

## **COMMON COUNCIL MINUTES**

Wednesday, July 17, 2019 - 7:00 p.m.

The Common Council of the City of Neenah, Winnebago County, Wisconsin, met in regular session at 7:00 p.m., July 17, 2019 in the Council Chambers of Neenah City Hall.

Mayor Kaufert in the chair.

Present: Alderpersons Bates, Lang, Erickson, Spellman, Steele & Stevenson, Director of Finance Easker, Director of Community Development & Assessment Haese, Director of Public Works Kaiser, Asst. City Attorney Vanden Heuvel and City Clerk Sturn. Alderpersons Boyette, Lendrum and Kunz were excused.

Also Present: Deputy Director of Community Development & Assessment Brad Schmidt, Director of Human Resources & Safety Lindsay Kehl, Chad Pugh and Kevin Parrell of Expert Automotive Services.

Mayor Kaufert called the meeting to order at 7:03 pm.

Clerk Sturn called a voice roll call as the Mayor/Alderpersons recorded their attendance in the RollCall-Pro System followed by the Pledge of Allegiance.

Mayor Kaufert reported that the Committee of the Whole met at 6:00 pm tonight and accepted the 2018 Comprehensive Annual Financial Report (CAFR), Communication to Those Charged with Governance and Management and Report to the City Council and placed them on file.

### **Public Hearing**

- I. Consider a Special Use Permit request by the Expert Automotive, LLC, to establish a tow service and auto repair business on property located at 101 N. Lake Street, Neenah (formerly Wayne's Auto Repair).
  - A. There being no appearances, Mayor Kaufert declared the public hearing closed.

### **Plan Commission Report Pertaining to the Public Hearing**

- I. Council Rep. Lang reported from the Plan Commission meeting of July 9, 2019:
  - A. Commission recommends Council approve a Special Use Permit for a tow service and auto repair business located at 101 N. Lake Street subject to the following conditions: Submit a landscape plan indicating the type, location and size of each planting within the landscape strip. A minimum of 1 shade tree and 6 shrubs is required for each 40 linear feet of frontage (excluding driveway openings). 100 feet on Lake St = 3 shade trees/18 shrubs, 200 feet on Main St = 5 shade trees/30 shrubs. Install 10-foot wide landscape strip along the Main Street and Lake Street frontages. The landscaping must be installed within 18 months after approval or a later time if granted by the Plan Commission; Submit detail on proposed fence showing that the fence will be site tight; Tow trucks must be stored

behind the fence when not in use; Storage of vehicles is limited to areas that are hard-surfaced (e.g. asphalt). The gravel area along the east property line is not a permitted storage or parking area; remove off-premise signs (billboards); and a sign permit is required for all exterior building or freestanding signage. **MS Lang/Bates.**

1. Mayor Kaufert asked if the billboard contract requested by the Commission was provided and reviewed.
2. Deputy Dir. Schmidt advised that the billboard contract was reviewed and the decision was to keep the condition as is, requiring removal of the billboards. They feel there is language in the contract that will allow them to remove the billboards and break the contract.
3. Asst. City Atty. Vanden Heuvel added that there are two provisions in the contract specifically that reference existing ordinances, zoning code or other conditions place upon the property which would not allow the sign to be there. In reviewing the contract those two clauses in the contract that would allow these conditions to be put in place.
4. Deputy Dir. Schmidt indicated the contract is between the property owner and the sign company. They will have to deal with the sign company and the contract. Staff's requirement as part of this use is for those billboards to be removed.
5. Dir. Haese added that we continue to evaluate the options. He is not convinced they have thoroughly evaluated this. They are recommending the continuation of the conditions recommended from the Commission. If for some reason it is determined later that because extenuating circumstances, existing contracts or whatever else might be out there, they are unable to do that, then they are unable to do that. This is our only opportunity to evaluate those billboard and have any leverage what so ever to get them removed. He would not want to remove that condition from the special use request at this time.
6. Mayor Kaufert expressed concern that the lessee is taking some risk because we could, through no fault of theirs, pull their Special Use Permit.
7. Dir. Haese indicated he is unsure we could do that. We would have to bring back a report that we applied a condition that cannot be met. If something changes in the process of any Special Use Permit, Council would have difficulty removing the Special Use Permit for something that was beyond the control of the property owner.
8. Deputy Dir. Schmidt responded to Ald. Bates indicating the intent was that the towing company lease the property. Ideally, they would like to purchase the property but there are some underlying environmental issues which continue to be monitored. Until that is figured out, they plan to lease the property. They plan on working with the applicant. At this point, it is the property owner that needs to work with the sign company to get those removed. If that is impossible to do or unreasonable to do, it will be re-evaluated and look to remove that condition from the Special Use Permit. Dir.

- Schmidt advised Ald. Stevenson that Wayne Speaks ran his auto repair business on this property since 1987. The towing business is a new use of the building and a towing business in a C-1 District require a Special Use Permit. The Special Use Permit was applied for by Expert Auto on behalf of the owner. The Special Use is for the property and the use of the land. He concurred with the statement made by Ald. Stevenson that we are attempting to utilize this request to get rid of the signs. He added that the signs were placed before so this is an attempt to make the property consistent with the current zoning for that property.
9. Asst. City Atty. Vanden Heuvel advised Ald. Stevenson that there is no time limit on the removal of the billboards.
  10. Deputy Dir. Schmidt advised Ald. Stevenson that the intent is that if this Special Use Permit is granted, they would address the billboard issue immediately with Mr. Speaks. They would work with him to contact the sign company and get the signs removed. At this point, we do not know what the signs company's interpretation of the contract is. We feel there is language in that contract that gives us the leverage to have those signs removed.
  11. Dir. Haese indicated if not for the environmental issues, this would be a sale. However the underlying environmental issues are still being explored therefore it went from a sale to a lease. His understanding is that if those issues are dealt with effectively we may be looking at a land sale.
  12. Ald. Stevenson indicated if the Special Use Permit is granted and the owner is getting his lease payments this would potentially create less inertia to clean the property up. The other situation is if we grant the Special Use Permit without attempting to leverage the sign contract we lose leverage to have that sign taken down. If we would revoke the Special Use Permit the towing business becomes the innocent victim.
  13. Dir. Haese suggested leaving the conditions as is, with the caveat that the a report come back to the Council within 6 months as to what has been determined in terms of the lease and billboard. The lease was just received yesterday and they have not had time to evaluate it thoroughly.
  14. Ald. Stevenson indicated he feels it is premature to grant the Special Use Permit.
  15. Asst. City Atty. Vanden Heuvel indicated he feels the owner cannot negotiate with Lamar without having the teeth of the zoning requirement.
  16. Ald. Stevenson indicated that should have been done prior to having these guys stuck in the middle.
  17. Deputy Dir. Schmidt advised Ald. Bates that if a business went onto this property that was an auto repair, the current use, or another permitted use we would not have had this ability to add the other conditions to get the site cleaned up. The Special Use Permit is active upon approval. Then they will continue to work with the land

- owner on getting the conditions resolved. They may be able to bring back a solution within 6 months to Council which may require an amendment to the Special Use condition or at that point may have better clarity as to whether or not the signs can be removed.
18. Ald. Bates suggested putting a contingency on the permit rather than these conditions. She would prefer waiting for confirmation.
  19. Deputy Dir. Schmidt repeated the earlier comment that you would be putting the business in hiatus until that is resolved.
  20. Mayor Kaufert indicated he would prefer putting a time limit on this.
  21. Ald. Steele asked if there are any existing ordinances that would prevent the property owner from renewing that contract with Lamar.
  22. Asst. City Atty. Vanden Heuvel added the contract has an end of 2025 but allows Lamar to go to a year to year lease. Current zoning ordinance does not allow a new sign. They cannot repair the sign they can only do cosmetic upkeep. That contract can be broken at any time, it is just the matter of what the damages would be. That is something between Lamar and the owner.
  23. Deputy Dir. Schmidt advised Ald. Bates that we have the ability to pull the Special Use Permit after it has been issued if conditions are not followed.
  24. Ald. Stevenson recapped, we could defer this for one month or ask for a formal review within a month.
  25. Dir. Haese indicated it could be put in the motion or just in the minutes that you want to hear back within 30 or 60 days what the conclusion was relative to the billboards.
  26. Asst. City Atty. Vanden Heuvel recommended if the Council wishes to put some structure to this, an amendment should be made to the motion asking for a report back within 30 days.
  27. **MS Bates/Stevenson to amend the motion to include the stipulation that a report is provided to the Council within 30 days.**
  28. Ald. Bates clarified for Dir. Haese that the effect of this motion would be that staff will either have a solution allowing the billboards to be removed or they will not.
  29. Ald. Stevenson indicated his reasoning for a time line was for removal of the billboards. He was looking for a report back in 30 days with the status of the billboards and when they are coming down.
  30. Asst. City Atty. Vanden Heuvel clarified that there are currently people renting the billboards. There could be some sort of agreement to allow them to stay for 6 months so no one loses money.
  31. Ald. Erickson indicated changeable paper billboard are leased for 30 days.
  32. **The amendment carried, by a 6-0 RollCall-Pro System vote, all voting aye.**

33. Mayor Kaufert clarified the motion is to approve the Special Use Permit with all the conditions including the billboards. He feels this is a bit convoluted. It is not fair to put them in this predicament.
34. Dir. Haese indicated the intent of staff, via the recommendation, was to allow the use to move forward. The hope is the billboards could be removed, therefore it was conditioned. It was not their intent, that if the billboards are unable to be removed the business would be shut down. Staff would recommend waiving that requirement, allowing the Special Use Permit and business to continue.
35. Asst. City Atty. Vanden Heuvel clarified for Ald. Stevenson that it is his understanding that the zoning does not allow for that use on this property. These billboards were created before going into effect, therefore the billboards were grandfathered in. It is not the Special Use that is driving this it is the zoning.
36. Mayor Kaufert added that his amendment gives staff 30 days to look into this.
37. **The original motion, as amended, carried by a 5-1 RollCall-Pro System vote, all voting aye, Ald. Stevenson voting nay.**
38. Ald. Steele indicated she voted for this as there is benefit to having a business in that building.
39. Asst. City Atty. VandenHeuvel explained for Ald. Steele that this ordinance says you can only have general upkeep. You cannot fix it.
40. Mayor Kaufert added you are allowed to do general maintenance.
41. Dir. Haese added these billboards are modern and solid. It will take a lot for these to go away. We have taken as many measures as we can to get these removed. It is going to take a long time. The other option the City has is to use eminent domain, acquire the property and pay for it. He does not recommend that at this point.

### Consent Agenda

- I. **MS Lang/Stevenson to approve the Consent Agenda as follows:**
  - A. **Approve Beverage Operator License Applications for Corey A. Bass, Joseph B. Bowers, Hannah J. Bratz, Rebecca M. Bucholtz, Rodney L. Crow, Samantha M. Dahlke, John N. Eckrich, Jacob J. Esslinger, Danyelle A. Faulkcon, Lindsey Hartz, Margaret C. Hayes, Victoria E. Jambertz, Jordan A. Jensen, Kristine Laverty, Jennifer L. Lee, Jennifer P. Martin, Graham M. Musial, Amanda R. Rausch, Carmen R. Rosado, Meridith A. Rouse, Lisa M. Schabel, Nathan H. Schmechel, Jessica L. Udelhofen, Cody P. Vaughn, Kayla M. Weiss and Alex B. Wendt. (PSSC)**
  - B. **Approve the beverage operator license application (new) for Stephani Malliet, contingent upon payment of all delinquent City fees. (PSSC)**
  - C. **Approve the beverage operator license application (renewal) for Troy Schuppe, contingent upon payment of all delinquent City fees. (PSSC)**

- D. **Grant a temporary Class "B" (picnic) retail license to the Fox Valley Area Labor Council for the Labor Day Celebration event to be held on September 2, 2019. (PSSC)**
- E. **Grant a taxi cab license to Kidz Kab, LLC, 233 Dodge Street, Kaukauna. (PSSC)**
- F. **There being no objections the motion was approved by unanimous consent.**

### **Public Services and Safety Committee**

- I. Chairman Bates reported the regular meeting of June 25, 2019:
  - A. Committee recommends Council amend the Capital Improvement Program to purchase and install pedestrian beacons on Tullar Road at Byrd Avenue in the amount of \$15,000 with \$6,000 funded by the Neenah Joint School District and \$9,000 funded by Community Development Block Grant funds. **MSCR P Bates/Stevenson, all voting aye.**
- II. Chairman Bates reported the regular meeting of July 9, 2019:
  - A. Committee recommends Council approve amending Policy 2018-01 to include Section C wording as follows: Code Sec. 4-100(6) Abandonment of Premises and Code Sec. 4-97(a) as to ownership. **MSCR P Bates/SPELLMAN, all voting aye.**
  - B. Committee recommends Council deny the new beverage operator license application for Cody R. Lichtfuss. **MSCR P Bates/Lang, all voting aye.**
  - C. Committee recommends Council approve the Official Traffic Maps be amended to remove the "No Parking Anytime" regulation on the south side of E. Forest Avenue from Third Street to Fourth Street and to establish a "No Parking Anytime" regulation on the north side of E. Forest Avenue from Third Street to Fourth Street. **MS Bates/SPELLMAN.**
    - 1. Ald. Steele advised of a neighborhood meeting she attended where an elderly couple indicated it would be difficult for her to have to park across the street to carry groceries, etc. into her home. We are a small community and have that kind of flexibility. In the meeting they discussed the possibility of allowing parking on the east end and on the west end to accommodate this one house. She does not feel this is a huge thing to ask. She will vote against this.
    - 2. Ald. Bates indicated they did discuss cutting the block in half however the Committee had concerns over not being able to accomplish the goal of creating a straight shot through and increasing visibility for the intersections. The one resident that attended the meeting indicated she would like to have parking on her side of the street however would find a way to make this work.
    - 3. Dir. Kaiser advised that this is the same women Ald. Steele is referring to.
    - 4. **Motion carried, by a 5-1 RollCall-Pro System vote, all voting aye, Ald. Steele voting nay.**

### **Finance & Personnel Committee**

- I. Chairman Erickson reported the regular meeting of July 8, 2019:
  - A. Committee recommends Council approve Policy 2019-01 Social Media. **MSCRP Erickson/Steele, all voting aye.**
  - B. Committee recommends Council approve Policy 2019-02 Anti-Bullying **MSCRP Erickson/Stevenson, all voting aye.**
  - C. Committee recommends Council adopt Resolution No. 2019-17 amending the fee schedule of the City of Neenah to provide for a \$50 late fee for any retail liquor license renewal and/or associated cigarette/amusement license renewal not filed by the April 15<sup>th</sup> deadline, to change the June 30<sup>th</sup> deadline for license payment and issuance from June 30<sup>th</sup> to June 15<sup>th</sup>, and establish a \$20/day late fee for license payments made after the June 15<sup>th</sup> deadline. **MSCRP Erickson/Steele, all voting aye.**

### **Board of Public Works**

- I. Vice Chairman Bates reported the meeting of June 25, 2019:
  - A. Information Only Items:
    1. The Board approved Pay Estimate No. 3 for Contract 1-19 Miscellaneous Sewer and Water Main Construction and Street Construction on Caroline Street, Stevens Street and Fifth Street to Carl Bowers & Sons Construction Co., Inc., Kaukauna in the amount of \$108,477.99.
    2. The Board approved Pay Estimate No. 3 for Contract 2-19 Miscellaneous Sewer and Water Main Construction and Street Construction on Stanley Street, Stanley Court and Thomas Court to Robert J. Immel Excavating, Inc., Greenville in the amount of \$237,583.13.
    3. The Board approved Pay Request No. 4 for Washington Park Phase 3 to R & R Wash, Ripon, WI in the amount of \$131,953.13.
    4. The Board approved Change Order No. 3 for Chemical Storage and Feed Modification Project to August Winter & Sons, Inc. in the amount of (-\$1,575).
- II. Vice Chairman Bates reported the meeting of July 9, 2019:
  - A. Information Only Items:
    1. The Board approved Change Order #1 for Washington Park Phase 3 to R&R Wash Materials, Inc., Ripon in the amount of \$4,246.26
    2. The Board approved Pay Request No. 5 for Washington Park Phase 3 to R & R Wash Materials, Ripon, WI in the amount of \$73,682.48
    3. The Board approved Pay Estimate No. 6 for Chemical Storage and Feed Modification Project to August Winter & Sons, Inc. in the amount of \$15,181.00

- B. Council Action Items:
  - 1. The Board recommends Council approve Final Payment for Contract 3-19 Epoxy Pavement Marking to Brickline, Inc., Madison in the amount of \$54,214.50 **MSCR** **Bates/Stevenson**, **all voting aye.**

### **Landmarks Commission**

- I. Alderperson Lang reported from the Landmarks Commission meeting of meeting of July 9, 2019:
  - A. The Commission recapped the Doty Island Family Day and walking tours provided by the Landmarks Commission featuring some of the amazing historic properties on Doty Island.
  - B. The Commission also discussed their sponsorship of the Voyage Canoe Rides for the 4<sup>th</sup> Annual Pow Wow to be held September 21<sup>st</sup> from noon to 4 pm.
  - C. The Commission discussed their Bi-Laws and Property Permit Reviews.

### **Business Improvement District (BID) Board**

- I. Alderperson Lang reported from the Business Improvement District Board (BID Board) meeting of July 16, 2019.
  - A. The BID reviewed the 2018 Financial Audit done by Baker Tilly.
  - B. The BID discussed (10) items brought up at the Co-op Partnership meeting.
  - C. There are new tenants in Keller Plaza.
  - D. There is new management in the ERA Ballroom. It will remain a Ballroom but be under new management.
  - E. They discussed Neenah's Artwork Projects to include future decoration of manhole cover with artwork. Check out the details on Future Neenah's website. The BID sponsored two traffic box wraps that are currently in place on the corner of Church and Wisconsin.

### **Bergstrom Mahler Museum**

- I. Alderperson Spellman reported from the Bergstrom Mahler Museum meeting of July 1, 2019.
  - A. Some upcoming activities are the Arts Festival on Sunday July 21<sup>st</sup> from 10 am to 6 pm at Riverside Park. Sixty five (65) artists will be featured.
  - B. The next Board meeting is on August 28<sup>th</sup>.

### **Community Development Authority**

- I. Director Haese gave a brief update on the Community Development Authority:
  - A. The CDA continues to work on downtown projects. He hopes to have something for Council review in late summer / early fall.



- B. With the help of the City Attorney's Office, the CDA continues to work toward the closing of Loren's Salvage Yard. They have had some hurdles but are working through those to get that done in the near future.

### **Library Board**

- I. Alderperson Erickson reported from the Library Board meeting of July 17, 2019:
  - A. The Summer Youth Program is off to a great start.
  - B. The Book Mobile has been out and about in the community and has gone over very well.
  - C. The last youth lunch will be tomorrow. That program has gone over very well. They average over 120 lunches.
  - D. Ald. Stevenson advised that summer school has been cancelled for tomorrow so the only free lunches available will be those at the Library.
  - E. Ald. Erickson indicated the Library has order a few more lunches in anticipation of this additional demand.

### **Neenah Arts Council**

- I. Alderperson Erickson reported from the Neenah Arts Council meeting of July 10, 2019.
  - A. In conjunction with the Bergstrom Mahler Museum Art Festival, they will conduct their "Neenah Paints the Town" event. It will be located by the Youth Art tent at the Arts Festival. Anyone interested in Plein Air Art can come and get free supplies to do plein air art. She encouraged everyone to attend.
  - B. On October 3<sup>rd</sup>, Neenah Rocks will be held. This is a Neenah wide music event. More details will be available in the near future.

### **New Business**

- I. Mayor Kaufert's appointment to fill the unexpired term of Michael Hopkins who resigned from the Neenah Arts Council – term expires April 2020. (To be considered at the August 7, 2019 Council meeting)
- II. League of Wisconsin Municipalities 121<sup>st</sup> Annual Conference will be held on October 23-25, 2019 at the KI Center / Hyatt Regency Green Bay.
  - A. Early Bird Registration closes September 13<sup>th</sup>.
  - B. The Clerk's office will make ALL reservations. Return the attached form with your Wednesday / Thursday event options no later than September 9<sup>th</sup> so reservations can be made. Also indicate which nights, if any, you would like to stay at the Hyatt Regency.
  - C. There are a lot of great seminar and it is a great place to network with other elected officials / municipal staff. Mayor Kaufert advised that City Atty. Godlewski will be doing a presentation on the TARF on Thursday at the conference.

- III. Ald. Bates asked if there are any options for residents to cool off during the upcoming days when the hot weather is being forecast with high heat indexes.
- A. Mayor Kaufert advised that tomorrow he will have his assistant put this information on the website and Face Book. The City will open up the Council Chambers for anyone without air conditioning to come to cool off. This will be offered during business hours. The Library is also available. He asked everyone to be conscientious and check on their neighbors. If something doesn't seem right, check it out in case someone has health issues in the extreme heat.
- IV. Mayor Kaufert asked Dir. Kaiser for an explanation of the upcoming road closures on Tullar Road and Green Bay Road.
- A. Dir. Kaiser advised that Tullar Road is a pavement patching project. At this point they have worked through the north bound travel lanes. They will switch over next week to work on the south bound travel lanes. They are also doing some spot sidewalk replacement along that stretch. There is another three weeks of work in this area. It is scheduled to be completed well before school starts. After the patching is done, they will come through next year to smooth the surface for driving.
- B. Dir. Kaiser advised that the Green Bay Road closure starts next Monday. It is related to the Courtney Court construction project. This is a joint project being led by the Town of Neenah. On Monday, Green Bay Road will be closed right at Courtney Court. All the driveways feeding off Green Bay Road will still be accessible either from the north or south. They should complete the required work and have the street open for traffic by Wednesday after the morning commute. It is a two day closure.
- V. Mayor Kaufert thanked Park & Rec & Public Works staff for another successful CommunityFest this year. There was a great turnout.
- VI. Mayor Kaufert advised that tickets are available for the Riverside Players Musical "Clue". The show will run from July 25-28 and July 31 – Aug. 4. Asst. City Atty. Vanden Heuvel is directing the musical.

### Adjournment

- I. **MSC Stevenson/Erickson to adjourn at 8:25 p.m., all voting aye.**

  
Patricia A. Sturn, WCPC/MMC  
City Clerk