

CITY OF MEQUON COMMON COUNCIL

Regular Meeting

April 14, 2015

Mayor Abendroth called the meeting of the Common Council to order at 7:34 PM with the Pledge of Allegiance and the roll call.

PRESENT: Mayor Abendroth, Aldermen Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams; City Clerk/Administrator Jones; Assistant Administrator Thyges; City Attorney Sajdak; Deputy City Clerk Fochs; Community Development Director Tollefson, City Engineer/Public Works Director Lundeen; Deputy Director of Public Works/Asst. City Engineer Jahncke; Finance Director Watson; Police Chief Graff; press and interested public

ALSO PRESENT: Matt Neumann of Neumann Companies Inc.

1) Public Hearings:

- a) Moved by Alderman Nerbun, seconded by Alderman Adams to open a public hearing to discuss **RESOLUTION 3278** – Final resolution levying special assessments against benefitted property – Wauwatosa Road sanitary sewer extension. The motion passed by voice acclamation 8/0.

There being no one wishing to speak, moved by Alderman Strzelczyk, seconded by Alderman Mayr to close the public hearing. The motion passed by voice acclamation 8/0.

- b) Moved by Alderman Strzelczyk, seconded by Alderman Nerbun to open a public hearing to discuss **ORDINANCE 2015-1444** – A request by Lumen Christi to amend the City of Mequon Zoning Map from R-4 (Residential ¾ acre) to IPS (Institutional Public Service) and a Land Use Plan Map Amendment from residential 1 – 1.5 acres to Institutional for the property located at 2640 W. Mequon Road to allow for an expansion of the existing religious institution located at 2700 W. Mequon Road. The motion passed by voice acclamation 8/0.

There being no one wishing to speak, moved by Alderman Adams, seconded by Alderman Strzelczyk to close the public hearing. The motion passed by voice acclamation 8/0.

- c) Moved by Alderman Pukaite, seconded by Alderman Nerbun to open a public hearing to discuss **ORDINANCE 2015-1445** – Text amendment to the City of Mequon, Chapter 58, Zoning Code, related to the maximum size of accessory structures and the overall lot coverage in the residential zoning districts. The motion passed by voice acclamation 8/0.

There being no one wishing to speak, moved by Alderman Pukaite, seconded by Alderman Hawkins to close the public hearing. The motion passed by voice acclamation 8/0.

- 2) **Personal appearances and public comment:** None.
- 3) **Public official's reports:**
- a) **Mayor:** The Lakeshore Chinooks are looking for families to host members of the team during the summer season.
 - b) **City Administrator:** Tonight's meeting can be viewed on YouTube later in the week and starting next month live broadcasts of the Council meeting can be viewed on YouTube as well. Planning Commission broadcasts are also planned for the near future.
- 4) **Consent Agenda:**
- a) Common Council meeting minutes of March 10, 2015
 - b) Architectural Board meeting minutes of February 9, 2015
 - c) Bureau of Permits and Inspections Report for February and March 2015
 - d) Finance-Personnel Committee meeting minutes of February 10, 2015
 - e) Fire Department Report for February and March 2015
 - f) G. Opitz Cemetery Board meeting minutes of June 3, 2014
 - g) Municipal Water Utility Commission meeting minutes of January 20, 2015
 - h) Planning Commission meeting minutes of February 9, 2015
 - i) Police and Fire Commission meeting minutes of January 26, 2015
 - j) Public Safety Committee meeting minutes of February 26, 2015
 - k) Public Welfare Committee meeting minutes of February 24, 2015
 - l) Public Works Committee meeting minutes of January 13 and February 10, 2015
 - m) Sewer Utility District Commission meeting minutes of January 20, 2015
 - n) Zoning Enforcement and Site Compliance Reports through April 1, 2015
 - o) **RESOLUTION 3287-** Sewer Metering Policy for Commercial Billing of Sanitary Sewer Accounts.
 - p) **RESOLUTION 3297** – Approving the Development Agreement for Neumann Companies, Inc., a 111-lot single-family subdivision immediately south of the Brighton Ridge and Knightsbridge subdivisions between Swan Road and Wauwatosa Road.
 - q) **RESOLUTION 3298** – Approving an amendment to a Development Agreement between the City of Mequon and Wired Shaffer Mequon, LLC, Mequon Towne Center LLC and Mequon Town Center I, Inc.
 - r) **RESOLUTION 3299** – Approving a Certified Survey Map for property at 139 Cedar Valley Drive in the Town of Cedarburg under the state platting requirements in the City of Mequon's extraterritorial jurisdiction.
 - s) **RESOLUTION 3300** – Donges Bay Gorge Bridge Project-Bid Rejection.

Alderman Mayr requested the removal of Item q – **RESOLUTION 3298** – Approving an amendment to a Development Agreement between the City of Mequon and Wired Shaffer Mequon, LLC, Mequon Town Center LLC and Mequon Town Center I, Inc. from the consent agenda.

Moved by Alderman Mayr, seconded by Alderman Strzelczyk to approve the amended consent agenda. The motion passed by voice acclamation 8/0.

Director Tollefson explained the amendment addresses definition of phases; 1) Phase I completion is expected as of November 2015, including landscaping; 2) Phase I now

includes the South Building (commercial fronting Mequon Road) and not the Restaurant Building; 3) Phase II (Restaurant Building on corner only) is expected to be completed for construction purposes by February 2016. However, the Development Agreement does require, for valuation purposes, the completion of the Restaurant Building is considered as of December 31, 2015. Despite the fact that physical construction of Phase I isn't yet complete, the Development Agreement previously did require for valuation purposes that Phase I was deemed complete as of January 1, 2015. That's good news for the TIF in both 2015 and 2016.

Moved by Alderman Mayr, seconded by Alderman Hawkins to approve **RESOLUTION 3298**. The motion passed by voice acclamation 8/0.

Attorney Sajdak suggested a motion to reconsider Consent Agenda Item p – **RESOLUTION 3297** due to developer concerns. Planning Commission recommended these issues be taken up at the Council meeting instead of at their meeting.

Mr. Neumann expressed his concerns about the financial guaranty of the development agreement, namely \$440K for five years. His arguments against such a financial guaranty were 1) there are multiple safeguards in place that make sure storm water basins perform correctly, 2) the 5-year time limit is longer than the new statute limit of 14 months; 3) it's more money than it cost to build the basins; 4) the current banking environment makes obtaining a Letter of Credit (LOC) more difficult; and 5) it financially restricts use of capital for at least five years. He's willing to table their development agreement until alternative resolutions can be discussed with staff.

Council's intent is to correct the storm water LOC issue and retroactively apply it. Staff confirmed a text amendment would be needed and could be retrofitted for all developments, not just this one. Options are to leave it for now and consider an amendment in the future or reconsider and table Resolution 3297.

Moved by Alderman Strzelczyk, seconded by Alderman Hawkins to reconsider **RESOLUTION 3297**. Further discussion ensued on reconsideration now vs. a future text amendment. Alderman Strzelczyk withdrew his motion.

5) **Convene as Committee of the Whole**: There being no objection, the Mayor declared the Council convened as the Committee of the Whole (8:01 PM).

a) Item for Discussion: Emerald Ash Borer (EAB) Update

Director Lundeen stated that since 2014 when the City first confirmed the presence of EAB within the City, staff now confirms that the infestation is well established and the ash trees are dying. City's ongoing efforts include: 1) formalizing a program with the Tree Board, 2) tree removal in conjunction with road program, 3) tree replacement, 4) limited treatment of diseased trees, 5) public education and outreach, 6) grant applications, 7) partnering with Mequon Nature Preserve to supplement our tree inventory and horticultural expertise and manpower. Goal is to receive feedback from the Common Council regarding parameters for the EAB program.

b) Item for Discussion: Wauwatosa Road Sanitary Sewer Expansion Special Assessment

In March, the Common Council passed a resolution of intent to special assess for the Wauwatosa Road Sanitary Sewer Expansion project. The developers of 240 of the 275 acres of the benefitting property under contract for purchase and development request to reconsider providing a developer build and contribute model. Staff recommends that Resolutions 3278 and 3290 be tabled so that the City can work with these developers to come back with a recommendation in May. Prior to the next Council meeting staff will work with developers to assure the City that the build and contribute model system would provide an equal service area as the proposed City-wide project, establish an amendable partnership for the timeline and costs of the sanitary sewer installation, ensure that all parties understand that everything will develop from downstream to upstream, and verify if any existing agreements need to be amended. Advantages of the developer build and contribute model are no special assessment, less pipe in the ground, less linear footage to maintain, shorter route of installation, and developer would be in control of installation. The capital road borrowing for the project has been postponed to May as well.

c) The Mayor declared the Committee of the Whole reconvened as Common Council (8:20 PM).

Moved by Alderman Nerbun, seconded by Alderman Hawkins to suspend the rules and take action on Items 7b and 7e **RESOLUTION 3278** – Final resolution levying special assessments against benefitted property – Wauwatosa Road sanitary sewer extension and **RESOLUTION 3290** – Wauwatosa Road Sanitary Sewer Extension Contract Award.

Motion passed by roll call vote 8/0:

Favor: Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams

Opposed: None

Moved by Alderman Nerbun, seconded by Alderman Mayr to table **RESOLUTION 3278** - Final resolution levying special assessments against benefitted property – Wauwatosa Road sanitary sewer extension.

Motion passed by roll call vote 8/0:

Favor: Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk

Opposed: None

Moved by Alderman Pukaite, seconded by Alderman Hawkins to table **RESOLUTION 3290** – Wauwatosa Road Sanitary Sewer Extension Contract Award.

Motion passed by roll call vote 8/0:

Favor: Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk, Pukaite

6) **Ordinances:**

- a) Moved by Alderman Strzelczyk, seconded by Alderman Nerbun to approve **ORDINANCE 2015-1441** – An Ordinance Creating Section 14-32 of the Mequon Code of Ordinances regarding Reserve “Class B” Liquor Licenses.
Motion passed upon roll call vote 8/0:
Favor: Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk, Pukaite
- b) Moved by Alderman Pukaite, seconded by Alderman Adams to approve **ORDINANCE 2015-1444** - A request by Lumen Christi to amend the City of Mequon Zoning Map from R-4 (Residential 3/4 acre) to IPS (Institutional Public Service) and a Land Use Plan Map Amendment from Residential 1 – 1.5 acres to Institutional for the property located at 2640 W Mequon Road to allow for an expansion of the existing religious institution located at 2700 W. Mequon Road contingent upon the requirement that any future building and site plan approvals by Planning Commission take into consideration the existing impervious surfaces.

Director Tollefson clarified that the action is a rezoning for the parcel being added to the campus. There was a building and site plan approval that did impact some of the property on the existing campus. Director Lundeen clarified that the storm water ordinance only requires storm water facilities for increases in impervious surface not for any existing impervious surface and the original installation of the facilities were prior to any City storm water requirements in place. The ordinance sets minimums to what must be addressed but clauses exist that widen the parameters.

Motion passed upon roll call vote 8/0:

Favor: Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk, Pukaite, Mayr

Opposed: None

- c) Moved by Alderman Pukaite, seconded by Alderman Nerbun to approve **ORDINANCE 2015-1445** - Text amendment to the City of Mequon, Chapter 58, Zoning Code, related to the maximum size of accessory structures and the overall lot coverage in the residential zoning districts.

Motion passed upon roll call vote 8/0:

Favor: Gierl, Hawkins, Nerbun, Adams, Strzelczyk, Pukaite, Mayr, Leszczynski

Opposed: None

- d) **ORDINANCE 2015-1446** – An Ordinance Amending Section 66-19 through 66-24, Mequon Code Regulating Collection and Disposal. **Recommended by Public Works Committee April 14, 2015; First Reading.**
- e) **ORDINANCE 2015-1447** – An Ordinance Amending Section 14-27 of the Mequon Code of Ordinances, Relating to Revocation/Nonrenewal of Liquor Licenses to Non-Operating Businesses. **Recommended by Finance-Personnel Committee April 14, 2015; First Reading.**
- f) **ORDINANCE 2015-1448** – A request by Karen Bersch to amend the City of Mequon Zoning Map from R-1 (Rural Residential 5 acres) to R1-B (Rural Residential 2.5 acres) and a Land Use Plan map amendment from Residential 5 acres to Residential 1.5 – 5

acres for the property located at 600 W Bonniwell Road. **Recommended by Planning Commission April 13, 2015; First Reading.**

- g) **ORDINANCE 2015-1449** - A request by Sean Sweeney to amend the City of Mequon Zoning Map from R-1 (Rural Residential 5 acres), R2-B (Suburban Residential 1.5 acres) with PUD (Planned Unit Development), FW (Floodway) and OA (Agricultural Overlay) for property located at 6110 W. County Line Road and the property immediately west of 6110 W. County Line Road. **Recommended by Planning Commission April 13, 2015; First Reading.**

7) **Resolutions:**

- a) Moved by Alderman Strzelczyk, seconded by Alderman Nerbun to approve **RESOLUTION 3269** – Fee Schedule Revision.

The motion passed by voice acclamation 8/0.

- c) Moved by Alderman Adams, seconded by Alderman Pukaite to approve **RESOLUTION 3288** – Purchasing and Automated License Plate Reader System.

Motion passed upon roll call vote 8/0:

Favor: Hawkins, Nerbun, Adams, Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl

Opposed: None

- d) Moved by Alderman Pukaite, seconded by Alderman Adams to approve **RESOLUTION 3289** –Replacement of Police Vehicles.

Chief Graff explained the larger vehicles will be used for transporting personnel and equipment, under cover uses, and training.

Motion passed upon roll call vote 8/0:

Favor: Nerbun, Adams, Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl, Hawkins

Opposed: None

- f) Moved by Alderman Pukaite, seconded by Alderman Hawkins to approve **RESOLUTION 3291** – 2015 Crack Sealing Contract Award.

Motion passed upon roll call vote 8/0:

Favor: Adams, Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun

Opposed: None

- g) Moved by Alderman Nerbun, seconded by Alderman Hawkins to approve **RESOLUTION 3293** –Ozaukee Interurban Trail Relocation Construction Contract Award.

Motion passed upon roll call vote 8/0:

Favor: Strzelczyk, Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams

Opposed: None

- h) Moved by Alderman Pukaite, seconded by Alderman Hawkins to approve
RESOLUTION 3294 – 2015 Sanitary Sewer Capital Project.

Motion passed upon roll call vote 8/0:

Favor: Pukaite, Mayr, Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk

Opposed: None

- i) Moved by Alderman Nerbun, seconded by Alderman Strzelczyk to approve
RESOLUTION 3296 – A Resolution Opposing the Elimination of the Personal Property Tax and Computer Aid Payments to Local Governments.

Elimination would be a burden on our budget to the tune of approximately \$327,000, and it's important to let our elected officials to be aware of the impact on our city.

The motion passed by voice acclamation 8/0.

- 8) **Specified Unfinished Business:** None
- 9) **Presentation of Petitions, Memorials, and/or Remonstrance's and Communications:**
None

- 10) **Specified Miscellaneous New Business:** None

- 11) **Convene to Closed Session:**

- a) Moved by Alderman Strzelczyk, seconded by Alderman Nerbun to adjourn into closed session at 8:45 PM pursuant to Section 19.85(1)(e), Wisconsin State Statutes, deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever Competitive or bargaining reasons require a closed session (Potential terms and strategies for land sale).

Motion passed upon roll call vote 8/0:

Favor: Leszczynski, Gierl, Hawkins, Nerbun, Adams, Strzelczyk, Pukaite, Mayr

Opposed: None

- 12) **Adjourn:** There was a motion and a second to adjourn at 9:39 PM.

William H. Jones, Jr., City Clerk