

COMMON COUNCIL MINUTES

Wednesday, August 7, 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., August 7, 2019 in the Council Chambers of Neenah City Hall.

Mayor Kaufert in the chair.

Present: Alderpersons Boyette, Bates, Lang, Lendrum, Erickson, Spellman, Steele and Kunz, Director of Finance Easker, Director of Community Development & Assessment Haese, Director of Public Works Kaiser, City Attorney Godlewski, City Clerk Sturn and Deputy Clerk Cheslock. Alderperson Stevenson was excused.

Also Present: Asst. Fire Chief Green, Dir. of Parks & Recreation Kading, Statutory Assessor Brown, Property Appraiser Engelbreth, Sarahjean Schluechtermann, Becky Jacobsen, Kelly Olson, Andrew Prust and Jens Jacobsen.

Mayor Kaufert called the meeting to order at 7:00 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.

Introduction / Swearing In of New Deputy Clerk

- I. Mayor Kaufert introduced newly appointed Deputy Clerk Stephanie Cheslock.
 - A. Clerk Sturn administered the Oath of Office to Stephanie.
 - B. Stephanie advised she was born and raised in the Valley. She is excited for this opportunity and a future with the City of Neenah.

2019 Citywide Revaluation Presentation - Assessor's Office

- I. Deputy Dir. of Community Development & Assessment Schmidt / Statutory Assessor Mark Brown / Property Appraiser Kathy Engelbreth gave a brief presentation on the 2019 Revaluation. This is the first revaluation since 2011. The purpose is to bring assessments in line with market values. The assessment ratio has dipped down below 90% creating the need for a citywide revaluation. Notices will go out to property owners the end of August. The average increase is 20%. Open Book will be held September 10th, 11th & 12th from 9 am to 6 pm. Property owners can also view the assessment roll at the Neenah Library. If these hours do not work, just call the Assessor's Office to set up an appointment anytime. They have an open door policy. Board of Review is scheduled to begin on October 23rd. The Assessor's Office strongly recommend that property owners attend the Open Book prior to scheduling an appointment before the Board of Review. Information regarding the entire process can be found on their website. Staff answered questions from the Mayor / Council.
 - A. Mayor Kaufert advised the Council that he is in the process of setting up a Lunch & Learn with Assessor Brown sometime next week. This will give the Council an opportunity to ask questions regarding the re-evaluation prior to the notices going out.

Proceedings

- I. **MS Lendrum/Bates to approve the Council Proceedings of June 19 and July 17, 2019 regular sessions and the Committee of the Whole minutes of July 17, 2019. There being no objections the motion was approved by unanimous consent.**

Public Forum

- I. Kelly Olson, 140 N. Lake Street, gave a brief presentation on their group Bikers Against Trafficking (BAT). They are an international 501(c)(3) non-profit with the goal of eradicating human sex trafficking & restoring those impacted through: building awareness; clinical trauma counseling; job placement; housing assistance and mentoring. Their headquarters is in Lake Mary, Florida. BAT has active chapters in Canada and internationally in Ukraine and Netherlands. BAT Wisconsin was formed in 2017. Currently in Sturgis, South Dakota, several organizations are teaming up to host a 140-mile ride through the Black Hills to raise funds and awareness around this problem. They are present at this meeting to speak about their fundraising ride scheduled in Neenah-Menasha on August 17th which is before the Council for consideration at this meeting. The route for their ride is proceed through Menasha and Neenah. They will come into Menasha on Third Street (STH 114) and turn left on Tayco Street. They will continue on Tayco Street which becomes Commercial Street in Neenah. They will turn right on Wisconsin Avenue, then left on Main Street and right on to Green Bay Road. She encouraged everyone to support them by waving as they go by.
 - A. Kelly Olson clarified for Ald. Bates that they work with local law enforcement agencies in Neenah, Menasha, Appleton, Oshkosh and others.
 - B. Kelly Olson thanked Ald. Lendrum for suggesting she speak with Future Neenah. She will contact Nikki to let them know about their ride and to share the information with downtown businesses.
- II. Sarahjean Schluetchermann, Community Health Strategist at Winnebago County Health Department, spoke in favor of the proposed amendment to the smoking ban to include vaping. She thanked the Council for working to protect the public health and safety of our youth and community. She reviewed some statistics related to vaping. They do not know the long terms effects of e-cigarette use and vaping but studies are showing these products contain harmful chemicals and can have negative health effects on the person using them as well as those around them. Use of e-cigarettes in public places is a significant public health concern. She thanked the Council for recognizing this as an urgent problem and for taking action. They are also concerned with the bigger picture of youth access to these products. They conduct compliance checks through the Wisconsin WINS Program at both retailers with tobacco licenses as well as vap shops. During the past round of compliance checks for 20 City of Neenah retailers, three unfortunately sold products to their underage

volunteers. In order to protect our youth, we have to change the conditions where these products are less accessibly and less marketed to youth. Including e-cigarette products into a comprehensive indoor air ordinance will make sure everyone has access to clean air. The State and Best Practice Policy recommends that there be no exemption for vap shops. She asked the Council to consider removing the exemption for vap shops from the ordinance. This will avoid confusion, provide consistency and provide all residents and employees clean air. She thanked the Council for their time.

- III. There being no further appearances, Mayor Kaufert declared the public forum closed.

Consent Agenda

- I. **MS Bates/Lendrum to remove Grace Kenny and Heidi Raegan from the Consent Agenda to send back to Committee for consideration of police recommendation to deny their applications for a beverage operator licenses.**
- A. **There being no objections the motion was approved by unanimous consent.**
- II. **MS Lendrum/Lang to approve the Consent Agenda as follows:**
- A. **Approve beverage operator license applications for Taegen A. Ewald, ~~Grace Kenny~~, Daniel Krieg, Jennifer L. Lemke, Kara L. Palasz, Dean A. Ressler, Jodi A. Strzyzewski, and Haley I. Tesch. (PSSC)**
- ~~B. Approve the beverage operator license application (new) for Heidi Raegan, contingent upon payment of all delinquent City fees. (PSSC)~~
- C. **Approve the beverage operator license application (renewal) for Melissa C. Wintrow, contingent upon payment of all delinquent City fees. (PSSC)**
- D. **Approve the Street Use Permit for the Bikers Against Human Trafficking Ride, sponsored by the Bikers Against Trafficking, WI, Becky Jacobsen, 1336 Meadow Lane, Neenah, to be held on August 17, 2019. (PSSC)**
- E. **Approve the temporary extension of licensed premise application for the Fire Lite, Inc., 1171 Gillingham Road, for their Cornhole Tournament on August 17, 2019. (PSSC)**
- F. **There being no objections the motion was approved by unanimous consent.**

Public Services and Safety Committee

- I. Chairman Bates reported the special meeting of August 7, 2019:
- A. Committee recommends Council approve Winnebago County retain \$50,925 to cover their 2018 operating deficit, and refund the remaining recycling revenue surplus of \$36,093 for 2018 to all municipalities, based

upon the actual tonnage processed in 2018 for each municipality. **MS Bates/Lang.**

1. Ald. Kunz asked to be updated as to how other municipalities have voted on this.
2. Dir. Easker indicated, as City of Neenah's representative on the Solid Waste Board, he will share this information with the Council once it is received.
3. Mayor Kaufert advised that the tipping fee for recycled materials is \$10/ton. For garbage, we pay \$41/ton. The more we recycling the more savings to the City. He cautioned not to put things in recycling that are not recyclable as this would add costs to remove it.
4. Ald. Steele added that she has read that China is not buying U.S. recyclables anymore because we were sending too much contaminated recycling material to them. This would cause tipping fees to go up significantly.
5. **Motion carried, by an 8-0 RollCall-Pro System vote, all voting aye.**

II. Chairman Bates reported the regular meeting of July 30, 2019:

- A. Committee recommends Council approve the design and engineering proposal for the Shattuck Park Fountain from Ayres Associates for an amount not to exceed \$19,300. **MSCRП Bates/Kunz, all voting aye.**
- B. Committee recommends Council adopt Ordinance 2019-18 amending the name of Peckham Road, Oak Street Road and (east) Peckham Street between Commercial Street and South Park Avenue as East Peckham Street. **MSCRП Bates/Lang, all voting aye.**
- C. Committee recommends Council approve Ordinance 2019-17 amending the Smoking Ban to include e-cigarettes. **MS Bates/Erickson.**
 1. Asst. City Attorney VandenHeuvel advised that the State smoking ban is only for tobacco products, cigars, cigarettes, pipes, all this ordinance does is add a definition that e-cigarettes are included in the smoking ban. Anywhere you cannot smoke in the City of Neenah you now cannot smoke a vap. Appleton, Grand Chute, Kimberly have all passed similar bans. The State Legislature has a bill pending but it has not been presented on the floor yet. He clarified for Ald. Lendrum that the Park & Rec Commission has a rule that you cannot smoke within 100' of any playground, park structure or any other structure. If this passes, vaping would be included in that rule as well.
 2. Asst. City Attorney VandenHeuvel advised that Appleton passed this a while back, then spent a few months negotiating with the vap shops because they were unhappy. They found out that people who vap like to try the product before they buy it. They added the exemption for vap shops in existence at the time the ordinance was passed. Rather than go through what Appleton went through, he put the exemption in right away. If the Council wishes to remove it, they can do that.

3. Ald. Boyette indicated this is a vap shops livelihood. She expressed concern over removing the exemption for vap shops.
4. **MS Erickson/Kunz to remove Section 11-100 (d) exemption for vap stops from the ordinance.**
5. Ald. Erickson added that this is for the health of people working in a vap shop. It is also a public space in which they are considered an employee and should not have to deal with vaping. Studies show that even though the risk of secondhand smoke is not as great with vaping, there is a risk.
6. Ald. Boyette indicated she will vote in favor of the ordinance but is opposed to this amendment. She feels people entering a vap shop know vaping occurs in there. If you don't like it, you don't go there. If you are afraid for your health, you don't go there. On that same note, you would not apply for a job there if you don't like it or are afraid for health reasons. There is no need for this amendment in her eyes. She feels it will hinder their business and it is not fair for government to do this to a business.
7. Ald. Spellman questioned how many cap shops exist in the City of Neenah.
8. Asst. City Attorney VandenHeuvel advised there is only one "strictly" vap shop and that is the Neenah Vap on Cecil Street. The exemption would apply to any business which IDs customers where you have to be 18 years of age or older and sell vap. It would also apply to Tobacco Outlet.
9. Ald. Spellman asked if it would be beneficial to have open dialog with those businesses before we disrupt their business.
10. Asst. City Attorney VandenHeuvel indicated the City continues to take the stand to not actively approach either side when passing an ordinance.
11. City Attorney Godlewski indicated if we would like to have such dialog we would notify both sides and hold a public hearing.
12. Ald. Kunz indicated this exemption may have an impact on a business however our ordinance that does not allow beer sales in convenience stores or in the park also impact businesses. Just like the smoking ban itself. He does not see this as a negative.
13. Ald. Lang asked if we have any idea what the State proposal is and if this would be in conflict with that.
14. Asst. City Attorney VandenHeuvel advised that this would definitely not be in conflict. The State's proposal is almost identical to this except it just adds vap shops to the list of smoke free workplaces. Vap shops would not be exempt in the State law as it is currently proposed. We are allowed to be more restrictive than State law but not less restrictive.
15. Ald. Boyette questioned how cigar bars work and how they can stay in business with the State smoking ban in place.
16. Asst. City Attorney VandenHeuvel advised that when the smoking ban was passed, there was an exemption for businesses already in

- existence on June 3, 2009 in which only the smoking of cigars and pipes is allowed.
17. Ald. Boyette asked for a friendly amendment to grandfather in existing businesses.
 18. Ald. Erickson indicated she is not okay with the friendly amendment.
 19. Asst. City Attorney VandenHeuvel clarified for Mayor Kaufert that neighboring communities have added vaping. Appleton has the exemption, Kimberly does not. Menasha has not added vaping to the smoking ban. In Neenah it is illegal for anyone under 18 to possess a vap. In the State, it is illegal for anyone under 18 to possess nicotine or tobacco. It is not illegal to possess the vap unless it has nicotine in it.
 20. **The amendment to delete the exemption for vap shops, carried, by a 6-2 RollCall-Pro System vote, all voting aye, Ald. Boyette / Lendrum voting nay.**
 21. Asst. City Attorney VandenHeuvel clarified for Ald. Bates that we do not need to prove whether or not it contains nicotine. The wording was changed to say, "Anything that can house nicotine" therefore they cannot vap period. He advised Ald. Boyette that he is unfamiliar with Hookah Bars therefore unsure how this would affect them. Reading State law, he thinks they would not be able to open a new Hookah Bar but they could have been grandfathered in.
 22. City Atty. Godlewski added that the ordinance does not prevent them from selling Hookah, just smoking it indoors or selling to those under 18.
 23. Ald. Lang indicated they can still sell Hookah product they just can't smoke it indoor.
 24. Mayor Kaufert advised that the City Attorney's Office will look up the impact of this on Hookah Bars.
 25. Ald. Bates added that she would be happy to put Hookah Bar discussion on a future PSSC agenda.
 26. **The original motion, as amended, carried by a 7-1 RollCall-Pro System vote, all voting aye, Ald. Boyette voting nay.**

Finance & Personnel Committee

- I. Chairman Erickson reported the regular meeting of July 29, 2019:
 - A. Committee recommends Council approve the Cardinal Plat Development Agreement. (To be considered following a report from the Board of Public Works)

Neenah-Menasha Joint Fire Rescue Finance & Personnel Committee

- I. Ald. Kunz reported from the Neenah-Menasha Joint Fire Rescue Finance & Personnel Committee meeting of July 23, 2019:
 - A. Committee recommends the City of Neenah and City of Menasha Common Council's approve the proposed Cost Distribution Formula as of 12/31/18 for the 2020 budget with the City of Neenah's share at

59.30% and the City of Menasha's Share at 40.70%. **MSCRK Kunz/Bates, all voting aye.**

- B. Committee recommends the City of Neenah Common Council adopt the City of Neenah Ordinance 2019-5 amending portions of Chapter 7, Article II, Fire Prevention Codes. **MSCRK Kunz/Boyette, all voting aye.**

Board of Public Works

- I. Vice Chairman Bates reported the meeting of July 30, 2019:
- A. Information Only Items:
1. The Board approved Pay Estimate No. 4 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, WI, in the amount of \$348,562.79.
 2. The Board approved Pay Estimate No. 4 for Contract 2-19 Miscellaneous Sewer and Water Main Construction and Street Construction on Stanley Street, Stanley Court, Thomas Court to Robert J. Immel Excavating, Inc., Greenville, WI, in the amount of \$72,094.54.
 3. The Board approved Pay Estimate No. 1 for Contract 4-19 Concrete Pavement and Sidewalk Repair to Sommers Construction Company Inc., Shiocton, WI, in the amount of \$237,895.69.
 4. The Board approved Pay Estimate No. 1 for Contract 5-19 HMA Pavement Repair to MCC, Inc., Appleton, WI, in the amount of \$36,251.54.
 5. The Board approved Pay Request No. 6 for Washington Park Phase 3 to R & R Wash, Ripon, WI, in the amount of \$223,129.62
- B. Council Action Items:
1. The Board recommends Council approve the Development Agreement for Cardinal Plat Subdivision. **MSCRK Bates/Kunz, all voting aye.**

Bergstrom Mahler Museum

- I. Alderperson Spellman reported from the Bergstrom Mahler Museum:
- A. The Museum's 45th Annual Arts Festival was well attended.
- B. Leaves in Glass two day class will be held September 12th from 5:30 – 8:30 pm & September 14th from 10 am – 1 pm. Preserve the beautiful fall foliage in glass. Learn how to combine powdered glass and dried leaves to create a custom sheet of glass.
- C. Their next meeting will be held August 28th.

Unfinished Business

- I. Ald. Kunz questioned the status of the Memorandum of Understanding (MOU) with the Village of Fox Crossing.


- A. City Attorney Godlewski advised that MOU should be completed late this week or early next week.

New Business

- I. Mayor Kaufert thanks everyone who participated in the Mayor's Golf Outing. There was a good turnout. Once again, Dir. Easker and Ald. Stevenson took first place.
- II. Mayor Kaufert invited everyone to check out the Splash Pad at Washington Park. It has been well received. The Grand Opening of Washington Park will be held September 14th.
- III. Ald. Erickson questioned when the vaping ordinance will take effect and the plan to spread the word.
 - A. City Atty. Godlewski advised that the ordinance will take effect upon publication which is on Monday August 12th. Beside the article in the Post Crescent, there is no plan to spread the word other than by word of mouth or possibly social media.
- IV. Ald. Boyette announced the Stroll for Epilepsy at Memorial Park on August 17th from 10 am to 1:30 pm.
- V. Mayor Kaufert announced his employee appreciation luncheon will be held on Wednesday August 14th from 11 am to 1 pm. He invited the Council / staff to stop by.

Adjournment

- I. **MSC Boyette/Lendrum to adjourn at 8:36 p.m., all voting aye.**


Patricia A. Sturn, WCPC/MMC
City Clerk