

CITY OF MEQUON COMMON COUNCIL

Regular Meeting September 9, 2014

Mayor Abendroth called the meeting of the Common Council to order at 8:34 PM with the Pledge of Allegiance and the roll call.

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

ABSENT: None

1) **Public Hearings:**

- a) Moved by Alderman Strzelczyk, seconded by Alderman Mayr to open a public hearing to discuss **ORDINANCE 2014-1425** - A request by Concord Development to amend the City of Mequon Zoning Map from AC (Arrival Corridor) to B-2 (Community Commercial) for a portion of the property located at 7373 W. Mequon Road to allow for the expansion of the existing Sommer's Automotive car dealership. The motion passed by voice acclamation.

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

- b) Moved by Alderman Strzelczyk, seconded by Alderman Pukaite to open a public hearing to discuss **2014-1426** - A request by Niemann / Fromm to amend the City of Mequon Zoning Map from R-4 (Residential ¾ acre) to B-3 (Office) with a PUD (Planned Unit Development) and a Land Use Plan Map Amendment from Residential 1 – 1.5 acre to Office for the property located at 11352 Buntrock Avenue to allow for an office use within the existing residential home. The motion passed by voice acclamation.

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

- c) Moved by Alderman Hawkins, seconded by Alderman Nerbun to open a public hearing to discuss **2014-1427** - A request by TWP Architects to amend the City of Mequon Zoning Map from R-3 (Residential 1 acre) to B-1 (Neighborhood Commercial) and a Land Use Plan Map Amendment from Residential 1 – 1.5 acre to Community Commercial for the property located at 11015 N. Market Street to allow for an expansion of the existing office use located at 1539 W. Market Street. The motion passed by voice acclamation.

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

- 2) **Personal appearances and public comment:** None.
- 3) **Public official's reports:**
- a) **Mayor:** The 2nd Annual Taste of Mequon will be held Saturday, September 13, 2014 here at City Hall.
 - b) **City Administrator:** None.
- 4) **Consent Agenda:**
- a) Common Council meeting minutes of August 13, 2014
 - b) Architectural Board meeting minutes of July 13, 2014
 - c) Bureau of Permits and Inspections Report for June and July 2014
 - d) Finance-Personnel Committee meeting minutes of July 8, 2014 and Special Finance-Personnel meeting of July 29, 2014
 - e) Fire Department Report for July 2014
 - f) Mequon Festivals Committee meeting minutes of July 21 and August 11, 2014
 - g) Municipal Water Utility Commission meeting minutes of February 25 and May 6, 2014
 - h) Public Welfare Committee meeting minutes of May 13 and June 10, 2014
 - i) Public Works Committee meeting minutes of January 14, February 18, March 11, April 8, May 13, June 10 and July 8, 2014
 - j) Sewer Utility District Commission meeting minutes of February 25, May 6, and July 8, 2014
 - k) Tree Board meeting minutes of September 18, 2013 and January 22, 2014
 - l) Zoning Enforcement Report for August 2014
 - m) Public Safety meeting minutes of July 22 and draft minutes of September 2, 2014
 - n) **RESOLUTION 3244** – Approving a Road Reservation Vacation for land east of N. Whilton Road.
 - o) **RESOLUTION 3246**-Granting final approval to the Knuth certified survey map for dedication of 33 feet of public road on Highland Road and dedication of 50 feet of public road on Wasaukee Road.

Adams requested the removal of Item m-Public Safety meeting minutes of July 22 and draft minutes of September 2, 2014 to give the neighborhood another chance to complete their feedback on the River Trail/Mequon Road traffic sign issue.

Moved by Alderman Mayr, seconded by Alderman Hawkins to approve the amended consent agenda. The motion passed by voice acclamation.

DeStefanis stated that approving the minutes does not prevent the revisitation of the subject by Committee.

Moved by Alderman Strzelczyk, seconded by Alderman Adams to approve Item m subject to referral of the River Trail/Mequon Road traffic sign issue back to Committee.

Motion passed upon roll call vote (7/1):

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

Opposed: Leszczynski

Moved by Alderman Adams, seconded by Alderman Hawkins to suspend the rules and take action on **ORDINANCE 2014-1425** - A request by Concord Development to amend the City of Mequon Zoning Map from AC (Arrival Corridor) to B-2 (Community Commercial) for a portion of the property located at 7373 W. Mequon Road to allow for the expansion of the existing Sommer's Automotive car dealership and **ORDINANCE 2014-1426** - A request by Niemann / Fromm to amend the City of Mequon Zoning Map from R-4 (Residential ¾ acre) to B-3 (Office) with a PUD (Planned Unit Development) and a Land Use Plan Map Amendment from Residential 1 – 1.5 acre to Office for the property located at 11352 Buntrock Avenue to allow for an office use within the existing residential home.

Motion passed by voice acclamation.

Moved by Alderman Pukaite, seconded by Alderman Mayr to approve **ORDINANCE 2014-1425**.

Motion passed upon roll call vote (8/0):

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

Opposed: None

Moved by Alderman Strzelczyk, seconded by Alderman Adams to approve **ORDINANCE 2014-1426**.

Tollefson stated that there is an agreement to do a land swap for the rear portion of this existing parcel resulting in a win-win situation for the City and the Niemann/Fromm/Parks group.

Motion passed upon roll call vote (8/0):

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

Opposed: None

5) **Convene as Committee of the Whole**: There being no objection, the Mayor declared the Council convened as the Committee of the Whole (8:49 PM).

- a) Motion by Alderman Pukaite, seconded by Alderman Strzelczyk to approve the Committee of the Whole minutes of August 26, 2014. The motion passed by voice acclamation.
- b) **2014-1430**- Text amendment to the City of Mequon, Chapter 58, Zoning Code, related to permitted uses in all residential zoning districts to allow chickens on parcels of any size. Planning Commission voted 6-2 not to recommend; Public Welfare Committee recommended the proposal by a vote of 2-1 with the following changes: 1) have an initial permit fee of \$200; 2) have adjoining neighbors sign off; 3) no roosters allowed; 4) one and a half acre minimum lot size; and 5) subsequent neighboring properties would not have to sign off. Committee discussion ensued on maintaining the rural quality of our community, restrictiveness of proposal, possibility of attracting predators, inspections, proximity to property lines, effect on property values, veto power, enforceability of

revoking language, pros and cons of raising chickens, and Homeowner's Association Associations (HOA) sign off on chicken policy.

Moved by Alderman Nerbun, seconded by Alderman Hawkins to further amend **ORDINANCE 2014-1430** by restricting chicken coops to the rear yard only. Motion passed by voice acclamation.

Moved by Alderman Adams, seconded by Alderman Mayr to further amend **ORDINANCE 2014-1430** by adding coops should be in closer proximity to the property owner's house than to the neighboring property. Motion passed by voice acclamation with Pukaite opposed.

Tollefson stated that the general enforcement policies and standards would address the issue of handling complaints and possible revocation of permits.

Moved by Alderman Strzelczyk, seconded by Alderman Gierl to further amend **ORDINANCE 2014-1430** to add the requirement that in identified subdivisions the HOA should sign off prior to permits being issued.

Motion passed upon roll call vote (7/2):

Favor: Gierl, Hawkins, Nerbun, Adams, Abendroth, Strzelczyk, Mayr

Opposed: Leszczynski, Pukaite

Moved by Alderman Pukaite, seconded by Alderman Gierl to recommend approval of **ORDINANCE 2014-1430** as amended.

Motion passed upon roll call vote (7/2):

Favor: Gierl, Hawkins, Nerbun, Abendroth, Strzelczyk, Pukaite, Leszczynski

Opposed: Adams, Mayr

c) Item for Discussion: Mequon Road Sidewalk

Lundeen stated that WisDOT asked the City for their feedback on the potential installation of sidewalks as a part of the Mequon Road resurfacing project projected at 2017 or later. This would be ahead of the expansion project which is anticipated to be 15-20 years in the future. The subject area is Wauwatosa Road west to Swan Road. If the sidewalk installation would be done as part of the resurfacing project the City would be required to cost share at the rate of 80% WisDOT and 20% City of Mequon; approximately a \$40K commitment, to pave both sides of the street. This would not include any real estate acquisition costs. WisDOT proposes both sides of the street, however, staff suggests supporting a sidewalk only on the south side of the street for an approximate \$20K cost.

Discussion ensued on expected growth due to the Central Growth District and Town Center, bicyclist's safety, snow plowing policy. Committee of the Whole is in favor of the sidewalk.

d) **2014-1429** – An Ordinance Amending Sections 10-21, 10-77, 10-108, and 10-110, Mequon Code, Making Certain Technical Corrections to the Ordinances Adopting

Provisions of the State Administrative Code Regulating Standards and Inspections for Building, Electrical and Plumbing; and repealing Sections 10-83, 10-84, 10-86, and 10-87.

City Attorney DeStefanis stated that this ordinance 1) eliminates the City handing out house numbers, 2) cleans up and makes technical corrections of changing the administrative code section designations; 3) repeals four sections since state law changed recently providing that all licensure of electrical contractors is no longer done by the City but by the State.

Moved by Alderman Pukaite, seconded by Alderman Hawkins to recommend **ORDINANCE 2014-1429**.

Tollefson clarified that the Architectural Board reviews designs for every single family residential erection and addition over 150 sf. City staff reviews all designs and issues permits and all plans reviewed by plumbing inspector are still retained five years.

Motion passed upon roll call vote (9/0)

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

Opposed: None

- e) **Reconvene as Common Council:** There being no objection, the Mayor declared the Committee of the Whole reconvened as the Common Council (9:42 PM).

6) **Ordinances:**

- a) Moved by Alderman Pukaite, seconded by Alderman Adams to approve **ORDINANCE 2014-1423** – Ordinance creating Section 46-157, Mequon Code, Social host ordinance.

Motion passed upon roll call vote (8/0):

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

Opposed: None

- d) Moved by Alderman Mayr, seconded by Alderman Hawkins, to approve **ORDINANCE 2014-1427**—A request by TWP Architects to amend the City of Mequon Zoning Map from R-3 (Residential 1 acre) to B-1 (Neighborhood Commercial) and a Land Use Plan Map Amendment from Residential 1 – 1.5 acre to Community Commercial for the property located at 11015 N. Market Street to allow for an expansion of the existing office use located at 1539 W. Market Street.

Motion passed upon roll call vote (8/0):

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

Opposed: None

- e) Moved by Alderman Pukaite, seconded by Alderman Nerbun to approve **ORDINANCE 2014-1428** - An ordinance repealing Section 2-232, Mequon Code (The Ordinance to be repealed Mandates Residency of the City Administrator and the Fire and Police Chiefs in the City of Mequon) and Amending Section 2-209 (5), Mequon Code (Salary Rates).

Acting City Administrator Thyges stated that Finance-Personnel did recommend with amendments to bring the City's code language in compliance with State law and formalize what was an informal policy that capped the overall accrual of comp time to 80 hours. The only residency requirement that the City can enforce would be for the Police and Fire Chiefs to live within 15 miles of city boundaries. The city can "express preference" for all other personnel to establish residency; but that is not enforceable by State law. Committee requested that Staff research incentive programs to become residents of Mequon.

Moved by Alderman Strzelczyk, seconded by Alderman Nerbun to approve **ORDINANCE 2014-1428.**

Discussion ensued on benefits to the City in financial planning, personnel management, pay now vs. pay at year end, comp time vs. vacation time.

Motion passes upon roll call vote (8/0):

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

Opposed: None

- f) **2014-1429** – An Ordinance Amending Sections 10-21, 10-77, 10-108, and 10-110, Mequon Code, Making Certain Technical Corrections to the Ordinances Adopting Provisions of the State Administrative Code Regulating Standards and Inspections for Building, Electrical and Plumbing; and repealing Sections 10-83, 10-84, 10-86, and 10-87. **Recommended by Committee of the Whole September 9, 2014; First Reading.**
- g) **2014-1430** – Text amendment to the City of Mequon, Chapter 58, Zoning Code, related to permitted uses in all residential zoning districts to allow chickens on parcels of any size. **Recommended by Planning Commission September 8, 2014; Public Welfare Committee September 9, 2014; and Committee of the Whole September 9, 2014; First Reading.**
- h) **2014-1431** – Amendment to the City of Mequon Zoning map and Land Use Map for property located at 7625 W. Mequon Road from R-3 (1 acre) to B-1 (Neighborhood Commercial) and from Residential 1-1.5 acres to Neighborhood Commercial. **Recommended by Planning Commission September 8, 2014; First Reading.**
- i) **2014-1432** – Amendment to the approved Planned Unit Development (PUD) zoning for Heron Pond subdivision to modify provisions within the PUD related to the percentage of side entry garages. **Recommended by Planning Commission September 8, 2014; First Reading.**
- j) **2014-1433** – Amendment to the City of Mequon Zoning Map for property located at 12300 W. Highland Road from R-2-B (1.5 acres) to R-1-B (2.5 acres). **Recommended by Planning Commission September 8, 2014; First Reading**
- k) **2014-1434** – Amendment to the approved Planned Unit Development(PUD) zoning for Sarah Chudnow senior living community facility located at 10995 W Market Street to modify the overall total number of units as well as the number of units in each residential

type of unit. **Recommended by Planning Commission September 8, 2104; First Reading.**

7) **Resolutions:**

- a) Moved by Alderman Pukaite, seconded by Alderman Leszczynski to approve **RESOLUTION 3245** –Approving the purchase of Fire Department apparatus.

The motion passed upon roll call vote (8/0):

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

Opposed: None

- b) Moved by Alderman Hawkins, seconded by Alderman Nerbun to approve **RESOLUTION 3247** – Approving the purchase of a Voice Over Internet Phone system and a Police Call Recording System.

The motion passed upon roll call vote (8/0):

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

Opposed: None

- 8) **Specified Unfinished:** 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 Pukaite, seconded by Alderman Strzelczyk to adjourn to closed session at 10:02 PM pursuant to Section 19.85(1)(c), Wisconsin State Statutes, considering employment, promotion, compensation or performance evaluation data of any public employee over which the governmental body has jurisdiction or exercises responsibility (Personnel).

Motion passed upon roll call vote (8/0):

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

Opposed: None

- b) Moved by Alderman Strzelczyk, seconded by Alderman Leszczynski to reconvene into Open Session at 10:07 PM to take formal action upon the item discussed in closed session or to conduct discussion or give further consideration where the subject matter is not appropriate for closed session consideration. The motion passed by voice acclamation.

- 12) Moved by Alderman Pukaite, seconded by Alderman Nerbun to approve **RESOLUTION 3249** – A resolution authorizing the Acting City Administrator to negotiate a service contract to provide legal services to the City of Mequon. The motion passed by voice acclamation.

The motion passed by roll upon roll call vote (8/0):

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

Opposed: None

- 13) **Adjourn:** Moved by Alderman Hawkins, seconded by Alderman Leszczynski to adjourn at 10:07 PM. The motion passed by voice acclamation.

Jesse Thyges, Acting City Administrator/City Clerk