

MINUTES OF THE COMMON COUNCIL MEETING HELD AT THE GREENFIELD CITY HALL ON
TUESDAY, OCTOBER 5, 2021

A. Call to Order & Roll Call

The meeting was called to order by Mayor Neitzke at 7:00 pm

Present: Alderpersons Denise Collins, Bruce Bailey, Karl Kastner, Pamela Akers, Shirley Saryan

Also present: Brian Sajdak, City Attorney; Jeff Katz, Director, Neighborhood Services; Jennifer Goergen, City Clerk.

B. Opening Prayer

Pastor gave opening prayer.

C. Pledge of Allegiance

D. Approval of the September 21, 2021 Common Council minutes

Motion by Alderperson Bruce Bailey, seconded by Alderperson Karl Kastner to approve.
Motion carried unanimously.

E. Mayor's Report

Mayor Neitzke thanked everyone who was at the Arbor day celebration. The budget is being presented at the upcoming Finance Committee meeting and will be released in the middle of November. It is a very challenging year.

F. Aldermanic Reports

Alderperson Bailey gave an update on the Tree commission. They had a booth at the farmers market with face painting and representatives from the Milwaukee County Zoo, Wildbirds Unlimited and the Pollinator Committee handing out prizes, raffles and bird houses.

Mayor Neitzke thanked everyone who works with the farmers market. We hear it's one of the best. He also thanked all staff involved in the Pollinator program, Tree City, Monarch City and Bird City that we are now doing. He appreciates the support.

We had good attendance at most of our events this summer. Since taking over Kulwicki Park, it has improved greatly with a new roof, playground and furnace. The creek is being expanded and The Ridge church has contributed to putting the path in. We got a lot done this year.

Alderperson Akers said people are looking forward to Cruising with Santa again this year. Mayor Neitzke thanked everyone involved in this event.

G. Announcements

H. Citizen Commentary

I. Old Business

1. Appointments to various committees and commissions:

a. Council appointments:

- i. One member to the Board of Public Works for a term to expire 5/1/2022 (formerly Richard Kasza)

Place on next agenda.

b. Mayor appointments, confirmed by Council:

- i. One member to the Board of Health for a term to expire 6/1/2022 (formerly Allen Owen)

Place on next agenda.

- ii. One member to the Tree Commission for a term to expire 5/1/23 (formerly Lew Silva)

Place on next agenda.

c. Mayor appointments:

- i. One alternate member to the Plan Commission for a term to expire 5/31/2025 (formerly Robert Krenz)

Place on next agenda.

J. New Business

1. Applications for an operator license received from the following:

Katie Margaret Newbery

Motion by Alderperson Pamela Akers, seconded by Alderperson Denise Collins to approve. Motion carried unanimously.

2. Discussion and decision to enter into an agreement with Milwaukee County Register of Deeds to have the City's recorded documents returned in an electronic format (Goergen)

Motion by Alderperson Pamela Akers, seconded by Alderperson Shirley Saryan to approve. On a roll call vote, motion carried unanimously.

3. Approve a change of agent from Edward Janikowski to James Lee, N5526 Star Branch Rd, Pardeeville, WI for the 2021-2022 Class "B" Beer license held by Portillo's Hot Dogs LLC, 8705 W Sura Ln. (Goergen)

Motion by Alderperson Denise Collins, seconded by Alderperson Pamela Akers to approve items J3 and J4. Motion carried unanimously.

4. Approve a change of agent from Joel Van Winkle to Anthony Ciardo, 32339 Academy Road, Burlington, WI for the 2021-2022 "Class A" beer and liquor license held by Mega Marts LLC, 4279 S 76 St. (Goergen)
Approved under agenda item J3.
5. Regulation of Electronic Scooters (Legis. Comm.-9/27/2021 Sajdak)

Attorney Sajdak explained the Ordinance would prohibit a rental company operation in the City. Private scooters can be operated on streets with speed limits of 25 mph or less. They cannot be operated on sidewalks. This ordinance is being adopted by other communities as Bird is looking to expand. Mayor Neitzke stated we need to see where this going and how it stabilizes because of the many problems cities are having with rental scooters.

Motion by Alderperson Shirley Saryan, seconded by Alderperson Denise Collins to approve. On a roll call vote, motion carried unanimously.

6. An Ordinance Amending Sections 10.31 and 10.32 of the Municipal Code of the City of Greenfield as it Relates to Sex Offender Loitering and Residency Restrictions and Creating Section 1.35 to Create the Sex Offender Residency Appeal Board (Legis. Comm.-9/27/2021 Sajdak)

Attorney Sajdak explained this is a set of regulations designed to address case law questioning how Greenfield previously regulated these cases. By creating the appeal board we can conduct an individualized risk assessment, something we have not had in the past. We have created a provision for sexually violent predators which will give us the opportunity to have a say where they will live. Based on a case being heard in Racine, we did not change the distance requirements. We will keep monitoring that and can make changes in the future.

Alderperson Bailey mentioned the creation of a Sex Offender Residency Appeal Board with three members to meet 2-3 times a year or as needed. The Mayor will appoint members, but suggestions are always welcome.

Motion by Alderperson Bruce Bailey, seconded by Alderperson Denise Collins to approve. On a roll call vote, motion carried unanimously.

7. Discussion and decision to revise the job descriptions for the positions of Deputy City Clerk and Administrative Assistant in the City Clerk's office (Goergen)

Motion by Alderperson Pamela Akers, seconded by Alderperson Denise Collins to approve. On a roll call vote, motion carried unanimously.

8. Discussion and decision to revise the job description of Lieutenant in the Fire Department (J. Cohn)

Motion by Alderperson Karl Kastner, seconded by Alderperson Denise Collins to approve. On a roll call vote, motion carried unanimously.

9. Discussion and decision to approve the 2022 Special Assessment Rate Schedule. (Katz)

Motion by Alderperson Karl Kastner, seconded by Alderperson Bruce Bailey to approve items J9 and J10. On a roll call vote, motion carried unanimously.

10. Discussion and decision to approve an amendment to Resolution No. 3317, updating the Stormwater Utility Rate for 2021. (Katz)

Approved under agenda item J9.

11. Approve authorizing Resolution for a grant to fund urban and community forestry. (Laskoski)

Motion by Alderperson Pamela Akers, seconded by Alderperson Denise Collins to approve. On a roll call vote, motion carried unanimously.

12. Approval of schedules of disbursements in the amount of \$1,763,860.83

Motion by Alderperson Denise Collins, seconded by Alderperson Bruce Bailey to approve items J12-J14. On a roll call vote, motion carried unanimously.

13. Approval of mileage reimbursements in the amount of \$210.56

Approved under agenda item J12.

14. Investments and reinvestments for August 2021

Approved under agenda item J12.

- K. Items for future agenda

The budget will be presented to the Finance Committee on 10/13 and will be available in the middle of November. Mayor Neitzke explained the levy limit is set by net new construction, which is usually over 2%, and that is about what we need to pay for increases in health insurance and wages. This year we will not be allowed to raise the levy enough to cover those increases, plus we have necessary capital equipment purchases. If we can't raise the levy to cover all of these expenditures, something has to be cut. The simple solution is to have levy limits go up every year consistent with something like an ERP formula (which the state already uses), which allows us to carefully navigate the arena of public services we need to provide in a fiscally responsible manner.

- L. Adjourn

Motion by Alderperson Pamela Akers, seconded by Alderperson Bruce Bailey to adjourn at 7:31PM. Motion carried unanimously.

Jennifer Goergen, City Clerk

Minutes transcribed by Lisa Pelkey, Deputy Clerk

Distributed: 10/7/2021

ORDINANCE NO. 2986

**AN ORDINANCE CREATING SECTION 8.29 OF THE
MUNICIPAL CODE OF THE CITY OF GREENFIELD RELATING TO
THE OPERATION OF ELECTRONIC SCOOTERS AND OTHER
DOCKLESS MOBILITY SYSTEMS WITHIN THE CITY**

WHEREAS, Wis. Stat. § 349.237 authorizes the City to regulate the use and rental of electronic scooters within the City; and

WHEREAS, the Common Council possesses broad legislative authority under Wis. Stat. 62.11(5); and

WHEREAS, the Common Council finds that the operation of electronic scooters and other dockless mobility systems within the City presents dangers to pedestrians, bicyclists, and others on roads, sidewalks and paths; and

WHEREAS, the parking or storage of electronic scooters and other dockless mobility systems on City sidewalks, terraces, and other locations visible to the public creates potential hazards to the traveling public; and

WHEREAS, the Common Council finds that the restrictions enacted herein represent the least restrictive means of protecting the public's interest in the health, safety and welfare of the community;

NOW, THEREFORE, the Common Council of the City of Greenfield do ordain as follows:

PART I: Section 8.29 of the Municipal Code is created to read as follows:

8.29 Regulation of Electric Scooters and Other Dockless Mobility Systems.

(1) *Intent.* Pursuant to Section 349.237, Wisconsin Statutes, the City of Greenfield exercises its authority to regulate the rental and operation of electric scooters and other dockless mobility systems.

(2) *Definitions.*

- (a) “Dockless mobility system” means a system of self-service mobility devices, made available for shared use to individuals on a short-term basis by agents who place self-service mobility devices in the city for use, which may be rented through a smart-phone app, vendor website, vendor customer service number, or a pre-paid PIN and which do not require structures at permanent, fixed locations where rides must begin and end.
 - (b) “Electric scooter” means a device weighing less than 100 pounds that has handlebars and an electric motor, is powered solely by the electric motor and human power, and has a maximum speed of not more than 20 miles per hour on a paved level surface when powered solely by the electric motor. “Electric scooter” does not include an electric personal assistive mobility device, motorcycle, motor bicycle, electric bicycle, or moped as those terms are defined in Wis Stat. § 340.01.
 - (c) A party "operates" a dockless mobility system in the city if it is placing its self-service dockless mobility devices in the city for use or rental, through its employees or agents, in order to make such devices available for rent.
 - (d) “Self-service mobility device” means a motorized vehicle, including a bicycle, an electric scooter, a skateboard, or any other micro-mobility vehicle which is exempt from state registration under Chapter 341 of the Wisconsin Statutes.
 - (e) "System operator" means any person or company who owns, leases, offers to rent, collects, distributes, repairs, services, charges, or otherwise controls a dockless mobility system.
- (3) *Electric Scooters regulated.*
- (a) No person shall operate an electric scooter within the city on any road having a speed limit of more than twenty-five (25) miles per hour.
 - (b) No person may operate an electric scooter within the city upon any public sidewalk, any pedestrian or multiuse path, or upon any public school grounds or public playgrounds.

- (c) No person shall park electric scooters on roadways, sidewalks, bicycle lanes, pedestrian path, or multiuse path under the city's jurisdiction.
 - (d) This subsection shall not apply to such devices when operated on multiuse paths, on school grounds or playgrounds when officially sanctioned functions are in progress.
 - (e) When operating an electric scooter every operator shall yield the right-of-way to any pedestrian and shall exercise due care and give an audible signal when passing a bicycle or pedestrian proceeding in the same direction.
- (4) *Operation of Dockless Mobility Systems Prohibited.*
- (a) The operation of a dockless mobility system within the city is prohibited. No system operator shall operate a dockless mobility system with the city.
 - (b) If any device of a dockless mobility system operated outside of the city is brought into the city by users or others, but the system operator actively redistributes the device to another location outside the city within twenty-four hours, the system operator would not be deemed to be operating the system in the city.
 - (c) Impoundment of dockless mobility devices.
 - 1. If the Chief of Police or Director of Neighborhood Services finds any dockless mobility device parked within the city for more than twenty-four hours, the Chief, Director, or other authorized agent of the city may have the dockless mobility device immediately removed to a suitable place of impoundment. If the system operator or owner of the device can be informed, a notice informing the system operator or owner of the location of the dockless mobility device and the procedure for reclaiming the dockless mobility device shall be sent to the system operator or owner within twenty-four hours after removal.

2. The fee for redemption of an impounded dockless mobility device shall be one hundred dollars or as otherwise set in the city's fee schedule.
3. Upon impoundment, a dockless mobility device shall be held a minimum of thirty days unless earlier redeemed by a system operator, owner or owner's representative upon payment of the redemption fee provided. The city department responsible for the impoundment may dispose of impounded dockless mobility devices that are not redeemed within thirty days in any of the following ways:
 - a. Public auction or sale.
 - b. Donation to a suitable nonprofit.
 - c. Scrapping a dockless mobility device if it cannot be disposed of within reasonable means.
4. The owner of any dockless mobility device removed under this provision shall be responsible for all costs of impounding and disposing of the dockless mobility device. Costs not recovered may be recovered with civil action by the city against the system operator. The city assumes no responsibility for damage to dockless mobility devices impounded under this section.

PART 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.

PART III: All ordinances or parts of ordinances contravening the provisions of this ordinance are hereby repealed.

PART IV: This ordinance shall take effect and be in force upon its passage and on the day after its publication.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on this 5th day of October, 2021.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk

Published: October 13, 2021

ORDINANCE NO. 2987

AN ORDINANCE AMENDING SECTIONS 10.31 AND 10.32 OF THE MUNICIPAL CODE OF THE CITY OF GREENFIELD AS IT RELATES TO SEX OFFENDER LOITERING AND RESIDENCY RESTRICTIONS AND CREATING SECTION 1.35 TO CREATE THE SEX OFFENDER RESIDENCY APPEAL BOARD

A. The Wisconsin Statutes provide for punishment, treatment and supervision of persons convicted or otherwise responsible for sex crimes against children, including their release into the community.

B. Chapter 980 of the Wisconsin Statutes provides for the civil commitment of sexually violent persons, a more dangerous type of sex offender, and specifically, at Wis. Stat. § 980.08, following such commitment, under certain conditions, provides for the supervised release of such persons into the community.

C. According to a 1997 report titled *Sex Offenses and Offenders*, by the U.S. Department of Justice, the median age of the victims of imprisoned sexual assaulters was less than 13 years old and the median age of rape victims was 22 years; and 19% of those serving time for sexual assault and an estimated 24% of those serving time for rape had been on probation or parole at the time of the offense.

D. In 1994, it was estimated that 12% of imprisoned violent sex offenders had a prior conviction for rape or sexual assault while 61% had a prior felony for other crimes.

E. Furthermore, the Common Council has reviewed the findings of a number of State Legislatures across the United States, including, Pennsylvania, Alabama, Iowa, Florida, Maine and Louisiana, as they pertain to laws enacted which relate to, and in part impose restrictions upon sex offenders with respect to residency.

F. The Common Council has reviewed the decision of the U. S. Court of Appeals for the 8th Circuit, in *Doe v. Miller*, 405 F.3d 700, 716 (8th Cir. 2005)(Citations omitted), providing in part:

“The record does not support a conclusion that the Iowa General Assembly and the Governor acted based merely on negative attitudes toward, fear of, or a bare desire to harm a politically unpopular group. Sex offenders have a high rate of recidivism, and the parties presented expert testimony that reducing opportunity and temptation is important to minimizing the risk of re-offense. Even experts in the field could not predict with confidence whether a particular sex offender will re-offend, whether an offender convicted of an offense against a teenager will be among those who “cross over” to offend against a younger child, or the degree to which regular proximity to a place where children are located enhances the risk of

re-offense against children. One expert in the district court opined that it is just “common sense” that limiting the frequency of contact between sex offenders and areas where children are located is likely to reduce the risk of an offense. The policymakers of Iowa are entitled to employ such “common sense,” and we are not persuaded that the means selected to pursue the State’s legitimate interest are without rational basis.”

G. Since 2007, there have been three Wisconsin state court cases addressing the legality of sex offender residency restriction ordinances: *City of Franklin v. Steven R. Hanke*, 07-CV-9978 (Milw. County Cir. Ct. 2007), *Village of Menomonee Falls v. Ferguson*, 2011 WI App 73 (Wis. Ct. App. 2011), and *City of South Milwaukee v. Kester*, 2013 WI App 50 (Wis. Ct. App. 2013).

H. In each of the three Wisconsin cases, the courts upheld the legality and enforceability of sex offender residency restriction ordinances.

I. The City of Greenfield is a place of residence for families with children.

J. The Common Council has determined that the establishment of sex offender residency restrictions is reasonable and necessary to protect the health, safety and welfare of the residents and the Community.

BASED UPON THE FOREGOING RECITALS, THE COMMON COUNCIL OF THE CITY OF GREENFIELD, MILWAUKEE COUNTY, STATE OF WISCONSIN, DO ORDAIN AS FOLLOWS:

PART I: Sections 10.31 and 10.32 of the Greenfield Municipal Code is amended to read as shown on the attached Exhibit A (NOTE: added text is double underlined; deleted text is ~~struck through~~).

PART II: Section 1.35 of the Greenfield Municipal Code is created to read as follows:

1.35 – Sex Offender Residency Appeal Board

- (1) *Creation.* The city shall have a board known as the "Sex Offender Residency Appeal Board." The board shall consist of three citizen members and one alternate citizen member nominated by the Mayor and confirmed by the Common Council. The Mayor shall designate which member shall act as the chair.
- (2) *Powers and Duties.* The board shall hear appeals taken from a decision of the Police Chief or their designee on any application for an exemption from the provisions of section 10.32, and shall have the powers specified in section 10.32(5).
- (3) *Meetings.* Meetings of the board shall be held at the call of the chair and at such other times as the board may determine. The chair may administer

oaths and compel the attendance of witnesses by subpoena. The board shall keep minutes of its proceedings, showing the vote of each member upon each question, or if absent or failing to vote indicating such fact, and shall keep records of its examinations and other official action, all of which shall be filed in the office of the City Clerk and shall be a public record.

PART III: 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.

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

PART V: This Ordinance shall become effective the day after its publication as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on this 5th day of October, 2021.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk

Published: October 13, 2021

RESOLUTION NO. 3824

AUTHORIZING RESOLUTION FOR
A GRANT TO FUND
URBAN AND COMMUNITY FORESTRY

,

WHEREAS, **THE CITY OF GREENFIELD** is interested in obtaining a cost-share grant from Wisconsin Department of Natural Resources for the purpose of funding urban and community forestry projects or urban forestry catastrophic storm projects specified in s. 23.097(1g) and (1r), Wis. Stats.;

WHEREAS, the applicant attests to the validity and veracity of the statements and representations contained in the grant application; and

WHEREAS, the applicant requests a grant agreement to carry out the project;

NOW, THEREFORE, BE IT RESOLVED, **THE CITY OF GREENFIELD** will comply with all local, state, and federal rules, regulations and ordinances relating to this project and the cost-share agreement;

BE IT FURTHER RESOLVED, the applicant will budget a sum sufficient to fully and satisfactorily complete the project and hereby authorizes and empowers The Director of Neighborhood Services, its official or employee, to act on its behalf to:

1. Sign and submit the grant application
2. Sign a grant agreement between applicant and the DNR
3. Submit interim and/or final reports to the DNR to satisfy the grant agreement
4. Submit grant reimbursement request to the DNR
5. Sign and submit other required documentation

PASSED AND ADOPTED by the Common Council of the City of Greenfield on the 5th day of October, 2021.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk