



MINUTES OF A **REGULAR COMMON COUNCIL** MEETING OF THE 33rd COMMON COUNCIL HELD AT **7:45 P.M.**, TUESDAY, **FEBRUARY 19, 2019**, IN THE COUNCIL CHAMBERS OF BROOKFIELD CITY HALL, 2000 N. CALHOUN ROAD, BROOKFIELD, WISCONSIN

Mayor Ponto called the meeting to order at 7:59 pm.

PUBLIC COMMENT: None

ANNOUNCEMENTS: The next scheduled Common Council meeting is March 5, 2019 at 7:45 pm.

COMMON COUNCIL ROLL CALL: City Clerk Kelly Michaels called the roll and noted the following members in attendance.

13 ALDERMEN PRESENT: Dan Sutton, Bill Carnell, Bob Reddin, Rick Owen, Ron Balzer, Edward “Buck” Jurken, Mark Nelson, Gary Mahkorn, Scott Berg, Christopher Blackburn, Jerry Mellone, Brad Blumer, Renee Lowerr

ALDERMAN EXCUSED: Jeff McCarthy

STAFF PRESENT: City Attorney Jenna Merten, City Clerk Kelly Michaels, Director of Community Development Dan Ertl, Director of Finance and Administration Robert Scott, Director of Human Resources Jim Zwerlein, Director of Public Works Tom Grisa, Fire Chief Charlie Myers

PLEDGE: Alderman Ron Balzer led the Council in the Pledge of Allegiance.

PUBLIC HEARING: (8:00 pm – 8:03 pm) Mayor Ponto read the request of the Department of Community Development, City of Brookfield, to establish permanent zoning of vacant land detached from the City of Pewaukee and attached to the City of Brookfield. Said lands front upon Gumina Road with tax key number 1034-996-002. (*Separate minutes were taken.*)

Motion by Alderman Nelson, seconded by Alderman Reddin to adjourn the hearing. Motion carried unanimously.

ACTIONS OF THE COMMON COUNCIL

CONSENT AGENDA:

Alderman Blackburn requested Items #6-10 be removed from the consent agenda.

Motion by Alderman Nelson, seconded by Alderman Reddin to approve all items on the consent agenda except for Items #6-10 which were removed. Motion carried unanimously.

- 1) Minutes of the Regular Common Council meeting of February 5, 2019.

As recommended by the Plan Commission

- 2) Request of CBL & Associates Properties Inc., 2030 Hamilton Place Blvd., Chattanooga, TN 37421, c/o Herzing University, 555 S. Executive Dr., Brookfield, Jarvis Racine, Campus President, to approve a conditional use and new plan and method of operation permitting occupancy of 15895 W.

Bluemound Road for an accredited university.

- 3) Ordinance granting a conditional use permitting occupancy of 15895 W. Bluemound Road for an accredited university (Herzing University). **Ordinance No. 2542-19***
- 4) Request of Boulder Venture LLC, owner, 311 E. Chicago St., Suite 210 Milwaukee, 53202, Robert E. Schmidt III, representative, c/o Haag Muller Inc., 101 E. Grand Ave., Suite 1, Port Washington 53074, Stephen Jeske, Registered Architect, for approval to amend Exhibit A of MSO Ordinance No. 2454-16 adding free-standing restaurant, fast food with drive-thru to the Use Variations column of said ordinance, a new plan and method of operation and Development Agreement in association with construction of a Taco Bell restaurant with drive-thru on a vacant lot at the SW corner of Lisbon Road and 124th Street with Tax Key No. 1012-084-001.
- 5) Ordinance amending Exhibit "A" of Modified Suburban Overlay (MSO) Ordinance #2454-16 adding free-standing, fast food with drive-thru to the use variations column of said ordinance with a proposed Taco Bell Restaurant on a vacant lot at the southwest corner of Lisbon Road and 124th Street, Tax Key No. 1012-084-001. **Ordinance No. 2543-19***
- 6) ~~Request of the Dept. of Community Development for approval to amend the 2035 Comprehensive Plan through adoption of the Bishop's Woods Neighborhood Plan: amending Figure 4 on page 13 depicted in Exhibit D and Figure 6 on page 2 depicted on Exhibit E to portray the Bishop's Woods Neighborhood Targeted Investment Area (TIA), amending Figure 11 on page 107 summarizing the Bishop's Woods Neighborhood TIA as depicted in Exhibit F, amending the text of Chapter Eight: Special Places increasing the number of TIAs from 10 to 11 on page 94 and describing the Bishop's Woods Neighborhood TIA as contained in Exhibit G, and amend the land use designation in Map 1 of the 2035 Comprehensive Plan for the properties depicted in Exhibit A from "Employment Focused Lower Density" to "Mixed Use Higher Density"; amend Title 17 of the Municipal Code by creating a chapter entitled Office and Limited Residential/Commercial/Light Industrial District ("O&L R/C/LI") with the proposed amendments enumerated in Exhibit C; and rezone properties depicted in Exhibit B from Office and limited Industry ("O&LI") and Planned Development District #5 Commercial (PDD #5 Commercial) to Office and Limited Residential/Commercial/Light Industrial District ("O&L R/C/LI").~~ (Removed from Consent)
- 7) ~~Resolution amending the land use recommendations, figures, and text of the City of Brookfield 2035 Comprehensive Plan and creating the Bishop's Woods Neighborhood Plan.~~ (Removed from Consent)
- 8) ~~Ordinance amending the land use recommendations, figures, and text of the City of Brookfield 2035 Comprehensive Plan and creating the Bishop's Woods Neighborhood Plan.~~ (Removed from Consent)
- 9) ~~Ordinance creating a new mixed use zoning district, the "Office and Limited Residential/Commercial/Light Industrial District (O&L R/C/LI)" within the Zoning Code to apply to certain lands located in the Bishop's Woods Neighborhood Plan.~~ (Removed from Consent)
- 10) ~~Ordinance applying the Office and Limited Residential/Commercial/Light Industrial District ("O&L R/C/LI") to certain properties located within the Bishop's Woods Neighborhood Plan, rezoning properties from Office and Limited Industry ("O&LI") and Planned Development District No. 5 Commercial (PDD #5 Commercial) to Office and Limited Residential/Commercial/Light Industrial~~

District (“O&L R/C/LP”). **(Removed from Consent)**

11) Request of the Park and Recreation Commission to schedule a public hearing to amend the 2035 *Comprehensive Plan* by revising Chapter Five: Natural Resources and Recreation through the consideration of an update to the City Park and Open Space Plan including any corresponding updates to the Greenway Corridor Plan.

As recommended by the Finance Committee

12) Vouchers exceeding \$50,000 requiring immediate action.

Foster Coach Sales Inc.	
Custom Horton Ambulance	\$288,341.00
JH Findorff & Son	
Brookfield Conference Center, Bid Package 1, Pay #4	263,644.24
Visu-Sewer Inc.	
2018 Manhole & Sanitary Sewer Rehab	<u>157,852.00</u>
TOTAL VOUCHERS	<u>\$709,837.24</u>

13) Resolution approving 2018 General fund budget amendment requested by the Director of Finance and Administration: transfer unspent budgetary appropriations from Parks and Recreation accounts and the Contingency account to Police and Fire accounts, to fund salary overages related to terminal leave and other salary payments and ensure compliance with the legal level of budgetary control per state statutes. **Resolution No. 9543-19***

14) Resolution approving 2019 Vehicle/Equipment Replacement fund budget amendment requested by the Director of Finance and Administration: re-appropriate \$288,341 to Fire vehicles expenditure account 25011562-612000, for purposes of funding purchase of replacement ambulance ordered in 2018 but not received until 2019. **Resolution No. 9544-19***

15) Request of the Fleet Services division to purchase replacement service truck from Badger Truck for \$54,153.

16) Resolution allocating \$50,000 from the Brookfield Development Loan fund for participation with Milwaukee Economic Development Corporation in a loan to Grovhac, Inc. for the purchase of property located at 4310 N. 126th St., Brookfield WI 53005 (recommended by the Economic Development Committee). **Resolution No. 9545-19***

As recommended by the Human Resources & Public Safety Committee

17) Ordinance amending Ordinance No. 2534-18, the 2019 Positions Ordinance, to authorize a certain position of the City of Brookfield in the Public Works Inspection/Survey Division, effective March 1, 2019. **Ordinance No. 2547-19***

18) Ordinance amending Ordinance No. 2516-18, the 2019 Salary Ordinance Addendum, to create and delete various titles within the Clerical and Technical Pay Plan, effective March 1, 2019. **Ordinance No. 2548-19***

As recommended by the Legislative & Licensing Committee

- 19) Resolution affirming the Legislative and Licensing Committee's recommendation re: applicants for Original and Temporary Operator's (Bartender) licenses: Michael Baldwin; Eilana Bartmann; Denice Benitez; Charles Bloom III; Breonte Carter; Robert Cook; Aisha Fernando; Kaeley Gifford; Kristen Goedde; Natalie Lohr; Maria Michael; Jason Rodriguez-Varela; Jennifer Smith; Jessica Smith; Daniel Vanek; and Temporary license: Jennifer Giersch. **Resolution No. 9546-19***
- 20) Resolution affirming the Legislative and Licensing Committee's recommendation re: applicant for Temporary Class B Beer and Wine license: Immanuel Lutheran Church, 13445 Hampton Rd., for their annual auction, March 2nd from 5:00 – 10:00 p.m. **Resolution No. 9547-19***
- 21) Resolutions affirming the Legislative and Licensing Committee's recommendation re: applicant for Temporary Class B Beer licenses:
- a. St. Dominic Congregation, 18255 W. Capitol Dr., for their Parish Fish Fry, March 15th from 4:00-10:00 p.m. **Resolution No. 9548-19***
 - b. St. Dominic Congregation, 18255 W. Capitol Dr., for their Parish Fish Fry, April 5th from 4:00-10:00 p.m. **Resolution No. 9549-19***
- 22) Resolution affirming the Legislative and Licensing Committee's recommendation re: Premise Description Changes for Class A Beer/Liquor licensed premises with online ordering of alcohol beverages for curbside/parking lot pickup (Roundy's Supermarkets Inc.): Metro Market, 17630 W. Bluemound Rd.; Pick 'N Save, 2205 N. Calhoun Rd.; Pick 'N Save, 12735 W. Capitol Dr.; Pick 'N Save, 17295 W. Capitol Dr.; Pick 'N Save, 15170 W. Greenfield Ave. **Resolution No. 9550-19***
- 23) Ordinance amending Section 12.24.010 and Subsection 12.24.050 F. regarding the definition of drones and the regulation of drones and similar aircraft in parks. **Ordinance No. 2549-19***

As recommended by the Parks & Recreation Commission

- 24) Resolution approving the Temporary Construction Easement Agreement with Hidden Lake Conservancy, Inc. **Resolution No. 9551-19***
- 25) Resolution approving the Temporary Construction Easement Agreement with Hidden Lake Estates, LLC. **Resolution No. 9552-19***
- 26) Resolution awarding the contract for the Hidden Lake Trail Construction Project #PR-01-19 to Blaze Landscape Contracting Inc. for \$614,775.00 for the base bid. **Resolution No. 9553-19***

As recommended by the Board of Public Works

- 27) Resolution reconfirming the Pedestrian Crosswalk Policy. **Resolution No. 9554-19***
- 28) Resolution reconfirming the Traffic Control Device (stop sign) Policy. **Resolution No. 9555-19***

As recommended by the Water & Sewer Board

- 29) Resolution reconfirming the Right-of-Way Restoration Policy. **Resolution No. 9556-19***

- 30) Resolution accepting the dedication of a water distribution system for Safro Toyota Development at 20655 W. Capitol Drive. **Resolution No. 9557-19***
- 31) Resolution accepting the dedication of a water distribution system for “The Corridor – Medical Office Building” development at 195 Discovery Drive. **Resolution No. 9558-19***

~ END OF CONSENT AGENDA ~

NON-CONSENT AGENDA:

- 32) Items removed from the consent agenda:
- 6) Motion by Alderman Mahkorn, seconded by Alderman Owen to approve a request of the Dept. of Community Development to amend the *2035 Comprehensive Plan* through adoption of the Bishop’s Woods Neighborhood Plan: amending Figure 4 on page 13 depicted in Exhibit D and Figure 6 on page 2 depicted on Exhibit E to portray the Bishop’s Woods Neighborhood Targeted Investment Area (TIA), amending Figure 11 on page 107 summarizing the Bishop’s Woods Neighborhood TIA as depicted in Exhibit F, amending the text of Chapter Eight: Special Places increasing the number of TIAs from 10 to 11 on page 94 and describing the Bishop’s Woods Neighborhood TIA as contained in Exhibit G, and amend the land use designation in Map 1 of the *2035 Comprehensive Plan* for the properties depicted in Exhibit A from “Employment Focused-Lower Density” to “Mixed Use-Higher Density”; amend Title 17 of the Municipal Code by creating a chapter entitled Office and Limited Residential/Commercial/Light Industrial District (O&L R/C/LI”) with the proposed amendments enumerated in Exhibit C; and rezone properties depicted in Exhibit B from Office and limited Industry (“O&LI”) and Planned Development District #5-Commercial (PDD #5-Commercial) to Office and Limited Residential-Commercial-Light Industrial District (“O&L R/C/LI”). Motion carried 12-1 with Alderman Blackburn casting the dissenting vote.
- 7) Motion by Alderman Mahkorn, seconded by Alderman Owen to adopt a resolution amending the land use recommendations, figures, and text of the City of Brookfield *2035 Comprehensive Plan* and creating the *Bishop’s Woods Neighborhood Plan*. Motion carried 12-1 with Alderman Blackburn casting the dissenting vote. **Resolution No. 9542-19***
- 8) Motion by Alderman Mahkorn, seconded by Alderman Owen to adopt an ordinance amending the land use recommendations, figures, and text of the City of Brookfield *2035 Comprehensive Plan* and creating the *Bishop’s Woods Neighborhood Plan*. Motion carried 12-1 with Alderman Blackburn casting the dissenting vote. **Ordinance No. 2544-19***
- 9) Motion by Alderman Mahkorn, seconded by Alderman Owen to adopt an ordinance creating a new mixed use zoning district, the “Office and Limited Residential/Commercial/Light Industrial District (O&L R/C/LI)” within the Zoning Code to apply to certain lands located in the Bishop’s Woods Neighborhood Plan. Motion carried 12-1 with Alderman Blackburn casting the dissenting vote. **Ordinance No. 2545-19***
- 10) Motion by Alderman Mahkorn, seconded by Alderman Owen to adopt an ordinance applying the Office and Limited Residential/Commercial/Light Industrial District (“O&L R/C/LI”) to certain properties located within the *Bishop’s Woods Neighborhood Plan*, rezoning properties

from Office and Limited Industry (“O&LI”) and Planned Development District No. 5 – Commercial (PDD #5 – Commercial) to Office and Limited Residential/Commercial/Light Industrial District (“O&L R/C/LI”). Motion carried 12-1 with Alderman Blackburn casting the dissenting vote. **Ordinance No. 2546-19***

Finance Committee

33) Motion by Alderman Berg, seconded by Alderman Reddin to approve the Resolution awarding the sale of \$23,200,000 Taxable General Obligation Conference Center Bonds; providing the form of the bonds; and levying a tax in connection therewith. (** Dollar amount is preliminary and subject to change at the meeting.) Motion carried 11-2, with Alderman Blackburn and Alderman Mellone casting the dissenting votes. Note the dollar amount was finalized at the meeting to \$23,100,000. **Resolution No. 9559-19***

Plan Commission

34) Briefing and introduction by Community Development Director Dan Ertl of the Brookfield’s Comprehensive Plan Update and Public Participation Plan and the consulting team aiding City staff by Vandewalle & Associates.

35) Motion by Alderman Mahkorn, seconded by Alderman Owen to approve a resolution recommending the adoption of a Public Participation Plan for the update of the Comprehensive Plan, City of Brookfield, Wisconsin. Motion carried 13-0. **Resolution No. 9560-19***

Board of Public Works

36) Motion by Alderman Owen, seconded by Alderman Jurken to approve the resolution approving Revision #2 to the State/Municipal Agreement between the State of Wisconsin Dept. of Transportation and City of Brookfield for improvements to Calhoun Road from North Avenue to Capitol Drive. (*Recommended 4-1 with Ald. Blackburn opposed.*) Motion carried 12-1 with Alderman Blackburn casting the dissenting vote. **Resolution No. 9561-19***

Water & Sewer Board

37) Motion by Alderman Blackburn, seconded by Alderman Berg, to approve the resolution approving an addendum to agreement to provide water service to a portion of the Village of Elm Grove – Bluemound Road east of Elm Grove Road. (*Recommended 4-1 with Ald. Carnell opposed.*) Motion carried 9-4 with Alderman Blumer, Alderman Carnell, Alderman Lowerr and Alderman Balzer casting the dissenting votes. **Resolution No. 9562-19***

Council As A Whole

38) Motion by Alderman Nelson, seconded by Alderman Owen to approve the resolution approving the agreement between the Town of Brookfield and City of Brookfield to reconstruct Lannon Road south of Lisbon Road. Motion carried 13-0. **Resolution No. 9563-19***

39) Mayor’s Assignment of legislative referrals and requests for services –
a. Referred to the Legislative & Licensing Committee to consider adoption of the new

General Records Schedule for Wisconsin Municipal and Related Records (referred by Mayor Ponto).

Closed Session:

Pursuant to Section 19.85(1)(e) and (g) of the Wisconsin Statutes to consider Item 40, for the purpose of deliberating or negotiating the purchasing of public properties, investing of public funds, and conducting other specified public business where competitive and bargaining reasons require a Closed Session, conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved. Further, to not reconvene into Open Session pursuant to Section 19.85(2) of the Wisconsin Statutes for the purpose of acting on items from Closed Session if necessary or continuing the remainder of the agenda. Adjournment will take place in Closed Session.

Motion by Alderman Nelson, seconded by Alderman Jurken to enter into Closed Session pursuant to Section 19.85(1)(e) and (g) of the Wisconsin Statutes as stated above. The Common Council did not reconvene in Open session pursuant to 19.85(2) Wis. Stats., to consider and/or act upon the items from Closed Session and/or the remainder of the agenda as stated below. Motion carried unanimously by roll call vote. Closed Session start time: 9:13 p.m.

40) Update on negotiations with the City of New Berlin regarding the Poplar Creek Interceptor Agreement.

Present during Closed Session: Mayor Steven Ponto, 13 Aldermen, City Attorney Jenna Merten, Director of Community Development Dan Ertl, Director of Finance and Administration Robert Scott, Director of Public Works Tom Grisa, Director of Human Resources Jim Zwerlein, and City Clerk Kelly Michaels.

The Council did not reconvene into Open Session pursuant to 19.85(2) Wis. Stats.

ADJOURNMENT:

Motion by Alderman Nelson, seconded by Alderman Reddin to adjourn the meeting in Closed Session. Motion carried unanimously. Meeting adjourned at 9:30 pm.

* May be viewed in the City Clerk's Office.
Minutes respectfully submitted by Kelly Michaels, City Clerk