) of the Municipal Code of the City of Oconomowoc Relating to Cigarette License fees; and to Amend §12.01(12) of the Municipal Code of the City of Oconomowoc Relating to Peddlers, Canvassers and Transient Merchants license fees - Moved by Ald. Hollatz, seconded by Ald. Nold to give the ordinance its first reading. Carried unanimously.

2) Consider/act on dog park site - Moved by Ald. Hollatz, seconded by Ald. Snyder to approve the proposed site for one year.

Mr. Endl, Park & Recreation Director, reported that the Board recommends use of a portion of Roosevelt Park as a leashed dog park area. Ms. Kay Miller, Task Force member, stated that since this area was approved by the Board in October, they have changed the access to Worthington Street, and she asked the Common Council to approve it for one year. The Task force will be responsible for policing the area and keeping it clean. Ald. Snyder stated that the Committee voted 2-1 to recommend it. Ald. Nold stated he voted against it, as he is not in favor of this location, although he is not opposed to a dog park.

It was pointed out that there will be an amendment to the City Ordinance to make this a reality and an amendment to the Roosevelt Park Master Plan, which will go before the Plan Commission. Ald. Gross was concerned about the proximity of the dog site to Oconomowoc Square, and if there are problems as a result, the trial time will be shortened.

Motion to approve the dog park site carried, with Ald. Nold voting "no".

3) An Ordinance to Repeal and Re-create §9.04 of the Municipal Code of the City of Oconomowoc Relating to the Sale and Discharge of Fireworks - Ald. Hollatz reported that the Committee did not make a recommendation on this item, therefore no action by the Council this evening.

D. Public Services - no report

E. Utility - no report

Plan Commission recommendations

A. Ordinance to Zone property located in the SW 1/4 of Section 6, and the NW 1/4 and SW 1/4 of Section 7, Township 7 North, Range 17 East SR-3 Suburban Residential District (Popp farm/Wozniak) - Moved by Ald. Gross, seconded by Ald. Cochrane to give the ordinance its first reading.

Ald. Gross reported that there were 4 people who spoke at the public hearing before the Plan Commission. Their collective concerns were groundwater and non-point pollution. He stated that this will have to be addressed, which the developer is aware of. Plan Commission recommends the proposed zoning.

Motion for first reading carried unanimously.

B. Ordinance to Rezone property in the SW 1/4 of Section 27, Township 8 North, Range 17 East from RA Rural Agricultural District to SR-3 Suburban Residential District (Russell Matichek, Sr., d/b/a Grandview - Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its first reading.

Ald. Gross reported that there was a public hearing before the Plan Commission, and Plan Commission recommends the proposed zoning.

Motion for first reading carried unanimously.

C. Consider/act on Conditional Use Permit for two residential driveway accesses @ 412 W. Wisconsin Ave. (Paul & Kim Carpenter) - Moved by Ald. Gross, seconded by Ald. Cochrane to grant the Conditional Use Permit for two residential driveways.

Ald. Gross stated that staff did not originally recommend this, however, there was a hearing before the Plan Commission, and they have recommended approval of a 12' wide driveway, which will not have a significant impact. Mr. Tonn pointed out there will be a crossroad between the two driveways. This will also allow existing trees/foliage to remain.

Motion to grant the Conditional Use Permit carried unanimously.

D. Discussion of Planned Development Overlay District for property in the SE 1/4 of Section 27, Township 8 North, Range 17 East, City of Oconomowoc, WI (per public hearing) (Erdmann, Sheldon Knoll) - Attorney Chapman stated that it is a general practice that an ordinance not be presented the same night as the public hearing. He pointed out that the plans must still be approved and a Developer's Agreement adopted.

Ald. Nold commended Mr. Erdmann on doing such a thorough job in his presentation.

E. Consider/act on CSM, combining Parcels 3 & 4 of CSM No. 8245 in the NE 1/4, SE 1/4 and SW 1/4 of the NW 1/4, Section 15, T7N, R17E, for Waukesha State Bank (1227 Corporate Center Drive) - Moved by Ald. Gross, seconded by Ald. Cochrane to approve the CSM. Mr. Tonn, City Planner, pointed out that these are two lots in the Corporate Center, which will make one parcel 4.3 acres in size. Ald. Gross stated that the Plan Commission recommends this.

Motion carried unanimously.

F. Consider/act on Creating two parcels by Certified Survey Map in NE 1/4 and SE 1/4 of the SE 1/4, Section 20, T7N, R17E, Town of Summit (an ETZ land division-Richard Deutsch) - Moved by Ald. Gross, seconded by Ald. Cochrane to approve the CSM in the Extraterritorial area.

Mr. Tonn stated that this is a large parcel which they wish to divide into two parcels, and is not

in conflict with the City's Master Plan. This will result in a 32 1/2 acre parcel and a 25 1/2 acre parcel, most of which is wetland. The Plan Commission recommends it.

Motion carried unanimously.

G. Consider/act on Creating Two Residential lots by Certified Survey Map in the SW 1/4 of the SW 1/4, Section 32, Town 8 North, Range 17 East (326 S. Elm St. - Joseph & Sandra Harry) - Moved by Ald. Nold, seconded by Ald. Cochrane to accept creation of two residential lots by Certified Survey Map, with the conditions placed by the Plan Commission.

Ald. Gross stated that the Plan Commission recommends this, however, he voted against this. Mr. Tonn pointed out this would create two lots, 33,000 s.f. and 65,000 s.f., with one access driveway at the south end of Elm Street. A substantial portion is wetlands, although there are suitable building sites. Approval should be subject to a driveway easement, in a manner to avoid the fire hydrant. The Plan Commission wants the land owner to bring in the building envelopes on both lots. There is an issue of the driveway being 10' from the wetland area. The owners have two options, either request a variance from the Zoning Board of Appeals, or approach the Department of Natural Resources (DNR) to request that a portion of the wetland be filled in. With all of these things yet unclear, Ald. Antonneau wondered if it wouldn't be best to table this until all conditions are met. Mr. Tonn stated that he is not uncomfortable, as these things are not unusual on CSM's.

Motion to approve the CSM, with Plan Commission recommendations, carried, with Aldermen Gross, Larsen and Antonneau voting "no".

Unfinished Business

A. An Ordinance to Amend §5.15(3) of the Municipal Code of the City of Oconomowoc Relating to Fire Protection, specifically the State and Federal Codes Adopted by Reference - 2nd reading - Moved by Ald. Gross, seconded by Ald. Cochrane to give the Ordinance its second reading by title only. Carried unanimously.

Moved by Ald. Gross, seconded by Ald. Cochrane that the Ordinance become law. Roll call vote carried unanimously.

B. Resolution re: Purchase of Video Equipment (PEG Grant) - Ms. Gard reported that approximately a month ago, the Council asked that quotes be requested on one or two cameras. Mr. Langohr, Director of Public Works, stated we have an optional quote from Advanced Communication Services for a fixed camera and monitor for \$980.00, plus a second camera with remote control (one on the podium and one on the Council) with the ability to switch, for \$1,240; 3rd Coast Multimedia submitted two quotes, one for \$2,100 and another for \$4,575, including various additional options; and Roscor who advised that to do the job right, the cost would be between \$20,000 and \$30,000, depending on options. Mayor Kohlenberg said that if we chose to go with Advanced with the switching device, we wouldn't have any better picture than what we have now.

Ald. Antonneau suggested that we go back and ask Advanced to give us a brief example of what it will look like. Mr. Langohr felt that the camera Advanced is quoting would be a better quality picture. Sound has not been a problem - people just have to remember to speak into the mikes. The previous meeting was out of focus, and they aren't sure of the reason for that. Ms. Gard stated that we originally had a \$20,000 grant from Charter Communication for equipment for the school and a TV set for the conference room. No tax dollars should be used for the proposed purchase, if it falls within the balance in the PEG grant.

Ald. Gross felt we need to formulate a plan and follow through, whatever it takes. A lot of time has been wasted on this. Ald. Snyder suggested it go back to a committee for recommendation. Ms. Gard asked that the public give us some feedback as to picture and sound. That would be very helpful to us in proceeding.

Moved by Ald. Gross, seconded by Ald. Snyder to deny the resolution. Carried unanimously

This will go back to the Public Services Committee.

New Business

A. Consider/act on Intergovernmental Agreement - Pabst Farms/Stormwater Utility District - Attorney Chapman reported on and explained the most important provisions of the intermunicipal agreement and responded to questions.

Moved by Ald. Antonneau, seconded by Ald. Cochrane to approve the Intergovernmental Agreement between the City and the Town of Summit, subject to technical changes by staff. Carried unanimously.

Attorney Chapman stated that if there were any substantive changes made, it will be brought back to the Council.

B. Consider/act on 2003 Badgerland Waterski Show - Ald. Larsen asked Chief Martin if he could estimate the cost of having an officer on the lake for the waterski show. Chief Martin responded that they do not have an officer on the lake for the show. They have a CSO in the Park, as they do for any other community activity.

Moved by Ald. Snyder, seconded by Ald. Cochrane to approve the 2003 Badgerland Waterski Show for use on Fowler Lake.

Ald. Larsen felt that Dr. Thornton's expert opinion as to damage to the shoreline was reason enough to vote against this. He stated he may entertain fewer shows.

Ald. Snyder stated he had 51 calls in favor of the waterski show, and also received a letter in opposition of the show from Mrs. Johnson. He further stated he had an opportunity to read a letter that was sent to the Chamber and to "concerned citizens", by the Mayor, urging them to be at this meeting because the waterski show would be on the agenda. He hoped that didn't only

go to those few chosen people, however, he has checked with several neighbors, etc. and they did not get the letter. He pointed out this is a community event, supported by most of the community. Dr. Thornton is only one expert's opinion, we have heard other experts here this evening. Furthermore, if you live on the lake you should be aware that other people will be using it.

Ald. Larsen stated the waterski show was brought to the City by the Chamber and with Ald. Snyder's affiliation with the Chamber, he felt he should not vote on this issue. Ald. Snyder took issue with his comment, pointing out that he is in no way compensated by the Chamber, and that Ald. Larsen's comment was out of line.

Ald. Gross, too, has gotten many calls from constituents and most people in this City do not live on the lake. He felt this was an excellent opportunity for people to come and enjoy the lake for a couple of hours. There are few opportunities for entertainment that is free.

Ald. Antonneau stated that he attended a waterski show and felt it was very interesting as well as seeing families enjoying something together that doesn't cost anything. It was a nice change of pace. He felt there may be some environmental damage, but wave action must be included in there, as well. He stated he will vote "no" on this tonight, but would vote "yes" if the number of shows was reduced.

Mayor Kohlenberg left the Chair. President Nold resumed the Chair.

The Mayor commented that he had taken his son to the waterski show. He seemed to enjoy it. As enjoyable as it may be, he pointed out that he is a steward of this City and of the natural resources, and doesn't want anything to damage it. It is the jewel of the City and should be enjoyed for the long-term. Erosion control will cost our taxpayers money. He stated he thinks this will be approved this evening, but suggested that for 2004, a study should be conducted by an independent expert. All interested parties should participate in paying for this, as well as the ski show as to whether or not there is, in fact, damage to the lake.

Mayor Kohlenberg resumed the Chair. He was happy that so many people stepped forward to share their opinions.

Motion to approve the waterski show carried, with Aldermen Larsen and Antonneau voting against it.

C. Consider/act on City Beach concession stand contract - Mr. Endl, Director of Park & Recreation, stated this is the same contract as we have had in the past with Mr. Kirschbaum, except this is for 3 years, rather than 1. There has never been a problem working with him, and Mr. Endl recommended approval of the contract.

Moved by Ald. Snyder, seconded by Ald. Cochrane to approve the 3 year contract for the concession stand at City Beach. Carried unanimously.

D. Ratify IBEW Contract - Ms. Kitsemel pointed out that this is the contract for electrical workers, and has been ratified by the Union. It is a 3 year contract with a 3% increase each year, with very little other change. The Family Leave portion was deleted, and some language was cleared up.

Moved by Ald. Cochrane, seconded by Ald. Antonneau to ratify the IBEW contract. Carried unanimously.

E. Consider/act on Website policy - Mr. Duffy, Director of Economic Development, stated that the Bureau has been working on this policy for the last 6 months, to reflect information of the City and its' departments. He felt a reasonable link policy has been included, and attempted to cover all possibilities of liability although some is up to interpretation. He stated that we want to move forward and improve the website for its best use. Mayor Kohlenberg asked if it was the Bureau's recommendation to accept this policy, to which Mr. Duffy stated that it was unanimous.

Ald. Gross didn't feel we were ready to act on this as there are some disturbing things. We don't want this to be used as a sales tool. He was concerned about links to individuals, which would be an endorsement by the City. Could there be enough disclaimers to cover everything?

Ald. Snyder stated he did not want personal opinions on the website, and wanted to bring this for debate. He voted for it at the Bureau for that reason, and doesn't like parts of it.

Mayor Kohlenberg stepped down. President Nold assumed the Chair. He asked Ald. Snyder if he voted in favor of it so he could deny it? Ald. Snyder responded that yes, they do not agree with personal opinions on the website and it needs to be discussed by the Aldermen. The Mayor asked if anyone else has a comment before Bob responds? Ald. Jones felt the stumbling block was links to a website or an e-mail site. Ald. Nold commented that if you go to any municipal website, all links are to e-mail. He is not in favor of links to personal websites. Ald. Antonneau summed it up by saying it is not a forum for political candidates, or anything personal in nature. The Mayor pointed out there will be links to federal, state and to elected officials. There is a contradiction of terms.

Mayor resumed the Chair. There was no motion.

Ald. Gross stated he notice there were vouchers for the City's website registered under the Mayor's name, and asked him if he owns the website. The Mayor explained that he initially advocated creating a new website and used his name, but has explained this all to the City Administrator, and a name transfer was requested in January. He stated it is not his intention to hold on to it.

F. Consider/act on acceptance of YMCA building (no decision on terms) - Ms. Gard, City Administrator, referred to the letter from the YMCA regarding potential transfer of the building. In consideration of the City establishing and funding TIF#3, the developer agreed **Common Council meeting**

to pay the YMCA its asking price and donating the property to the City. This would have to go to

other committees or boards, such as Utility, Public Services, Park & Recreation Board, etc., but for now they just want a yes or no answer as to acceptance.

Moved by Ald. Antonneau, seconded by Ald. Cochrane, to accept the YMCA building contingent on the terms that will be agreed to in the future. Carried unanimously.

Staff Reports

A. Administrator - Ms. Gard announced that the City Clerk has been accepted in the International Institute of Municipal Clerks Master Municipal Clerks Academy. She stated this is quote an honor, as approximately only 15% of municipal clerks in the state have attained this status. She was given a round of applause.

B. Other - Mr. Sugden, City Engineer, reported on the 2003 Street Project, totaling \$226,500, which is an increase, including the sidewalk in-fill program and alternate bids for Elizabeth and Main St., depending on how the bids come in. Bids will open on March 13th and will be awarded in April with construction in June.

Ms. Kitsemel stated that the City has received a dividend of \$53,018 from the County as a result of the recycling program.

Mr. Duffy announced the Chamber of Commerce event of the Harley Anniversary ride on August 30th and he will keep the Council updated on scheduled events.

Announcements and Communications - none

Reports and Comments from the Mayor - Mayor Kohlenberg agreed with Ms. Whalen's earlier remarks, and stated that he has worked with the City Attorney, the City Administrator and Mr. Denman to create a press release. He stated he fully endorses accepting the YMCA. The negotiating took place during the TIF planning, but it is difficult to go back and question every component of that process. The Y should be accepted.

The Mayor referred to an earlier apology Ald. Snyder offered to Mr. Ziety on behalf of the community for comments made at the Park Board meeting. He advised Ald. Snyder to never apologize for any comments that he makes. Regarding the letter that he sent to certain people was a list of Fowler Lake people that was comprised before the waterski show was a consideration. He stated it was his intent to spread information, and he will in the future talk with Attorney Chapman as to how he should do that.

He stated there is a needs assessment survey available for anyone to fill out regarding a teen center. Anyone wishing a copy may e-mail him, or call him at 569-1111.

Ald. Snyder responded to the Mayor's comments as to his apology to Mr. Ziety, saying that he does not want the Mayor speaking for him, and as Mayor of this City, his comments reflect on the entire Council. As to the letter to the "concerned citizens", he felt his intent was exactly **Common Council meeting**

to notify only those people who were opposed to the waterski show.

Ald. Nold announced that he would seek the office of Mayor in the 2004 election.

There being no further business to properly come before this body, a motion to adjourn was made by Ald. Snyder, seconded by Ald. Cochrane, and carried. (10:27 p.m.)

Ardyce Senfleben, City Clerk