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Office of the City Clerk
Taped and Televised

**COMMON COUNCIL
Regular Meeting
Tuesday, June 14, 2016
7:30 PM
Christine Nuernberg Hall**

Minutes

- 1) Mayor Dan Abendroth called the meeting to order at 7:32 PM with the Pledge of Allegiance and the roll call.

Present:

Mayor Dan Abendroth
Alderman Robert Strzelczyk
Alderman Connie Pukaite
Alderman Dale Mayr
Alderman John Wirth
Alderman Mark Gierl
Alderman John Hawkins
Alderman Andrew Nerbun
Alderman Pam Adams

Also Present: City Clerk/Administrator Jones; Assistant City Administrator Thyges; Deputy City Clerk Fochs; City Attorney Sajdak; Community Development Director Tollefson; Assistant Director Community Development Zader; City Engineer/Public Works Director Lundeen; Police Chief Graff; Finance Director Watson; Assistant Finance Director Rudychev; Thomas Zabjek, President of Lakeside Development Company; press and interested public

- 2) **Personal Appearances and Public Comment:**

None.

- 3) **Public officials' reports:**

- a) Mayor

None.

- b) City Administrator

Mr. Jones announced that Assistant City Administrator Jesse Thyges had been hired as the

Village of Grafton's new Administrator beginning July 11th. He thanked Mr. Thyges for his 2 ½ years of service and wished him good luck in his new position.

4) Consent Agenda:

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Wirth
SECONDED BY: Alderman Strzelczyk

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams
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- a) Common Council meeting minutes of May 10, 2016
- b) Architectural Board meeting minutes of April 11, 2016
- c) Board of Appeals meeting minutes of April 26 and May 25, 2016
- d) Bureau of Permits and Inspections Reports for April 2016
- e) Economic Development Board meeting minutes of May 3, 2016
- f) Finance-Personnel Committee meeting minutes of April 12, 2016
- g) Fire Department Report for April 2016
- h) Mequon Festivals Committee meeting minutes of April 4, 2016
- i) Municipal Water Utility Commission meeting minutes of October 27, 2015
- j) Park Board meeting minutes of March 16, 2016
- k) Planning Commission meeting minutes of April 11, 2016
- l) Police and Fire Commission meeting minutes of March 10 and April 11, 2016
- m) Public Safety Committee meeting minutes of April 26, 2016
- n) Public Welfare Committee meeting minutes of April 12, 2016
- o) Public Works Committee meeting minutes of April 12, 2016
- p) Sewer Utility District Commission meeting minutes of April 12, 2016
- q) Zoning Enforcement and Site Compliance Report through June 1, 2016
- r) **RESOLUTION 3383** - Wisconsin Department of Natural Resources NR208 - Compliance Maintenance Annual Report 2015.
- s) **RESOLUTION 3386** - Granting of Easement to WE Energies: 10800 North Industrial Drive.
- t) **RESOLUTION 3388** - A Resolution Authorizing the Final Plat for River Club Estates in Connection with the Development of Five Single-Family Lots Located at the Southeast Corner of Freistadt and Oak Shore Roads.

It was noted that the City received a grade of A on the Wisconsin DNR Report NR208 and that the City will work with the developer to add more screening on Oak Shore. The amended final plat was approved.

- u) **RESOLUTION 3389** - A Resolution Authorizing the Phase I Final Plat for Highlander Estates in Connection with the Development of 36 Single-Family Lots Located Immediately South of Brighton Ridge Estates and Knightsbridge Estates Between Wauwatosa and Swan Roads.

5) Ordinances:

- a) **ORDINANCE 2016-1468** - An Ordinance Amending Chapter 58, the City of Mequon Zoning Map by Lakeside Development for a 10 Acre Property Located Immediately South of 11104 Oriole Lane from R-3 (Single-Family Residential) with C-2 (General Conservancy) to R-3 with C-2 and Planned Unit Development (PUD) to Allow a 9 Lot Single Family Residential Development.
- i) Request to reconsider action of May 10, 2016 in which Common Council denied ORDINANCE 2016-1468.

RESULT: **Approved by Roll Call Vote [6 to 2]**
MOVED BY: Alderman Wirth
SECONDED BY: Alderman Pukaite

AYES:	Strzelczyk, Pukaite, Mayr, Wirth, Hawkins, Nerbun
NAYS:	Gierl, Adams

Attorney Sajdak explained that the motion to reconsider effectively eliminates the vote on the motion so that the motion that was voted on is once again pending before the Council. Council could vote again, amend, or table.

Director Tollefson provided an overview. The rezoning includes a Planned Unit Development (PUD) overlay request that is required as part of our ordinances as it relates to a conservation subdivision. The PUD process affords the Council the opportunity to place conditions on the rezoning request. The protest petition is still in effect.

Director Lundeen summarized the drainage issues: Generally speaking, the area along Oriole Lane drains north and west to the river. Low topography, high river levels, numerous wetland areas contribute to wet/flooding conditions for an extended period of time after small and large wet weather events. This ordinance triggered many residents to register drainage issues with the City, and through investigation staff has not yet found any obstruction or anything under the City’s drainage policy that indicates an issue that needs to be addressed by a public project. If there will be development on just the existing lots they would be subject to grading plans and would likely have driveway culverts to comply with storm water controls. The requirement of a storm water management plan would depend on whether the development moves forward as a land division (up to six lots) or as a PUD. Land divisions typically don’t meet the threshold to require storm water management plans; whereas a PUD would require a storm water management plan. The City’s storm water ordinance regulates the rate of discharge not the volume of discharge compared to pre-development conditions. It does not require improvement to any of the downstream conditions.

The following citizens opposed **ORDINANCE 2016-1468** but did not wish to speak: Nicholas Meyer, Arlene Kurzer, Janet Ehn, Laura Meyer, Jane and Quinn Martin.

The following citizens spoke in opposition to **ORDINANCE 2016-1468**: Robert A. Kieckhefer, Sarah Fleet, Adam Gerol, Lisa Lamb, Jim Locatelli, Josef Erlich, Julie Carpenter.

They expressed concerns about the possible alteration to or elimination of wetland area, sewer capacity levels, increased traffic, lack of hydrologist study in the packet, flood risks, lack of solutions to sewer backups during rain events, manpower shortage to monitor and follow up on problems that are created by every development, accumulative effects of numerous sump pumps on the wetland, potential conflict of interest for Alderman Wirth, lack of confidence in Lakeside Development's capabilities to develop the property, lack of DNR approval regarding wetland setbacks and flood risks.

The following citizen spoke in opposition to both **ORDINANCE 2016-1467** and **ORDINANCE 2016-1468**: Nancy Kaufman.

Alderman Wirth addressed the conflict of interest suggestion by stating that just because his firm does work with real estate developers does not mean there is a conflict of interest. He does not have any relationship with Mr. Zabjek, the President of Lakeside Development.

The following citizen spoke in support of **ORDINANCE 2016-1468**: Thomas Zabjek.

The proposed engineering to manage the water is more extensive than if individual home owners would build or if a land division occurred. It cannot be guaranteed that the proposed development would mitigate the water problem but the alternatives could cause a greater problem.

Director Lundeen explained the process for ensuring all the conditions put on the project are verified. There is no storm water management plan at this point. As design would move forward a storm water management plan would be generated; it would be approved at staff level through a consultant; MMSD would review for compliance with City ordinances and Chapter 13; and then ultimately be approved. Once approved for construction, a drainage escrow of 125% of the cost of the storm water facilities must be deposited with the City until the storm water management facilities are certified that they conform to the original design; permit also required for erosion control, weekly inspections and within 24 hours of each storm water event by the developer and the City, permit must remain on site until the site is a minimum of 70% vegetated or at the point where erosion should no longer occur.

Discussion ensued by Council. The East Trunk sewer project will be done in the near future and that should address the sewer issues. If the land is developed into just four or six lots then there will be no storm management plan and the area could be worse off. The City's storm water ordinance does not regulate the quantity of water. The residents know their neighborhood and they prefer fewer lots to be developed. A storm management plan would assure there is at least an effort to keep the water from flowing too fast off the area's properties. It was concerning that the second half of the Wetland Delineation Report has not been received from the developers. There will be a Public Works Committee meeting On Thursday, June 16th to address drainage issues and residents are encouraged to attend.

Alderman Wirth proposed an amendment to the ordinance. Once the storm water management plan is finished, but before it goes to MMSD for review, the Council should have the opportunity

to approve it, thereby assuring the plan exceeds the level of management required by ordinances. Director Lundeen expressed concerns about qualitative metric to be set without having a full understanding of what the requirements of a storm water management plan are at this point. It is difficult to quantify what “substantial” improvement means. This plan of action is not precedent setting; a similar special requirement has been asked of a developer in the past. In that instance, the quantitative portion came after the storm water management plan was generated and then they defined by storm event what the additional percentage of reduction would be beyond what was required for the site. Alderman Adams expressed concerns that the Council is not qualified to judge the quantitative qualities of a storm management plan.

Attorney Sajdak clarified that if Council decides to have a contingent rezoning then the protest petition would still be in place. If the amendment is just a further requirement then the standard, majority vote would be required. Council wants to keep the protest petition still in effect. Director Tollefson suggested to develop the storm water management plan per current ordinances and standards to define the baseline documentation, then have staff determine what could be done above and beyond that was feasible and have that plan returned to Council. Engineering staff could then evaluate the baseline plus improvements which hopefully would satisfy the Council.

Motion to amend **ORDINANCE 2016-1468** to require the Developer to return to Council with a storm water management plan that exceeds the current ordinance and standards in order to identify the baseline improvements.

RESULT: **Approved with Amendments [6 to 2]**
MOVED BY: Alderman Wirth
SECONDED BY: Alderman Pukaite

AYES:	Strzelczyk, Pukaite, Mayr, Wirth, Hawkins, Nerbun
NAYS:	Gierl, Adams

- b) **ORDINANCE 2016-1467** - An Ordinance Amending a Planned Unit Development (PUD) approval for the Sarah Chudnow Campus Located at 10995 N. Market Street Reducing the Overall Site Acreage from 19.4 to 16.9 Acres.

ORDINANCE 2016-1467 was left on the table.

RESULT: **No Vote**

Mayor Abendroth took a 5 minute break and President Strzelczyk continued.

- c) **ORDINANCE 2016-1472** - An Ordinance Creating Section 2-216(15) of the Mequon Code of Ordinances Establishing a Paid Time Off Donation Policy.

RESULT: **First Reading**

- d) **ORDINANCE 2016-1473** - An Ordinance Repealing Section 14-32 of the Mequon Municipal Code as it Relates to Economic Development Grants for Reserve “Class B” Liquor Licenses.

RESULT: First Reading

- e) **ORDINANCE 2016-1474** - An Ordinance Amending the City of Mequon Zoning Map from B-1 (Neighborhood Commercial) with a Planned Unit Development (PUD) to R-4 (Single-Family Residential) to Allow for a Single-Family Home located at 4200 County Line Road.

RESULT: First Reading

Mayor Abendroth returned.

6) Resolutions

- a) **RESOLUTION 3379** - A Resolution Relating to the City of Mequon's Participation In the Home Investment Partnership Program Administered by Waukesha County. Public Welfare Committee made no recommendation to the Council.

Moved by Alderman Pukaite, seconded by Alderman Nerbun to approve **RESOLUTION 3379** without the Committee recommendation.

Director Tollefson stated that there are currently seven loans within the City. Alderman Pukaite stressed that this is a county-wide program and there is a need in the county to assist lower income individuals. Tollefson stated that Mequon has participated in the four-county program since 2005. The City's agreement is up for renewal and Council needs to take action to renew or dissolve our participation in the program. Lack of participation by municipalities, especially larger populated ones, would have an impact and reduction in funding for the four-county program. Of the four counties, only five municipalities do not participate, however, they are communities of 2,500 or less residents. The program offers down payment assistance with loans, home owner rehab, purchase and rehab loans as well as housing development. Ozaukee County has received approximately \$1M in the program. If Mequon would have any housing program it ought to be a loan program as successful as this one.

RESULT: Approved by Roll Call Vote [Unanimous]

MOVED BY: Alderman Pukaite

SECONDED BY: Alderman Nerbun

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams
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- b) **RESOLUTION 3381** - Resolution Approving a Transfer of Funds Within the Sanitary Sewer Capital Budgets.

RESULT: Approved by Voice Acclamation [Unanimous]

MOVED BY: Alderman Strzelczyk

SECONDED BY: Alderman Nerbun

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams

- c) **RESOLUTION 3382** - A Resolution Approving A Transfer of Funds From The Capital Project Fund's Fire Vehicle Replacement Account to the Fire Officer Equipment Account.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Wirth
SECONDED BY: Alderman Nerbun

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams

- d) **RESOLUTION 3385** - A Resolution Approving the Purchase of a Replacement Vehicle for the Mequon Fire Chief from Ewald Chevrolet, Oconomowoc, WI in the Amount of \$37,740 and Installation of Emergency Lights and Radio Package from General Fire, Milwaukee, WI in the Amount of \$10,280.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Nerbun
SECONDED BY: Alderman Wirth

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams

- e) **RESOLUTION 3387** - A Resolution Authorizing a Purchase Agreement For Replacement of Police Vehicles.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Hawkins
SECONDED BY: Alderman Nerbun

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams

- f) **RESOLUTION 3390** - A Resolution Amending A Development Agreement for Outpost Natural Foods Located At 7590 W Mequon Road For a Town Center TID Incentive.

RESULT: **Approved by Roll Call Vote [Unanimous]**
MOVED BY: Alderman Wirth
SECONDED BY: Alderman Strzelczyk

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams

7) Specified Unfinished Business:

None.

8) Presentation of Petitions, Memorials, and/or Remonstrances and Communications:

None.

9) Specified Miscellaneous New Business:

a. Mayoral Appointments.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVED BY: Alderman Mayr
SECONDED BY: Alderman Strzelczyk

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams
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10) Adjourn

a) Adjourn at 9:46 PM.

RESULT: **Approved by Voice Acclamation [Unanimous]**
MOVER: Alderman Wirth
SECONDER: Alderman Nerbun

AYES: Strzelczyk, Pukaite, Mayr, Wirth, Gierl, Hawkins, Nerbun, Adams
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Minutes approved 08/10/16