

COUNCIL PROCEEDINGS - Council Chambers - Kaukauna, Wisconsin – March 20, 2018

Pursuant to adjournment on March 6, 2018, meeting of the Common Council of the City of Kaukauna called to order by Mayor Rosin at 7:00 P.M. on Tuesday, March 20, 2018.

Roll call, present: Coenen, Driessen, Leon, McGinnis, Meyerhofer, Penterman, and Roehrig.

Absent & excused: DeCoster.

Also present: DPW/Eng. Sundelius, Atty. Davidson, Fin. Dir. VanRossum, Planner Jakel, Police Chief Manion, Fire Chief Hirte, HR Dir. Vanderloop, Lib. Wiecek, Eng./GIS Spec. Neumeier, and interested citizens.

One minute of silent prayer and the Pledge of Allegiance to the American Flag observed by the assembly present.

Motion by Meyerhofer, seconded by Leon, to suspend the rules and waive the reading of the minutes of the previous meeting of March 6, 2018.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Penterman, to adopt the minutes of the previous meeting of March 6, 2018.

All Ald. present voted aye.

Motion carried.

Clerk/Treasurer read correspondence from John VanDrunen, Municipal Judge, resigning as of March 30, 2018.

Motion by Meyerhofer, seconded by McGinnis, to accept and place on file the correspondence from Hon. John VanDrunen.

All Ald. present voted aye.

Motion carried.

Atty. Davidson presented a memo concerning the vacancy of the office of Municipal Judge stating that the statutes provide that the position may be filled by appointment of the Common Council until a special election is held to fill the vacancy for the remainder of the unexpired term. The Clerk of Court should be directed to adjourn pending matters until after the next regular meeting of the Council. If the Council does not appoint a temporary judge to perform the duties of municipal judge, the chief judge of the judicial administrative district may appoint a temporary judge to perform the duties until one is appointed. The Council needs to order a special election to be filed with the Municipal Clerk between August 21 and September 3, 2018.

Motion by McGinnis, seconded by Meyerhofer, to have the City Attorney start the process of seeking nominations for Municipal Judge.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by McGinnis, that Vouchers No. 104683 through No. 104803 be approved and placed on file with the Clerk/Treasurer.

Upon roll call, all Ald. present voted aye.

Motion carried.

The father of Thuyen Thao pinned a badge on his son after his 18 month probationary period and

Clerk/Treasurer swore him in. Thao's family and fellow police officers were present.

Motion by McGinnis, seconded by Meyerhofer, to reappoint Don Grissman, Jeff Knaus, and Mike Schmidt to the Industrial and Commercial Development Commission.

All Ald. present voted aye.

Motion carried.

Motion by Penterman, seconded by Leon, to appoint Sharon Nisler and Jim Brandt to the Board of Appeals.

All Ald. present voted aye.

Motion carried.

Ald. McGinnis presented the following report:

CITY PLAN COMMISSION

A meeting of the City Plan Commission was called to order at 4:00 p.m. on Thursday, March 8, 2018, by Chairman Rosin.

Members Present: Feldt, McGinnis, Penterman, Rosin, Schoenike, Sundelius, and VanderSanden.

Absent and Excused: Oldenburg.

Also Present: Planning Director Jakel, City Attorney Davidson, Project Engineer Neumeier, Planning/Engineering Technician Holmes, Applicants, Interested Citizens, and Media.

1. A motion to excuse the absent Commission member was made by McGinnis, seconded by VanderSanden. All members voted aye. Motion carried.
2. A motion to approve the minutes of the February 8, 2018, meeting was made by Feldt, seconded by Penterman. All members voted aye. Motion carried.
3. Mr. Penterman made a motion to move out of order to discuss Item #2 under New Business. The motion was seconded by VanderSanden. All members voted aye. Motion carried.
4. Mr. Jakel explained that the applicant's intention for municipal property adjoining Haas Road and Greengrove Street is to purchase at least 25' x 100' of land to expand their existing lot. They would plant trees as a buffer and maintain the property as greenspace. Mr. Jakel explained that the City paid \$.90 per square foot for the property which is unbuildable due to existing wetlands and building setback requirements. Mr. Jakel explained that he determined a sales price of \$.20 to \$.22 per square foot using a different formula than what would be used for a new lot as the land, which was initially intended a park space, is largely unusable. Mr. Sundelius questioned how the Commission would justify purchasing the land for \$.90 per square foot and selling it just two years later for \$.20 per square foot. Mr. Jakel explained that it is not prime real estate and included easements. Mr. Sundelius disagreed and explained that historically, park land is not sold to neighbors as there is no benefit to the community. A motion to recommend to the Council the disposition of 25' x 100' feet of municipally owned property was made by Penterman. There was no second. No action was taken on the item.
5. Mr. Jakel explained that the Commission had previously recommended changes to the preliminary concept plan for residential redevelopment of St. Al's site including redesigning a proposed private road to public street standards. Two-family units would be located in the interior of the property under one-ownership with single family homes on the remaining lots. A hammer-head turn-around would accommodate emergency access. Storm water management would be per WDNR regulations adjoining Ann Street and Hendricks Avenue. Public hearings on the creation of a TIF district to accommodate the demolition of the existing buildings and assist in infrastructure placement as well as rezoning of the property would be held before the Plan Commission, Joint Review Board, and Common Council. Mr. VanderSanden asked about the requirements for a public street. Mr. Sundelius explained that it would need 33' curb to curb. Chairman Rosin explained that the public street could more efficiently handle emergency access, garbage pick-up, snow removal and utility maintenance. Mr. Schoenike asked if the rear yard varied in size. Mr. Jakel explained that a standard rear yard is 20 feet and this plan meets that minimum. Mr. Sundelius asked if the two-family lots in the center would be under one ownership. Mr. Verstegan explained that that was his plan, however, the lots could be sub-divided in the future. A landscape buffer and entrance signage would be located at St. Mary's

Place and Ann Street to make the development more inviting. Mr. Schoenike explained that he liked the through-street concept and asked what changed on the concept plan. Mr. Versteegen explained that the right of way and setback requirements required that the units be moved farther apart. The layout of the units was changed as well. A motion to proceed with the public hearing process for the creation of the TIF district and the rezoning was made by Feldt, seconded by VanderSanden. All members voted aye. Motion carried.

6. Mr. Jakel explained that the applicant's intention is to purchase the municipal property adjoining Cleveland Avenue as well as the municipal property. The property is being maintained by the adjoining owners. Chairman Rosin asked about maintaining the City's right of way access. Mr. Jakel explained that the trail could be accessed farther down at the end of Cleveland Avenue. Mr. Sundelius explained that there was no benefit to selling or vacating the property and losing control of it could cause the City issues in the future. Mr. Jakel explained that the applicants have no space currently to expand and that this disposition could eventually increase the value of the property. Mr. Sundelius explained that the existing conservation easement would prohibit expansion on the site. Attorney Davidson explained that there are no adverse possession or liability issues, however, it would not be the most appropriate use of City property. Mr. Holmes offered to investigate the lot lines in person. Mr. Schoenike explained that there would likely not be any property irons in place based on on-going issues and lot line discrepancies. A motion to recommend to the Council the denial of the request to purchase municipal property was made by Sundelius, seconded by Schoenike. All members voted aye. Motion carried.

7. Mr. Jakel explained that owner of the properties on a portion of Blackwell Street northeast of Walnut Street intends to combine them all under one ownership. The vacation would allow the size of one lot to be increased making the property more marketable if sold and increasing access to an existing garage. Mr. Feldt explained that Kaukauna Utilities would require an easement that would affect both properties to maintain overhead lines and possible underground infrastructure. Mr. Jakel explained that the easement would be noted on the CSM. Mr. Penterman asked about the price of the property. Mr. Jakel explained that it would be the cost of disposition as part of the subdivision process and KU will have the opportunity to review the easement. A motion to recommend to the Council approval of the request to vacate property was made by Schoenike, seconded by Sundelius. All members voted aye. Motion carried.

8. Mr. Jakel explained that the property of David Pleshek for a two lot CSM adjoining Draper Street is an unusual configuration located between Draper Street and the railroad tracks. The applicant's intention is to create two lots out of the parcel so that each structure would be on a separate lot and could be sold individually. A motion to recommend to the Council approval of the CSM as presented by made by Sundelius, seconded by Penterman. All members voted aye. Motion carried.

There being no further business to be brought before the Commission, a motion to adjourn the meeting at 4:50 p.m. was made by Sundelius, seconded by Feldt. All members voted aye. Motion carried.

Julianne Schroeder
Executive Secretary

and moved it be accepted and placed on file, seconded by Meyerhofer.

All Ald. present voted aye.

Motion carried.

Ald. McGinnis presented the minutes of the 1000 Islands Environmental Center Committee of February 15, 2018, and moved it be accepted and placed on file, seconded by Meyerhofer.

All Ald. present voted aye.

Motion carried.

Ald. McGinnis presented the minutes of the Redevelopment Authority of the City of Kaukauna of November 8, 2017, and moved it be accepted and placed on file, seconded by Meyerhofer.

All Ald. present voted aye.

Motion carried.

Ald. Meyerhofer presented the minutes of the Heart of the Valley Metropolitan Sewerage District Commission of February 13, 2018, and moved it be accepted and placed on file, seconded by Coenen.

All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the minutes of the Police and Fire Commission of January 11, 2018, and moved it be accepted and placed on file, seconded by McGinnis.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the minutes of the Kaukauna Library Board of November 28, 2017, and moved it be accepted and placed on file, seconded by Penterman.
All Ald. present voted aye.
Motion carried.

Ald. Coenen presented the following applications for operator licenses for the 2016-2018 License Year:

Laura A. Fjellerad – 103 ½ W. 9th Street, Kaukauna
Adam L. Gunn – 3015 W. 4th Street, Grand Chute
Gina L. Hoffman – 809 Gertrude Street, Kaukauna
Heidi L. Vang – 2200 Green Bay Road, Kaukauna

and moved that they be granted as presented, seconded by McGinnis.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Fire Report for the month of February, 2018, and moved it be accepted and placed on file, seconded by Penterman.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Ambulance Report for the month of February, 2018, and moved it be accepted and placed on file, seconded by Leon.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Police Department Report for the month of February, 2018, and moved it be accepted and placed on file, seconded by McGinnis.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Municipal Court Report for the month of February, 2018, and moved it be accepted and placed on file, seconded by Leon.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Treasurer Deposit Report for the month of February, 2018, and moved it be accepted and placed on file, seconded by Leon.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the Summary of Permits and Fees for the month of February, 2018, and moved it be accepted and placed on file, seconded by Leon.

All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented the annual report of the Fire Department and moved it be accepted and placed on file, seconded by Penterman.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer commended the Fire Chief on the nice report. Ald. Penterman commented that we have a few paid on calls firefighters that have been with the City for 25 years. Fire Chief Hirte stated that they will get a reward from the Mayor in April for their 25 years.

Eng./GIS Spec. Neumeier presented the annual report of the municipal separate storm sewer (MS4). This report needs to be submitted to the Wisconsin Department of Natural Resources and is distributed to the Board and Council and is on the City's website. This is an effort to provide awareness to the activities the City is completing in order to maintain compliance with State and Federal regulations as well as to gather comments. A summary of activities and accomplishments is included siting each general permit section requirements.

Motion by Meyerhofer, seconded by McGinnis, to accept and place on file the municipal separate storm sewer (MS4) report.
All Ald. present voted aye.
Motion carried.

Eng./GIS Spec. Neumeier explained that the Total Maximum Daily Load (TMDL) Implementation Plan was emailed to the Council for review. This plan provides details of the actions needed to achieve pollutant load reductions, outlines a schedule of those actions, and specifies monitoring needed to document actions and progress toward meeting water quality standards. A compliance schedule is being developed to implement pollutant reduction measures in accordance with a storm water management plan to meet applicable TMDL reductions. The compliance schedule is required to show continual progress by meeting benchmarks of performance within each five year permit term. Fin. Dir. VanRossum reviewed the revenue bond strategy over the twenty years.

Ald. McGinnis excused – 7:20 P.M.

Motion by Meyerhofer, seconded by Coenen, to adopt the Total Maximum Daily Loading (TMDL) Implementation Plan as presented.
All Ald. present voted aye.
Motion carried.

Motion by Meyerhofer, seconded by Leon, to suspend the rules and waive the reading of Resolution No. 4111.
All Ald. present voted aye.
Motion carried.

Ald. Meyerhofer presented Resolution No. 4111 approving a Certified Survey Map for David Pleshek and moved for its adoption, seconded by Penterman.
All Ald. present voted aye.
Motion carried.

Motion by Meyerhofer, seconded by Leon, to suspend the rules and waive the reading of Resolution No. 4112.
All Ald. present voted aye.

Motion carried.

Ald. McGinnis returned – 7:26 P.M.

Ald. Meyerhofer presented Resolution No. 4112 approving the ICMA Retirement Corporation Profit Sharing and Trust 401 (a) Plan and moved for its adoption, seconded by Leon.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Leon, to suspend the rules and waive the reading of Resolution No. 4113.

All Ald. present voted aye.

Motion carried.

Ald. Meyerhofer presented Resolution No. 4113 approving the ICMA Retirement Corporation Deferred Compensation Plan and moved for its adoption, seconded by McGinnis.

All Ald. present voted aye.

Motion carried.

Atty. Davidson reviewed the resolution authorizing the execution and delivery of documents relating to the Fox Cities Exhibition Center Project and stated the underlying agreements are substantially complete. Ald. Meyerhofer questioned if the other communities agreed with the revisions especially the City of Neenah.

Ald. Meyerhofer presented Resolution No. 4114 authorizing the execution and delivery of documents relating to the Fox Cities Center Project and moved for its adoption as long as this version is the same as the City of Neenah's version, seconded by McGinnis.

All Ald. present voted aye.

Motion carried.

City Atty. Davidson presented his findings on the concerns raised regarding the conduct of the primary election process. He has reviewed the applicable statutes and the Wisconsin Elections Commission guidelines and manuals and have interviewed more than a dozen persons involved in carrying out elections. The City Attorney does not have the jurisdictional authority to prosecute violations of election law. His role is one of review and advice. The findings of his review have been referred to the Outagamie County District Attorney's Office and to the Wisconsin Elections Commission. He will provide an opinion regarding what we deem inappropriate in the context of conflicts of interest and in the context of ensuring the confidence of the voting public in the integrity of the election process, but it is important to note that we make no allegations of wrongdoing here. For the most part the details and mechanics of the election process were carried out in compliance with the requirements of the law. There were several areas that are troubling and problematic. The election laws are premised upon a philosophical foundation of upholding the integrity of the electoral process in the mind of the electorate, of ensuring access for voters, accurate recording of the electorate's intent, and safeguarding voters from political pressure and influence at the polling place. Based on his review, can he confirm those mandates were fulfilled on February 20th, unfortunately, the answer is not an unequivocal "yes". Our recommendation for conduct of elections going forward are clear and simple – the Clerk, if running as a candidate in an election, should appoint a deputy clerk or other designee(s) to handle all aspects of direct electorate interaction during the polling process. Resources should be allocated as necessary to carry out this separation so that Kaukauna voters can cast their votes without need for suspicion or concern, without improper influence from electioneering, and can be assured that each and every vote properly cast is properly counted.

Ald. Coenen asked the City Attorney if the Clerk will be assigning a Deputy Clerk and his response was you will have to ask her. Coenen then asked the Clerk if she will be assigning a Deputy Clerk as pointed out by the Council and by the City Attorney's findings. Clerk responded by saying I have an assistant. Ald. Meyerhofer demanded the Clerk appoint a deputy. Ald. Meyerhofer requested that page 2 of the Attorney's

audit page 1-7 be attached and page 3 first sentence and page 3, 4, and 6 be added to the minutes and that the verbal attack comment be readacted.

Clerk/Treasurer Duda stated she would appoint a deputy in the morning.

Ald. Roehrig along with Ald. Leon questioned the parking on the street by the Kaukauna Clinic when the street sweeping parking ordinance takes effect. DPW/Eng. Sundelius will review the area.

Ald. Roehrig questioned a tax bill from William and Rita Hibbard that was placed on his desk marked paid on December 29, 2017, along with a copy of a check from the Clerk/Treasurer paying those taxes dated February 28, 2018. Clerk/Treasurer stated she paid it so no more interest would accumulate until she could figure out what happened. This matter is turned over to the Department of Justice.

Motion by McGinnis, seconded by Coenen, to convene to Closed Session at 7:58 P.M. pursuant to Wisconsin State Statutes 19.85 (1) (e) to discuss compensation performance regarding the Municipal Services Building.

All Ald. present voted aye.

Motion carried.

Motion by McGinnis, seconded by Penterman, to reconvene to Open Session at 8:21 P.M.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Coenen, to approve the Municipal Services Building Improvement Projects 2017 benchmarks/milestones as presented with \$1,170 for William VanRossum, Finance; \$1,695 for Bob Jakel, Planning; \$10,365 for John Sundelius, Engineering; \$2,400 for Paul Hirte, Fire; and \$1,020 for Don Krause, IT.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by McGinnis, to approve the adjusted dates for the 2018 benchmarks/milestones for the Municipal Services Building Improvement Projects.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Coenen, to convene to Closed Session at 8:25 P.M. pursuant to Wisconsin State Statutes 19.85 (1) (e) to discuss acquisition and disposition of property concerning Grand Kakalin Project.

All Ald. present voted aye.

Motion carried.

Motion by Driessen, seconded by Coenen, to reconvene to Open Session at 8:58 P.M.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Roehrig, to direct the Planner to enter into a contract with McMahan and Associates to prepare a three lot certified survey map for the former Gustman lot property for approximately \$5,000 and a stormwater management plan for \$8,000 for a total pf \$13,000.

All Ald. present voted aye.

Motion carried.

Motion by McGinnis, seconded by Penterman, to convene to Closed Session at 9:01 P.M. pursuant to Wisconsin State Statutes 19.85 (1) (e) to discuss disposition of property in Commerce Crossing.

All Ald. present voted aye.

Motion carried.

Motion by Penterman, seconded by McGinnis, to reconvene to Open Session at 9:24 P.M.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Coenen, to enter into a notice relating to offer to purchase with CRE Holdings LLC for purchase of property in commerce crossing.

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by McGinnis, to authorize City Attorney to draft offer to purchase with Dr. Berkers for \$1.50/sq. ft. (\$65,340/acre)

All Ald. present voted aye.

Motion carried.

Motion by Meyerhofer, seconded by Coenen, to adjourn.

All Ald. present voted aye.

Motion carried.

Meeting adjourned at 9:26 P.M.

Susan J. Duda

Clerk/Treasurer