

COMMON COUNCIL MINUTES

Wednesday, September 16, 2009 - 7:00 p.m.

The Common Council of the City of Neenah, Winnebago County, Wisconsin, met in regular session at 7:00 p.m., September 16, 2009 in the Council Chambers of Neenah City Hall.

Mayor Scherck in the chair.

Present: Aldermen Hemes, Ahles, Hamblin, Lange, Bates, Hillstrom, Piergrossi, Zaretzke and Stevenson, City Attorney Godlewski and City Clerk Sturn.

Also Present: Director of Finance Easker, Director of Community Development & Assessment Haese, Director of Public Works & Utilities Wattering, Police Chief Wilkinson, Deputy Director of Public Works & Utilities Kaiser, Sara and Dee Pleester, City Engineer Jason Eckhart, DPW employee Jim Schraufnagel and his friends & family, Ervin Wegner, Mark Cammarota and Paula Decubellis, Dick McCrory and Duke Behnke of the Post Crescent.

Mayor Scherck called the meeting to order at 7:00 p.m.

Police Department Presentation of Commendation to DPW Worker

- I. Police Chief Wilkinson presented a commendation to Department of Public Works employee Jim Schraufnagel for his assistance to a Neenah Police Officer during a situation at the Community Fest celebration on July 4, 2009. The Police Department values the relationship it shares with its citizens and other city employees. They are especially proud of the many fine city workers that help on a daily basis. In this case Jim's actions went far above routine cooperation. He again, thanked Jim for his assistance.

Introduction and Confirmation of Mayor's Appointment(s)

- I. Mayor Scherck introduced Barbara Jirikowic his recommended appointee to the Landmarks Commission.
 - A. Barbara Jirikowic introduced herself and gave a brief history of her background and qualifications.
 - B. **MSCVP Bates/Lange to confirm Mayor Scherck's appointment of Barbara Jirikowic to fill the vacant 2nd Alternate position on the Landmarks Commission for a 3-year term to expire July 2012, all voting aye.**
- II. Clerk Sturn administered the oath to Barbara Jirikowic.

Council Proceedings

- I. **MSCVP Zaretzke/Bates to approve the Council Proceedings of September 2, 2009 regular meeting, all voting aye.**

Public Forum

- I. Sara Pleester, 720 Fairwood Drive #4, asked the Council to reconsider the recommendation of the Public Services & Safety Committee and renew her a Beverage Operator License application. She was told she was denied due to delinquent payments and excessive violations. She is currently unemployed therefore unable to make these payments. She has applied for other jobs, however, was unsuccessful. She has no experience other than bartending. She has taken all the required classes following her most recent OWI and no longer drinks. She is asking the Council to let her prove herself.
- II. Ervin Wegner, 1217 Cameron Circle, spoke regarding the proposed mini golf course at the Bridgewood Development. He does not oppose the project itself, but opposes the plan to position lights and speakers aimed toward the condominiums. He also questioned the location of the soccer field. He expressed concern over notification to the surrounding property owners.
- III. Mark Cammarota and Paula Decubellis, 152 Old Orchard Lane, developers of the proposed mini golf course at Bridgewood Development, briefly review the project plan. They indicated the area Mr. Wegner is referring to is really not a soccer field. It is a 60' x 70' area, which will be utilized as a play area. There will be some sports in there including some netting but more geared toward smaller children. The lights will be low, soft box lights just enough to light the mini golf course. They should not light areas beyond the mini golf course. Music will be soft background music, it is not intended for entertainment sake.
- IV. There being no further appearances, Mayor Scherck declared the public forum closed.

Mayor/Council Consideration of Public Forum Issues

- I. Dir. Haese spoke regarding Mr. Wegner's concern over the lack of notification to property owners. Within this development, project plan approvals do not require notification. As long as the project is compliant with the master plan. However, as a courtesy, notification was extended to those properties within 200'. He suspects the condominiums are outside that distance.

Consent Agenda

- I. Ald. Bates asked that "Denial of Beverage Operator License Application for Sara K. Pleester", be removed from the consent agenda and reported out under the regular meeting.
- II. **MSCVP Stevenson/Hemes to approve the Consent Agenda as follows:**
 - **Approve Beverage Operator license for: Andrew S. Tepolt, Erika M. Wolter, Weston R. Mueller, Matthew C. Jacobchick, Geneva L. Sharp,**

Tinna R. Queen, Derrick J. Johnson, Benjamin L. Besset and Carrie-Ann A. Kennedy.

- **Approve Special Event Agreement for the Neenah High School Homecoming Parade to be held on September 25, 2009.**
- **Approve the “Class A” Malt & Liquor License application for Gill Liquor, LLC, 1117 S. Commercial Street, Neenah, d/b/a Southside Beverage, Amritpal Singh, Agent, contingent upon inspections being completed before Council approval.**
- **Approve the parade permit application for Neenah High School Homecoming to be held on September 25, 2009.**
- **All voting aye.**

Public Services and Safety Committee

- I. Chairman Piergrossi reported the regular meeting of September 8, 2009:
 - A. Committee recommends Council direct City Attorney Godlewski to write an amendment to the developer’s agreement and have Council approve paving of approximately 2,000 feet of streets in Liberty Heights subdivision with the cost covered by borrowing money from escrowed funds, and repaying as assessments are collected. **MSCVP Piergrossi/Hillstrom, all voting aye.**
 1. Ald. Stevenson clarified that the motion directs the City Attorney to amend the agreement and bring it back to Committee to review.
 - B. Committee recommends Council direct City Attorney Godlewski to review the new policy and write an ordinance change to combine special event permit and parade permit, and bring the policy and ordinance back to Committee. **MSCVP Piergrossi/Zaretzke, all voting aye, Ald. Ahles, Lange and Zaretzke voting nay.**
 - C. Committee recommends Council deny the beverage operator license application for Sara K. Pleester for delinquent payments and excessive violations. **MS Piergrossi/Zaretzke.**
 1. Ald. Hemes asked to be provided with a copy of the violations and delinquent payments holding up the license.
 2. Ald. Stevenson indicated that information was included in the PSSC agenda packet for September 8th. He shared the information with Ald. Hemes.
 3. Ald. Bates questions the parameters for denial.
 4. City Atty. Godlewski indicated two or more convictions in a five-year period would be grounds for denial.
 5. Ald. Zaretzke asked if Ms. Pleester has gone through drug and alcohol assessments.
 6. Sara Pleester indicated she has completed the drug and alcohol assessment program through Theda Clark Behavior Health in Menasha. The classes ran April through June 2009.

7. Ald. Zaretzke advised there are many jobs out there, examples being Kohl's, Shopko, WalMart, etc. She asked if she has applied at those types of places.
8. Sara Pleester advised that she have applied at them all and was turned down.
9. **Motion to deny, carried, by a 6-3 Voting-Pro System vote, all voting aye, Aldermen Zaretzke, Ahles and Lange voting nay.**

Finance and Personnel Committee

- I. **MSC Stevenson/Piergrossi to waive the 24-hour rule relative to providing minutes for Council consideration and action in order to permit a report of the special meeting of September 16, 2009, all voting aye.**
- II. Chairman Hemes reported the special meeting of September 16, 2009:
 - A. Committee recommends Council approve Policy No. 2009-3 H1N1 Influenza Policy. **MSCVP Hemes/Bates, all voting aye.**

Plan Commission

- I. Ald. Piergrossi reported the regular meeting of September 8, 2009:
 - A. Commission recommends Council adopt Ordinance No. 1392 Project Plan Approval #1-09 for the Bridgewood Development Area and allowing the construction of a Miniature Golf Course adjacent to the existing Golf Pro-Shop and ancillary items within the district. (Ordinance to follow)

Board of Public Works

- I. **MSC Stevenson/Bates to waive the 24-hour rule relative to providing minutes for Council consideration and action in order to permit a report of the special meeting of September 16, 2009, all voting aye.**
- II. Vice Chairman Zaretzke reported the special meeting of September 16, 2009:
 - A. Council Action Items:
 1. Board recommends Council award Contract 5-09, Commerce Court Pond Construction – detention pond, grading and storm sewer to the low bid from Gene Fredrickson Trucking in the amount of \$751,994.82. There are two sources of funding for this project. Stimulus money will cover construction & engineering and the Clean Water Fund Loan will cover any remaining costs. The terms of the Clean Water Fund Loan is 2.9%. The total project cost is \$1,176,099.00. **MSCVP Zaretzke/Ahles, all voting aye.**
 - B. Informational Items:

1. Board approved Pay Estimate No. 2 for Contract 3-09, Sewer and Water Main Construction to Don Hietpas & Sons in the amount of \$136,514.47.

Sustainable Neenah Committee

- I. Ald. Ahles reported from the Sustainable Neenah Committee:
 - A. The Committee has three upcoming events:
 1. October 3rd the Committee will have an indoor air quality display at the Farmers' Market. October 3rd is also the National Solar Tour Day where you can look up and tour solar energy homes within the Fox Cities and surrounding areas.
 2. October 22nd local Sustainability Boards and Eco Boards will meet at the Heckrod Nature Center in Menasha to discuss working together for sustainable actions within the communities.
 3. October 24th at UW Fox Valley there will be a citizens meeting to allow discussion of sustainability plans within the community.

Ordinances

- I. Ordinance No. 1392 Project Plan Approval #1-09 for Bridgewood Planned Development District to allow the construction of a miniature golf course and ancillary items within the district was presented.
 - A. **MS Ahles/Hillstrom to adopt Ordinance No. 1392.**
 - B. Ald. Bates asked for clarification of the location of the project. Mark Cammarota shared a map of the development showing the proposed layout of the miniature golf course.
 - C. Ald. Ahles questioned the distance from the proposed mini golf course to the condominiums.
 - D. Dir. Haese indicated there is probably 200-300' from the golf course to the closest condominium.
 - E. Ald. Lange questioned the locations relating to the flood zone.
 - F. Mark Cammarota indicated the layout is 50' from the slough. It does run through the flood plain. It will be raised up, however, it is not required to be above the flood plain.
 - G. Ald. Stevenson questioned how the off road parking and landscaping requirements would effect this project.
 - H. Dir. Haese advised that the plan calls for the addition of 27 on site parking spaces, which will be separate from the existing parking lot on the development. There could be joint utilization of additional parking on the site. This parking lot may not be required to comply with the landscape ordinance, as it is not within 30' of the right-of-way. With the property line you need a 5' buffer. The intent of the landscape ordinance is to buffer parking from the street.
 - I. Ald. Zaretzke asked if it is required to have handicap parking.
 - J. Dir. Haese indicated it might be required. That would depend on the balance of the parking.

- K. Ald. Piergrossi questioned the process following approval of this project plan. He also questioned the usage of the dumpsters.
- L. Dir. Haese indicated this is the site plan. No additional site plan will be brought before the Council. He is of the understanding that the golf course will utilize the existing dumpsters from the Ground Round.
- M. Mark Cammarota added there is a dumpster near the Ground Round which is being moved closer to the golf course. Usage will be leased from the Ground Round.
- N. Dir. Haese responded to Ald. Bates indicating if the storm water improvements go forward there will not be a negative impact as a result of this project.
- O. Dir. Wettering added that they could reconfigure the storm water pond to work around this site. It is not a problem.
- P. Ald. Ahles asked if the current dumpster is in a fenced in area and if that was discussed in committee. He expressed concern over the placement of the dumpster.
- Q. Dir. Haese indicated the assumption was that they were utilizing an existing dumpster and the assumption was made that it was properly screened. He can certainly take a look at that.
- R. Mark Cammarota indicated the dumpster is being moved 75-100' closer to the main entrance on the golf course.
- S. Paula Decubellis added the proposed dumpster is an upgraded compactor which should be much smaller and more visually attractive than the existing dumpster.
- T. Ald. Piergrossi asked if the improvements to the storm water pond would enhance the business climate for them in terms of reducing the impact of the flood plain onto their business.
- U. Dir. Wettering indicated it might, depending on the design of the storm water pond. The proposed retention pond is to the east.
- V. Ald. Stevenson questioned if these developers are buying the land.
- W. Paula Decubellis indicated they are not buying the slough. The land they are buying begins 50' from the water's edge.
- X. Dir. Haese indicated that due to the lack of width, it is unlikely that we would see development occur on the backside of the hotel that would contain habitable structures.
- Y. Ald. Ahles expressed concern over the location of the dumpsters.
- Z. Ms. Decubellis and Mr. Cammarota pointed out the location of the existing dumpster and the proposed relocation of that dumpster.
- AA. Dir. Haese indicated dumpster placement is a sensitive issue with any development. To alleviate any issues, consideration must be taken so as not placed too close to any of the three parties, the condominiums, the proposed miniature golf course and the hotel restaurant. He will review the dumpster location to make certain it is enclosed and sited properly.
- BB. **Motion carried, by the Voting-Pro, all voting aye.**

Resolutions

- I. **MSCVP Bates/Piergrossi to reconsider Resolution No. 7337 vacating a portion of Fourth Street lying south of Clark Street, all voting aye, Ald. Ahles and Hemes voting nay.**

- I. Resolution No. 7337 vacating a portion for Fourth Street lying south of Clark Street was placed back on the floor for discussion and reconsideration.
 - A. Ald. Bates expressed concern over letting this land go. She feels we should deny the petition unless there is an overwhelming set of reasons to except it. She feels we would be giving up a transportation area, which is being used by pedestrians and opposes this type of waterfront properties going private. She indicated vacating Fourth Street would be a disservice to the citizens of Neenah and opposes the adoption of Resolution No. 7337 vacating a portion for Fourth Street.
 - B. Ald. Stevenson referenced the memo from the City Attorney indicating the City's inability to sell land that is designated as right-of-way. He questioned the process that determines whether land is right-of-way versus excess land or parkland.
 - C. City Atty. Godlewski indicated the original subdivision map identifies this particular parcel as part of Fourth Street. By virtue of the plat map, this land is right-of-way.
 - D. Ald. Stevenson favors looking at positioning the City's ownership of these lands proactively. He suggested looking creatively at avoiding designating street as right-of-way. He does not support a motion to deny the resolution. He feels for us to attempt to change the rules at this late point would be irresponsible. He favors exploring legislative ways to control land we own.
 - E. Ald. Bates opposed comments made by Ald. Stevenson. This petition was received within the last two months and she does not feel it is too late in the process. She favors denying the petition.
 - F. Ald. Hamblin indicated he visited the Assessor's Office and found that this land is assessed at \$3,000/foot for the first 100' depth. The next 100' of depth is assessed at \$1,750/foot. Based on those numbers, the total value of this parcel is approximately \$230,000. He does not feel the Council should give away \$230,000.
 - G. Ald. Bates questioned if placement of a memorial bench would be a permissibly use for a transportation right-of-way.
 - H. City Atty. Godlewski responded that could certainly be done. A trail could also be place on the land. It would be the decision of the Council.
 - I. Dir. Haese clarified the value of the property at \$50,000. He is unsure whom Ald. Hamblin spoke with in his office however he did speak with Property Appraiser Breister and was given the value of \$50,000. Standalone property and narrowing of property diminishes the value of that property. He finds it hard to believe that if we vacate the property and split it equally, there would be \$115,000 in increased value in each property. The property owners were not given a number and did not request a number to his knowledge. He clarified that each property owner will likely see a \$25,000 value increase in their appraised value.

- J. Ald. Ahles added by vacating this land, we reduce the maintenance costs for plowing, resurfacing cost, etc. and we add \$50,000 in tax base to the two adjacent property owners. He supports the resolution to vacate the property.
- K. Ald. Hemes understands the frustrations of Ald. Bates, as this is a beautiful area, although it is not being utilized. The Theda Clark Campus master plan had changed the dynamics of the neighborhood many years ago. He supports vacating the property to reduce maintenance costs and add to the tax revenue.
- L. Ald. Piergrossi indicated the current ordinance states dead end streets cannot be more than 500' in length. He questioned the length of Clark Street if this is vacated.
- M. City Atty. Godlewski indicated he is not sure. He reminded the Council that this is a plat established in 1857 before that standard existed. That standard applies to new subdivisions after adoption of the ordinance.
- N. Ald. Bates clarified that the additional \$50,000 tax base would only bring an additional \$400 per year. She expressed concern over giving away something the City might need for \$400. She indicated plowing is not an issue as the city garage has indicated that street is low priority and involves only one swipe with the plow.
- O. City Atty. Godlewski pointed out that the City does retain easements for the utilities including the cable. There would be no need to utilize this property for that purpose.
- P. Ald. Ahles added whether it is vacated or remains property of the City, the utility easement would remain.
- Q. Ald. Stevenson indicated while he would love to be able to sell the property, if we cannot sell it, he sees no value in the property. He favors maximizing any benefit we can by vacating the property and adding to the tax roll.
- R. Ald. Hamblin expressed concern over the \$230,000 discrepancy between the value he was stated and the value Dir. Haese was given. He asked for a clarification of what that land is really worth.
- S. Dir. Haese added the city subdivision ordinance requires a minimum lot width of 60'. This parcel has a 50' width. It is not an existing lot of record therefore cannot be built upon. The property is only of value to the abutting owners or someone who would acquire the property to obtain access to the river. Nothing can be built on the parcel.
- T. City Atty. Godlewski indicated the property is of no value to the City. We cannot sell it. It is only valued as an assessed parcel in private hands otherwise it has not value.
- U. Ald. Stevenson questioned if the property owners would have the ability to create a lot once they own it.
- V. Dir. Haese indicated assuming they have met setbacks, in theory it could be done. Three properties in that location are worth more than two properties. If a third parcel would be added, the combination of the three would have more value than two larger properties.

- W. City Atty. Godlewski reminded the Council that one of the conditions placed by the Committee is that the one parcel to the east of the right-of-way, which was actually two plotted lots, must be consolidated. He insisted language be included that the City has the authority to enforce that consolidation.
 - X. **The Council voted, by the Voting-Pro System, to reaffirm the Council action from September 2, 2009 and adopt Resolution No. 7337 vacating a portion for Fourth Street lying south of Clark Street, all voting aye, Ald. Hamblin, Lange and Bates voting nay.**
- II. Resolution No. 7339 adopting a natural hazards mitigation plan was presented.
 - A. Mayor Scherck advised that all department heads have reviewed the plans and no comments or suggestions were made regarding the plan.
 - B. **MSCVP Hemes/Zaretzke to adopt Resolution No. 7339, all voting aye, Ald. Piergrossi voting nay.**

Unfinished Business

- I. Ald. Piergrossi asked if a report could be provided to Council indicating the final value of the vacated parcel on Fourth Street and how it was calculated.
 - A. Dir. Haese indicated he would provide that information.

New Business

- I. Mayor's appointment to the Neenah Harbor Committee to fill the expired term of Lisa Hemes, 3-year term to expire October 2012 will be considered at the October 7, 2009 Council meeting.
- II. Ald. Stevenson due to the recommendation and concern of the Sustainable Neenah Committee regarding the water bottles the Council was using to drink out of during Council meeting, he provided each Council member with a Neenah water bottle to use during meetings. Water is available in the bubbler in the lobby.
- III. Ald. Ahles thanked Ald. Stevenson for his gesture. Small steps toward sustainability do make a difference.

Adjournment

- I. **MSC Ahles/Hemes to adjourn at 8:33 p.m., all voting aye.**