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Office of the City Administrator

PUBLIC WELFARE COMMITTEE

Tuesday, March 8, 2016

6:00 PM

South Conference Room

Agenda

- 1) Call to Order, Roll Call
- 2) Approval of February 9, 2016 Meeting Minutes
 - a. February 2016 Minutes

3) Ordinances

Action requested: review and recommend approval

- a. **ORDINANCE 2016-1471** An Ordinance Creating § 2-137(b)(9) of the Mequon Municipal Code Relating to the Imposition of an Affirmative Duty Upon Officials to Act with Honesty

4) Adjourn

Dated: March 8, 2016

/s/ Dale Mayr, Chairman

.....
Notice is hereby given that a quorum of other governmental bodies may be present at this meeting to present, discuss and/or gather information about a subject over which they have decision-making responsibility, although they will not take formal action thereto at this meeting.

Persons with disabilities requiring accommodations for attendance at this meeting should contact the City Clerk's Office at 262-236-2914, twenty-four (24) hours in advance of the meeting.

Any questions regarding this agenda may be directed to the City Administrator's Office at 262-236-2941, Monday through Friday, 8:00 AM – 4:30 PM



11333 N. Cedarburg Rd
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Office of Administration

TO: Public Welfare Committee
FROM: Lina Prosser, Executive Assistant
DATE: March 3, 2016
SUBJECT: February 2016 Minutes

The February 9, 2016 meeting minutes are attached for review and approval.

Attachments:

02-09-2016_PW Minutes (DOCX)

**PUBLIC WELFARE COMMITTEE
MEETING MINUTES
February 9, 2016**

PRESENT: Aldermen Gierl, Mayr, Strzelczyk

ALSO PRESENT: City Administrator Jones, Assistant City Administrator Thyges, Kathy Pederson-
President Mequon Community Foundation, John Wirth-Mequon Community
Foundation Board Member, Executive Assistant Prosser

The meeting was called to order by Chairman Mayr at 6:05 PM.

Approval of the December 8, 2015 meeting minutes

Action: Motion to approve the December 8, 2015 meeting minutes.
(Strzelczyk/Gierl)

Result: Motion passed by voice acclamation.

RESOLUTION 3354 – A Resolution to Observe International Migratory Bird Day

Assistant City Administrator Thyges stated the City of Mequon has participated annually in Bird City Wisconsin since 2010. Mr. Thyges noted last year the renewal process was updated to require an annual adoption of a resolution to observe International Migratory Bird Day by the City's Common Council. Mr. Thyges mentioned the 2016 International Migratory Bird Day will be observed in conjunction with the City of Mequon's Arbor Day in April.

Action: Motion to approve Resolution 3354- A Resolution to Observe International Migratory Bird Day
(Strzelczyk/Mayr)

Result: Motion passed by voice acclamation. Resolution 3354 recommended to Common Council for approval.

Item for Discussion: Mequon Community Foundation Introductory Presentation

John Wirth stated at a recent meeting of the Mequon Community Foundation Board, a discussion was held on how the Board may go about finding new projects within the community that would benefit from the Foundation's support. Mr. Wirth went on to say, the Board felt a place to start a discussion on potential community projects would be with the City. Mr. Wirth turned the presentation over to Kathy Pederson, President of the Mequon Community Foundation. Ms. Pederson stated the Foundation was originally started in May, 1999 by a Blue Ribbon Committee formed by former Mayor Christine Nuernberg. Ms. Pederson reviewed the Foundation's statement of philosophy and purpose and provided the Committee with handouts on recent projects, as well as reviewed a list of past projects the Foundation supported. The Committee went on to discuss ideas on possible projects for city parks and the Town Center. Ms. Pederson noted the Foundation's preference for highly visible projects that are permanent in nature and will provide a benefit to the community. Assistant City Administrator Thyges stated he received an e-mail from the president of the youth football organization regarding an interest to explore the installation of lights at Lemke Park. The Committee agreed to continue the discussion on potential projects with the members of the Mequon Community Foundation Board after the Foundation's meeting in April.

Chairman Mayr inquired whether the Committee had any future agenda topics. Alderman Gierl requested a follow up on several agenda items; enforcement deadlines, prohibited landscaping materials, discussion on

honesty requirements. Chairman Mayr asked staff to review the minutes of the past meetings to determine the status of the items.

Adjourn

Action: Motion to adjourn the meeting (Strzelczyk/Gierl)

Result: Motion passed by voice acclamation. Meeting adjourned at 6:35 PM.

Respectfully submitted,
Lina Prosser, Executive Assistant
CITY OF MEQUON PUBLIC WELFARE COMMITTEE

DRAFT

Attachment: 02-09-2016_PW Minutes (1515 : February 2016 Minutes)



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Office of Human Resources

TO: Public Welfare Committee
FROM: Jesse Thyes, Asst City Administrator/Human Resource Manager
DATE: March 8, 2016
SUBJECT: An Ordinance Creating § 2-137(b)(9) of the Mequon Municipal Code
Relating to the Imposition of an Affirmative Duty Upon Officials to Act with
Honesty

Background

At its January 13, 2015 meeting, the Common Council adopted Ordinance No. 2014-1440, an ordinance amending Chapter 2 for the Mequon Municipal Code so as to add honesty provisions to the Ethics and Personnel Codes. Upon the request of Ald. Gierl, the provisions related to the Ethics Code were reviewed and it was determined that the changes made by Ordinance 2014-1440 were not complete. The proposed ordinance adds an affirmative duty upon city officials and employees to act honestly in their dealings with the public and each other to the Ethics Code.

Analysis

Ordinance 2014-1440 made two changes to the Municipal Code. First, it amended § 2-230 of the Municipal Code (the Personnel Code) to expressly provide that dishonest conduct by employees could be grounds for disciplinary action. Second, it added (8) to § 2-137(b) (the Ethics Code) to provide that no “city official or employee may dishonestly obtain financial gain or anything of substantial value for the city official's or employee's private benefit or that of his or her immediate family, or for an organization with which he or she is associated.” This addition was consistent with the other provisions on § 2-137(b).

Upon review, these changes leave a gap in the code where an employee could face disciplinary action for dishonest conduct while there was no corresponding affirmative duty applied in the code to “city officials” (e.g., the Mayor, Aldermen, members of the various City boards and commissions, and contracted vendors filling a statutory role such as the City Attorney or Assessor). In order to close this gap, the proposed ordinance adds to the Ethics Code provisions that create an affirmative duty for employees and officials to act with honesty in their dealings with members of the public and/or other employees and officials.

Fiscal Impact

It is not anticipated that this ordinance would have a fiscal impact.

Recommendation

Staff recommends adoption of the proposed ordinance.

COMMON COUNCIL
OF THE
CITY OF MEQUON

ORDINANCE 2016-1471

An Ordinance Creating § 2-137(b)(9) of the Mequon Municipal Code Relating to the Imposition of an Affirmative Duty Upon Officials to Act with Honesty

WHEREAS, the Common Council of the City of Mequon previously adopted an Ethics Code for City Officials and employees which is presently codified in Sections 2-135 through 2-148 of the Mequon Municipal Code; and

WHEREAS, the Ethics Code is designed to ensure high moral and ethical standards of conduct for City Officials and employees; and

WHEREAS, while implied within the provisions of the Ethics Code and in the practices of good governance, there is no affirmative duty to act with honesty in an official's dealings with other officials and/or the public; and

WHEREAS, the Common Council desires to include such affirmative duty within the Ethics Code;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF MEQUON, OZAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

SECTION I

Section 2-137(b) is hereby amended to read as follows (NOTE: Added text is underlined; Deleted text is ~~struck through~~):

(b) Prohibited practices.

- (1) No city official or employee may use his or her public position or office to obtain financial gain or anything of substantial value for the city official's or employee's private benefit or that of his or her immediate family, or for an organization with which he or she is associated. This subsection does not prohibit an elected official from using the title or prestige of his or her office to obtain contributions permitted and reported under Wis. Stats ch. 11.

- (2) No person may offer or give to a city official or employee, directly or indirectly, and no city official or employee may solicit or accept from any person, directly or indirectly, anything of value if it could reasonably be expected to influence the city official's vote, the city official's or employee's official actions or judgment, or could reasonably be considered as a reward for any official action or inaction on the part of the city official or employee. This subsection does not prohibit a city official or employee from engaging in outside employment.
- (3) No city official or employee may intentionally use or disclose information gained in the course of or by reason of his or her official position or activities in any way that could result in the receipt of anything of value for himself or herself, for his or her immediate family, or for any other person, if the information has not been communicated to the public or is not public information. This provision shall not be interpreted to prevent such city official or employee from reporting violations of this division or other illegal acts to the proper authorities.
- (4) No city official or employee may use or attempt to use his or her position to influence or gain unlawful benefits, advantages or privileges for himself or herself or others.
- (5) No city official or employee, member of such city official's or employee's immediate family, nor any organization in which the city official or employee or a member of such city official's or employee's immediate family owns or controls at least ten percent of the outstanding equity, voting rights, or outstanding indebtedness may enter into any contract or lease with the City of Mequon involving a payment or payments of more than \$3,000.00 within a 12-month period unless the city official or employee has first made written disclosure of the nature and extent of such relationship or interest to the board and to the department involved in regard to the contract or lease. Any contract or lease entered into in violation of this subsection may be voided by the city in an action commenced within three years of the date on which the board, or the department or officer acting for the city in regard to the allocation of

funds from which such payment is derived, knew or should have known that a violation of this subsection had occurred. This subsection does not affect the application of Wis. Stats. § 946.13.

- (6) No city official or employee may represent a person for compensation before a city department or any employee thereof, council, board, committee, commission or similar entity, except:
- a. In a contested case which involves a party other than the city with interests adverse to those represented by the city official or employee; or
 - b. At an open hearing at which a stenographic or other record is maintained; or
 - c. In a matter that involves only ministerial action by the department.

This subsection does not apply to representation by a city official or employee acting in his or her official capacity.

- (7) No former city official or employee for 12 months following the date on which he or she ceases to be a city official or employee, may, for compensation:
- a. On behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any officer or employee of a department with which he or she was associated as a city official or employee within 12 months prior to the date on which he or she ceased to be a city official or employee.
 - b. On behalf of any person other than a governmental entity, make any formal or informal appearance before, or negotiate with, any official or city employee of a department in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding which was under the former city official's or employee's

responsibility as a city official or employee, within 12 months prior to the date on which he or she ceased to be a city official or employee.

- c. On behalf of any party other than the city, act in connection with any judicial or quasi-judicial proceeding, application, contract, claim, or charge which might give rise to a judicial or quasi-judicial proceeding in which the former city official or employee participated personally and substantially as a city official or employee.
- (8) No city official or employee may dishonestly obtain financial gain or anything of substantial value for the city official's or employee's private benefit or that of his or her immediate family, or for an organization with which he or she is associated.
- (9) No city official or employee may, in that official or employee's dealings with the public and/or other officials or employees, act in any manner that is not honest and truthful.

SECTION II

The terms and provisions of this ordinance are severable. Should any term or provision of this ordinance be found to be invalid by a court of competent jurisdiction, the remaining terms and provisions shall remain in full force and effect.

SECTION III

All ordinances and parts of ordinances in contravention to this ordinance are hereby repealed.

SECTION IV

This ordinance shall be in full force and effect upon its passage and on the day after its publication.

Approved by: Dan Abendroth, Mayor

Date Approved: March 8, 2016

I certify that the foregoing Ordinance was adopted by the Common Council of the City of Mequon, Wisconsin, at a meeting held on March 8, 2016.

William H. Jones, Jr., City Clerk

Published: _____