



MINUTES OF A **REGULAR COMMON COUNCIL** MEETING OF THE 33<sup>rd</sup> COMMON COUNCIL HELD AT **7:45 P.M.**, TUESDAY, **APRIL 16, 2019**, IN THE COUNCIL CHAMBERS OF BROOKFIELD CITY HALL, 2000 N. CALHOUN ROAD, BROOKFIELD, WISCONSIN

Mayor Ponto called the meeting to order at 8:03 pm.

**PUBLIC COMMENT:** None

**ANNOUNCEMENTS:** The next scheduled Common Council meeting is May 7, 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 AND 1 APPEARING BY TELEPHONE: Dan Sutton, Bill Carnell, Bob Reddin, Rick Owen, Ron Balzer, Jeff McCarthy, Mark Nelson, Edward “Buck” Jurken, Gary Mahkorn, Scott Berg, Christopher Blackburn (telephone), Jerry Mellone, Brad Blumer, Renee Lowerr

ALDERMAN EXCUSED: None

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

**PLEDGE:** Alderman Gary Mahkorn led the Council in the Pledge of Allegiance.

**PUBLIC HEARING:** (8:05 pm – 8:18 pm) Mayor Ponto read the request of Landmark Credit Union, 5445 S. Westridge Dr., New Berlin, WI 53151, c/o Eppstein Uhen Architects, 533 E. Chicago St., Milwaukee WI 53202, Peter Kucha, Senior Project Manager, to apply the “MSO” Modified Suburban Overlay zoning designation and establish dimensional standards at 555 S. Executive Drive in association with construction of a 158,000 sq. ft. Phase One and 148,000 sq. ft. Phase Two office building. (*Separate minutes were taken.*)

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

**ACTIONS OF THE COMMON COUNCIL**

**CONSENT AGENDA:**

Alderman Mahkorn requested Item #6 be removed from the consent agenda.

Motion by Alderman Nelson, seconded by Alderman Reddin to approve the consent agenda except for Item #6. Motion carried unanimously.

- 1) Minutes of the Regular Common Council meeting of April 2, 2019.

*As recommended by the Plan Commission*

- 2) Plan Review Board actions and recommendations from March 21, 2019:
  - a. Request of HHAMB LLP, 555 S. Brown Deer Rd., Suite 220 Milwaukee, WI 53217, c/o Logic Design Assoc., 802 N. 109<sup>th</sup> St., Milwaukee, WI 53226, Adam Stein, Rep., for approval of a minor revision to plan and method of operation permitting façade alterations at 16085-16095 W. Bluemound Road.
  - b. Request of Ragnar Great Midwest 2019, for approval of a temporary use permit to conduct a running relay race.
  - c. Request of Distinctive Ventures LLC, 3455 N. 124<sup>th</sup> St., for a reface monument sign.
  - d. Request of Calvary Lutheran Church, 1750 N. Calhoun Rd., for a reface monument sign and add electronic message center (EMC).
- 3) Request of Milwaukee Tool, c/o Stephen Perry Smith Architects Inc., 215 N. Water St., Suite 250, Milwaukee, WI 53202, Matthew A. Mano, Architect, LEEP AP, Vice President, for approval of a revised plan and method of operation permitting 153 stall parking lot expansion at 13135 Lisbon Road.
- 4) Request of Poppert Preschool, 14665 Lisbon Rd., Unit 1C, Brookfield, WI 53005, Jessica Poppert, owner/operator, for approval to schedule a conditional use public hearing permitting occupancy of 14665 Lisbon Road by a conditional use preschool.
- 5) Request of Midwest Detox LLC, 6633 Lincoln Ave., Lincolnwood, IL 60712, Aber Hollander, Development Project Manager, c/o Husch Blackwell, 120 S. Riverside Plaza, Suite 2200, Chicago, IL 60606, Nida Shakir Ghaffar, Attorney, for approval to schedule a conditional use public hearing permitting occupancy of 13850 W. Capitol Drive by a conditional use substance abuse treatment program.
- 6) ~~Request of Dr. Thomas Tang, 17185 W. North Ave., Brookfield, WI, owner, for approval to schedule a public hearing to rezone 17185 W. North Avenue with “MSO-NS” Modified Suburban Overlay – New Suburban and a portion of 17115 W. North Avenue from “B-3” Regional Business District to “B-1” Local Business District with “MSO-NS” Modified Suburban Overlay New Suburban in association with the redevelopment of site access, parking, landscaping, and building exterior of a health clinic. (Removed from Consent Agenda)~~
- 7) Review and authorize a public hearing to amend Chapter 17.50.030(A)(5) of the Municipal Code which regulates Permitted Uses and Restrictions in Village Area Business zoning required for outdoor seating.

*As recommended by the Finance Committee*

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

JF Ahern Company	
WPCCE Primary Effluent Splitter	\$127,347.34
JP Cullen & Sons Inc	
Bid Package 2 – Conference Center (Payment #3)	<u>\$504,413.33</u>
Total Vouchers:	<u>\$631,760.67</u>

- 9) Resolution approving amendments to the 2019 capital improvement budgets requested by the Director of Finance and Administration. **Resolution No. 9587-19\***

- 10) Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$4,450,000: street improvements. **Initial Resolution No. 9588-19\***
- 11) Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$3,115,000: water utility improvements. **Initial Resolution No. 9589-19\***
- 12) Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$115,000: library improvements. **Initial Resolution No. 9590-19\***
- 13) Resolution approving amendments to various prior year parks capital improvement projects accounts requested by the Director of Finance and Administration to recognize certain grant revenues and allocate funding to associated projects. **Resolution No. 9591-19\***
- 14) Resolution approving municipal agreement to purchase sodium chloride (road salt) with the Wisconsin Department of Transportation. **Resolution No. 9592-19\***

As recommended by the Human Resources & Public Safety Committee

- 15) Ordinance amending the 2019 positions ordinance reclassifying one position of Treasury Assistant to Office Services Assistant in the Finance Department. **Ordinance No. 2554-19\***
- 16) Resolution amending the City's non-represented Employee Benefits Policy regarding Sworn Fire Management Retiree Health Insurance Discount Program. **Resolution No. 9593-19\***

As recommended by the Legislative & Licensing Committee

- 17) Resolution affirming the Legislative and Licensing Committee's recommendation re: applicants for Original Operator's (Bartender) licenses: Gabriella R. Allen; Megan J. Befus; Lucas M. Benauides; Jennifer Beson; Tiffany L. Burie; Brytanie N. Carter; Hazael Chavez; Eric Ebert; Katie L. Foat; Marlene Garcia; Marsha Hainer, Jessica E. Hanson; Danielle G. Hennes; Alicia J. Jones; Alissa A. Jones; Crystal M. Keller; Joneena L. Kilbey; Matthew B. King; Gage L. Laluzerne; Joyce Lichter; Carolann M. Lombardi; Timothy D. Maas; April R. Malvasio; Daniel J. Miller; Diane Mueller-Yarnell; Jatyii J. Nelson; Victoria M. Polivka; Geneviere M. Prochaska; James A. Raskin; Alexander Rivera; Jessica Rodriguez; Sarah R. Schellin; Ashley E. Schemm; Marcia J. Schmidt; Alfred J. Vergolina; Elizabeth B. Vogel Callan; McKenzie P. Wolff. **Resolution No. 9594-19\***

As recommended by the Board of Public Works

- 18) Resolution approving the 2018 Highway Statistics Annual Report. **Resolution No. 9595-19\***
- 19) Ordinance creating Chapter 12.17 of the Municipal Code regarding Wireless Telecommunications Facilities in the City right-of-way – **Legislative Referral. Ordinance No. 2555-19\***
- 20) Resolution awarding the contract for the 2019 Road Resurfacing Project #R-19-01 to Payne & Dolan Inc. for \$1,648,419.00. **Resolution No. 9596-19\***

As recommended by the Water & Sewer Board

- 21) Resolution awarding the 2019 Water Main Extension Project #W-19-01 to UPI LLC for \$2,000,898.00. **Resolution No. 9597-19\***
- 22) Final Resolution authorizing the installation of water main and levying of special assessments: 2019 Water main Extension Project #W-19-01. **Resolution No. 9598-19\***
- 23) Resolution awarding the contract for the Underwood (North Avenue) Sanitary Sewer Relay Project #SA-19-01 to Advance Construction Inc. for \$1,163,479.87. **Resolution No. 9599-19\***
- 24) Resolution awarding the contract for the Televiser Sanitary Sewers and Laterals Project #SA-19-02 to Northern Pipe Inc. for \$148,198. **Resolution No. 9600-19\***
- 25) Resolution awarding the contract for the Sunny Slope Water Tank Painting Project #W-19-16 to V&T Painting LLC for \$477,960.00. **Resolution No. 9601-19\***
- 26) Resolution approving the Private Property Infiltration and Inflow Reduction Program Agreement with MMSD. **Resolution No. 9602-19\***
- 27) Preliminary Resolution declaring intent to exercise special assessment powers under Section 66.0703 Wis. Stats.: Sanitary Sewer Lateral Lining Project #SA-19-03. **Preliminary Resolution No. 9603-19\***

Council As A Whole

- 28) Proclamation proclaiming April 26, 2019 as “Arbor Day Celebration”.
- 29) Mayor’s Reappointments:
  - a. William J. Murgas to the Police & Fire Commission – 5 year term exp. 5/1/2024.
  - b. Steve Pettit to the Plan Commission – 3 year term exp. 5/1/2022.

~ END OF CONSENT AGENDA ~

**NON-CONSENT AGENDA:**

- 30) Items removed from the consent agenda: Item #6
  - 6) Motion by Alderman Mahkorn, second by Alderman Owen to postpone definitely as indicated in the statement below, a request of Dr. Thomas Tang, 17185 W. North Ave., Brookfield, WI, owner, for approval to schedule a public hearing to rezone 17185 W. North Avenue with “MSO-NS” Modified Suburban Overlay – New Suburban and a portion of 17115 W. North Avenue from “B-3” Regional Business District to “B-1” Local Business District with “MSO-NS” Modified Suburban Overlay-New Suburban in association with the redevelopment of site access, parking, landscaping, and building exterior of a health clinic. Motion carried unanimously.

**Postponement Statement:** Motion to postpone until the July 16 Council meeting preceded by a report from City staff affirming that the application is satisfactory or such remains incomplete. Postponement is necessary for the following reasons:

1. An incomplete Plan Commission application of required materials and uncertainty of project direction

contributed by the applicant's absence from the April 8 Plan Commission meeting.

2. A project engineer has not been confirmed and no site engineering has been submitted. City staff is unable to inform the elected officials on the impact the project will have to the floodplain located on the property.

3. No clarity from the applicant on the design of the architecture proceeding in the project. City staff cannot confidently represent the applicant's intentions to the Common Council that the building will be consistent with what was repeatedly expressed to City and County staff in previous staff meetings regarding re-facing of the building exterior, that the building will meet the expectations of the City code and development standards. These issues create a compounding uncertainty that the project can achieve a level of qualifying status for consideration of holding a public hearing to rezone the land.

**Closed Session:**

*Pursuant to Section 19.85(1)(e) of the Wisconsin Statutes to consider Item 31, 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, and then 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 and/or continuing the remainder of the agenda.*

Motion by Alderman Nelson, seconded by Alderman Reddin to enter into Closed Session pursuant to Section 19.85(1)(e) of the Wisconsin Statutes as stated above. Motion carried unanimously by roll call vote. Closed Session start time: 8:24 p.m.

31) Consider Vacant Land Offers to Purchase located at 17550 W. Greenfield Ave., Tax Key No. 1140-233.

Present during Closed Session: Mayor Steven Ponto, 14 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.

**Open Session:**

Motion by Alderman Nelson, seconded by Alderman McCarthy to 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 and/or continuing the remainder of the agenda. 8:35 p.m.

**Council As A Whole**

32) Mayor's Assignment of legislative referrals and requests for services:

a. Referred by Mayor Ponto to the Plan Commission to amend Section 17.80.030 of the Zoning Code with Modified Suburban Overlay (Ord. #2508-18) related to reducing the parking setbacks to 15' for the Enterprise, Commerce and Industrial Avenue Industrial Park.

**ADDENDUM AGENDA:**

33) Motion by Alderman Nelson, seconded by Alderman Reddin to adopt a resolution approving 2019 budget amendment requested by the Director of Finance and Administration: adjust balance in the contingency appropriation to comply with state expenditure restraint program provisions. Motion carried unanimously. **Resolution No. 9604-19\***

**ADJOURNMENT:**

Motion by Alderman McCarthy, seconded by Alderman Jurken to adjourn the meeting. Motion carried unanimously. Meeting adjourned at 8:36 pm.

\* May be viewed in the City Clerk's Office.

Minutes respectfully submitted by Kelly Michaels, City Clerk