

MINUTES OF THE COMMON COUNCIL MEETING HELD AT THE GREENFIELD CITY HALL
ON WEDNESDAY, APRIL 8, 2015

The meeting was called to order by Council President Akers at 7:00 p.m.

- | | | |
|---------------|-----------------------|---------|
| 1. ROLL CALL: | Aldersperson Lubotsky | Present |
| | Aldersperson Bailey | Excused |
| | Aldersperson Kastner | Present |
| | Aldersperson Akers | Present |
| | Aldersperson Saryan | Present |

ALSO PRESENT:	Jennifer Goergen	City Clerk
	Roger Pyzyk	City Attorney
	Rick Sokol	Director of Neighborhood Services
	Chuck Erickson	Community Development Manager

Council President Akers stated she will be presiding as Chair of the meeting, not as Acting Mayor. Therefore, she will be voting.

2. An opening prayer was given by Chaplain Jim Leggett.
3. Pledge of Allegiance
4. It was moved by Aldersperson Kastner, seconded by Aldersperson Lubotsky, to approve the March 17, 2015 Council minutes, as recorded. Motion carried unanimously.
5. Mayor's Report

Council President Akers stated that Mayor Neitzke had issued a proclamation proclaiming April 24, 2015 as General Federation of Women's Clubs Day in the City

6. Aldermanic Reports - None
7. Announcements

Council President Akers stated Alderspersons Kastner, Saryan, and herself were re-elected in yesterday's election.

8. Citizen Commentary - None
9. Final determination on the public hearing held for approval of a Planned Unit Development Amendment and Special Uses (gas/convenience store, alcohol product sales in the grocery store, pharmacy drive-up & outdoor display/sales), as requested by Meijer Stores Limited Partnership, in conjunction with proposed construction of a 193K sq. ft. grocery/general merchandise structure with a 22K sq. ft. attached garden center and a separate 2,500 sq. ft. gas/convenience building at the former Mt. Carmel site, 5700 West Layton Avenue. The proposed hours of operation are 24/7. Tax Key Nos. 602-9945-001 & 602-9947-003. (*public hearing was held 3/17/15*)

This item is to be placed on the **NEXT AGENDA**.

10. Plan Commission Meeting held February 10, 2015

Item #4 Approve a Planned Unit Development Amendment/Site, Building, & Landscaping Review/Special Uses (gas/convenience store, alcohol product sales in the grocery store, pharmacy drive-up & outdoor display/sales), in conjunction with the proposed construction of a 193K sq. ft. grocery/general merchandise structure with a 22K sq. ft. attached garden center, and a separate 2,500 sq. ft. gas/convenience building at the former Mt. Carmel site, 5700 W. Layton Avenue, subject to Plan Commission and staff comments, Tax Key Nos. 602-9947-003 & 602-9945-001.

This item is to be placed on the **NEXT AGENDA**.

11. Board of Public Works Meeting held March 24, 2015

It was moved by Alderperson Lubotsky, seconded by Alderperson Kastner, to approve the following:

Item #4 Adopt the final resolution directing that the work and improvements be carried out in accordance with the Engineers report plans and specifications and that payment for said improvements to be made as therein provided for the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement, in the area of South 31st Street, South 32nd Street, South 33rd Street, South 34th Street at West Lynndale Avenue, West Loomis Road, West Wilbur Avenue and West Saint Francis Avenue, Project 2015 #5

Item #10 Not making any changes at this time and revisit access limits at South 60th Street and West Armour Avenue in 2017 for 2018 reconstruction

Motion carried unanimously.

12. Finance & Human Resources Committee Meeting held March 25, 2015

It was moved by Alderperson Saryan, seconded by Alderperson Kastner, to approve the following:

Item #3 Amend the job description of Senior GIS Technician in the Engineering Division

Item #4 Amend the job description of GIS Technician in the Engineering Division and keep the lifting requirement at 40 lbs.

Item #5 Amend the current non-represented salary resolution to modify GIS and Senior GIS Technician salary schedules in the Engineering Division

Item #6 Contract between the State of Wisconsin Department of Health Services and the Greenfield Health Department related to 2015 Ebola grant funding (4/1/2015 – 9/30/2016)

Item #7 Transition the full-time Public Health Nurse Supervisor position into a full-time contract position, including approval of job description and authorization to recruit and sign contract with selected candidate

Item #8 Schedules of disbursements in the amount of \$206,133.27 and \$365,450.23

Item #9 Mileage reimbursements in the amount of \$40.18

Item #10 Investments and reinvestments in the amounts of \$3,629,651.44 and \$10,000,345.68

Item #11 Financial statement for the year ended December 31, 2014

On a roll call vote, the motion carried unanimously.

13. City Clerk's Report:

Claim received from Dragan Srdjenovic was referred to the CITY ATTORNEY.

See action taken in Item #20a of these minutes.

14. It was moved by Alderperson Lubotsky, seconded by Alderperson Kastner, to approve the issuance of an operator license to each of the following:

Coey, Krystal R.-S75 W15025 Kathryn Dr.
Drews, Alex W.-4215 S. 93rd St.
Loehe, Ryan C.-4425 N. 57th St.

Davis, Zachary J.-4019 S. 90th St.
Koshick, John J.-3000 S. 68th St.
Richter, Gina M.-12303 W. Center St.

Motion carried unanimously.

15. It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to approve the issuance of a Temporary "Class B" Retailer's License to Whitnall Falcon Booster Club to sell fermented malt beverages and wine at Falcon Fest to be held Saturday, April 25, 2015 from 5:00 p.m. to 11:00 p.m. at the Greenfield Community Center, 7215 West Cold Spring Road. Motion carried unanimously.

16. It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to approve the issuance of a Temporary Class "B" Retailer's License to Dan Jansen Family Fest Inc. to sell fermented malt beverages at Dan Jansen Family Fest to be held Friday, May 22, 2015 from 5:00 p.m. to 11:30 p.m. and Saturday, May 23, 2015 & Sunday, May 24, 2015 from 9:00 a.m. to 11:30 p.m. at Konkel Park, 5151 West Layton Avenue. Motion carried unanimously.

17. It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to approve the issuance of a Carnival License and request to waive the license fee for Dan Jansen Family Fest Inc. to hold a carnival with 8 concessions and 12 rides at Konkel Park, 5151 West Layton Avenue, on Friday, May 22, 2015 from 5:00 p.m. to 10:00 p.m.; Saturday, May 23, 2015 from 11:00 a.m. to 10:00 p.m.; Sunday, May 24, 2015 from 11:00 a.m. to 10:00 p.m.; and rides only on Monday, May 25, 2015 from 12:00 p.m. to 5:00 p.m.

After a discussion, the motion carried unanimously.

18. It was moved by Alderperson Kastner, seconded by Alderperson Saryan, to approve award of contract to All-Ways Contractors, Inc. [in the amount of \$171,869.18 less change order in the amount of \$51,519.56 for a total award of \$120,349.62 also 10% for contingency (\$12,000)] for construction services for the Beloit Glide Trail project. On a roll call vote, the motion carried unanimously.

19. Department of Neighborhood Services Report:

- a. It was moved by Alderperson Lubotsky, seconded by Alderperson Saryan, to accept the lowest responsible bid and award the contract [to Dan Larsen Landscaping, Inc., in the amount of \$31,855.00], for the installation of 155 Street Tree locations, Project 2015 #1.

After a discussion, the motion carried unanimously.

- b. It was moved by Alderperson Lubotsky, seconded by Alderperson Kastner, to adopt Resolution No. 3507.

RESOLUTION NO. 3507

FINAL RESOLUTION LEVYING SPECIAL ASSESSMENTS UNDER SECTION 66.0703 OF THE WISCONSIN STATUTES AGAINST BENEFITING PROPERTY FOR THE INSTALLATION OF STORM SEWER, STORM SEWER SERVICE LATERALS, SANITARY SEWER SERVICE LATERALS, WATER MAIN, WATER SERVICE LATERALS, CONCRETE DRIVEWAY APPROACHES, CONCRETE OR ASPHALT DRIVEWAY REPLACEMENT, CONCRETE SERVICE WALKS, CONCRETE CURB/GUTTER, AND CONCRETE OR BITUMINOUS CONCRETE (ASPHALT) PAVEMENT, IN THE AREA OF SOUTH 32nd STREET, SOUTH 33rd STREET, SOUTH 34th STREET, WEST SAINT FRANCES AVENUE, WEST WILBUR AVENUE, AND WEST LYNNDALE AVENUE, PROJECT 2015 #5

WHEREAS, The Common Council heretofore determined by Preliminary Resolution No. 3504 adopted February 17, 2015, pursuant to Section 66.0703, Wisconsin Statutes and the police powers of the City of Greenfield to levy and collect special assessments upon properties benefited by the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement, in the area of South 32nd Street, South 33rd Street, South 34th Street, West Saint Frances Avenue, West Wilbur Avenue, and West Lynndale Avenue, Project 2015 #5; and

WHEREAS, the City Engineer's office prepared the report of the special assessments to be levied, including a schedule of proposed assessments, and filed said report with the City Clerk; and

WHEREAS, notice of public hearing on said report was given by the City Clerk as provided by law, as shown by affidavits of mailing and publication and the records of file herein; and

WHEREAS, the Board of Public Works held a public hearing on Tuesday, the 24th day of March, 2015 in the Council Chambers, Room 100 at City Hall commencing at 6:30 p.m. and all persons desiring to be heard were heard; and

WHEREAS, the Board of Public Works has forwarded its recommendation to the Common Council; and

WHEREAS, the Common Council has previously considered and accepted the recommendation of the Board of Public Works and has been fully advised in these matters and is now ready to proceed with the work and to make the final levy of special assessments for the benefits conferred as set forth herein;

NOW THEREFORE, BE IT RESOLVED by the Mayor and Common Council of the City of Greenfield, Milwaukee County, Wisconsin, that:

1. After due consideration of the report of the City Engineer's office and the recommendation of the Board of Public Works in the manner set forth in the preamble hereto, the Common Council hereby finds and determines that the properties set forth in said report and each of them are benefited by the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement, and the Common Council upon such consideration determines that the proposed assessments made were determined upon a reasonable basis.
2. Upon such findings and determinations, said report, including the proposed project plans and specifications, the statement of estimated project costs, the statement of benefits and the schedule of proposed assessments is hereby approved, and the Common Council directs that the City Engineer's office carry out said work or improvements in accordance with said report and that payment of said special assessments be made as hereinafter provided.
3. The proposed assessments set forth in said report are hereby assessed and levied against said properties as special assessments for the benefits incurred upon them by the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement, in the area of South 32nd Street, South 33rd Street, South 34th Street, West Saint Frances Avenue, West Wilbur Avenue, and West Lynndale Avenue, Project 2015 #5, and the owners of said properties are hereby ordered to pay such special assessments in the manner hereinafter provided.
4. The proceeds from such special assessments shall be used for paying the costs of the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement.
5. The assessments are made pursuant to the police powers of the City of Greenfield and Section 66.0703, Wisconsin Statutes.
6. Each special assessment levied by this resolution shall be a lien on the property against which it is levied on behalf of the City of Greenfield, in accordance with Section 66.0703(13) Wisconsin Statutes.
7. Each property owner has the option to pay his or her assessment in one sum without interest on or before September 30, 2016; or the entire amount plus interest computed at 3.39% from September 30, 2016 may be placed on your 2016 tax bill; or in ten (10) annual installments, as provided for by Section 66.0715(3) Wisconsin Statutes, with interest thereon at 3.39% per year on the unpaid balance beginning September 30, 2016. All assessments will be collected in installments except such assessments which are paid in full to the City of Greenfield on or before September 30, 2016. The first installment shall be entered in the 2016 tax roll

as a special assessment on the property upon which the special assessment was levied and thereafter shall be treated in all respects as any other municipal tax, except as otherwise provided in Section 66.0715(3), Wisconsin Statutes. One of the subsequent installments shall be entered in a like manner and with like effect in each of the annual tax rolls thereafter until all are levied. Each property owner who is paying by installments may prepay his or her assessments together with accrued interest at any time without penalty. In the event a property owner fails to pay any installment in full at the time it is due, said owner will be deemed delinquent and his or her or its entire unpaid assessment, together with accrued interest through December 31 of the year said delinquency occurs, shall be extended upon the next succeeding tax roll as a delinquent tax against the property and all proceedings in relation to the collection, return and sale of property for delinquent real estate taxes shall apply to such special assessment, except as otherwise provided by statute.

8. All payments hereunder are to be made to the City of Greenfield.

9. The City Clerk is hereby authorized and directed to publish a copy of this resolution as a Class 1 notice in the Greenfield NOW and shall mail a copy of this resolution and a statement of final assessment against his or her property to every interested person whose tax key number appears on the assessment schedule and whose post office address is known or can, with reasonable diligence, be ascertained.

10. The City Clerk is hereby authorized and directed to publish the "Installment Assessment Notice" attached hereto and made a part hereof, as a Class 1 notice and mail a copy thereof to every interested person.

11. This resolution shall become effective upon passage and publication and notice in compliance with Sections 9 and 10 above.

ADOPTED _____, 2015

APPROVED _____, 2015

Jennifer Goergen, City Clerk

Michael J. Neitzke, Mayor

CITY OF GREENFIELD

INSTALLMENT ASSESSMENT NOTICE FOR THE INSTALLATION OF STORM SEWER, STORM SEWER SERVICE LATERALS, SANITARY SEWER SERVICE LATERALS, WATER MAIN, WATER SERVICE LATERALS, CONCRETE DRIVEWAY APPROACHES, CONCRETE OR ASPHALT DRIVEWAY REPLACEMENT, CONCRETE SERVICE WALKS, CONCRETE CURB/GUTTER, AND CONCRETE OR BITUMINOUS CONCRETE (ASPHALT) PAVEMENT, IN THE AREA OF SOUTH 32nd STREET, SOUTH 33rd STREET, SOUTH 34th STREET, WEST SAINT FRANCES AVENUE, WEST WILBUR AVENUE, AND WEST LYNNDAL AVENUE,
PROJECT 2015 #5

NOTICE IS HEREBY GIVEN that a contract was let for the installation of storm sewer, storm sewer service laterals, sanitary sewer service laterals, water main, water service laterals, concrete driveway approaches, concrete or asphalt driveway replacement, concrete service walks, concrete curb/gutter, and concrete or bituminous concrete (asphalt) pavement, in the area of South 32nd Street, South 33rd Street, South 34th Street, West Saint Frances Avenue, West Wilbur Avenue, and West Lynndale Avenue; and that amount of the special assessment therefore has been determined as to each parcel of real estate affected thereby and a statement of

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the same is on file with the City Clerk. Said assessments may be paid: [1] in one sum without interest on or before September 30, 2016; or [2] the entire amount plus interest computed at 3.39% from September 30, 2016 may be placed on your 2016 tax bill; or [3] in ten (10) equal annual installments, as provided for by Section 66.0715(3), Wisconsin Statutes, with interest thereon at 3.39% per year on the unpaid balance beginning September 30, 2016. All assessments will be collected in installments as provided in said Paragraph 7 of the Final Resolution to which this notice is attached, except such assessments which are paid in full to the City of Greenfield on or before September 30, 2016.

Dated at Greenfield, Wisconsin this _____ day of _____, 2015

Jennifer Goergen, City Clerk

On a roll call vote, the motion carried unanimously.

- c. It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to approve the right-of-way plat for the reconstruction of West Morgan Avenue. Motion carried unanimously.
- d. It was moved by Alderperson Akers, seconded by Alderperson Saryan, to adopt Resolution No. 3508

RESOLUTION NO. 3508

GOVERNMENTAL RESPONSIBILITY FOR RUNOFF MANAGEMENT GRANTS

WHEREAS, the City of Greenfield is interested in acquiring a grant from the Wisconsin Department of Natural Resources for the purpose of implementing measures to control agricultural or urban stormwater runoff pollution sources (as described in the application and pursuant to ss. 281.65 or 281.66, Wis. Stats., and chs. NR151, 153 and 155); and

WHEREAS, a cost-sharing grant is required to carry out the project:

THEREFORE, BE IT RESOLVED that the City of Greenfield HEREBY AUTHORIZES the City Engineer, Department of Neighborhood Services, to act on behalf of the City of Greenfield; to submit and sign an application to the State of Wisconsin Department of Natural Resources for any financial aid that may be available; recommend for approval a grant agreement between the City of Greenfield and the Department of Natural Resources; submit reimbursement claims along with necessary supporting documentation; submit signed documents; and take necessary action to undertake, direct and complete the approved project.

BE IT FURTHER RESOLVED that the City of Greenfield shall comply with all state and federal laws, regulations and permit requirements pertaining to implementation of the project and to fulfillment of the grant document provisions.

ADOPTED _____, 2015

APPROVED _____, 2015

Jennifer Goergen, City Clerk

Michael J. Neitzke, Mayor

On a roll call vote, the motion carried unanimously.

- e. Discussion and decision regarding the issuance of a Temporary Use Permit to allow Rosen Nissan to continue parking vehicles on the vacant Kmart parking lot at 4595 South 27th Street, Tax Key #599-8922-003

Chuck Erickson, Community Development Manager, addressed the Council to present background information on this issue. He indicated a letter dated April 2, 2015 was received from Attorney Shawn M. Govern on behalf of Mr. Rosen regarding an issue that started a few months ago concerning the parking of vehicles at the vacant Kmart lot. Mr. Erickson said efforts had been made, through various staff members, to try to move some things forward that did not happen. Mr. Erickson said he had sent a letter to Mr. Rosen and Mr. Dorfman, who is the current lease holder of the Kmart property, indicating that he [Mr. Erickson] would be asking the code enforcement person to go to the site to take care of the issue because there had never been a temporary use request submitted but the larger issue is that it may not be the type of use the City may want there, even temporarily to begin with, which is a judgment call. It is not a typical thing for which the City has issued a Temporary Use. He added that Mr. Govern and Mr. Rosen are present this evening.

Attorney Govern said he indicated to Mr. Erickson a few weeks ago and that he would submit the Temporary Use application. He said the Kmart lot has been empty for some time. Attorney Govern stated Mr. Rosen contacted him at the beginning of the year that he had the opportunity to rent the space. He said he reviewed the lease and he did review the ordinances for Greenfield at that time and he did not see anything that did not allow two property owners to enter into a commercial lease. The properties were zoned such that it appeared as though it was a permissible use to rent a space, rent a parking lot to utilize as a parking lot. This is not a sales lot. The property is not being tended by any sales people. Attorney Govern said he understands the Chief of Police has submitted information indicating that some of the VIN numbers on some of the cars are on the website, but they are not actively being sold from that lot. They are being stored there. Attorney Govern said they have entered into a similar lot with Stein's which is in Milwaukee. This is something that is done during the winter months due to limited parking space due to snow removal. The lease expires April 30, 2015. He said he talked with Alderperson Lubotsky and at her request, he talked with Mr. Rosen about whether or not the cars would be removed on April 30th. Due to the amount of sales and the amount of vehicles, Mr. Rosen would like to have until the end of May, if that is possible, but he would be done with the use of the lot after the end of May. Attorney Govern said the landlord was in favor of the use because it makes the lot look used. The lot being used kind of hinders people from utilizing the lot as a dumping ground. Attorney Govern said Rosen Nissan is not sending people to the lot to look at the cars. He said Mr. Erickson asked him that if someone saw a car they wanted to buy and the individual went to Rosen Nissan and approached the dealership about buying the car, would the dealership sell the vehicle to that individual. Attorney Govern said of course the dealership would sell the car, but that is not the intent. They needed a place at which to put the additional inventory. Attorney Govern said he does not see anything in the ordinance that is on point, otherwise he would have submitted a different application, but based upon his conversation with Mr. Erickson, a Temporary Use is the only thing under which it would fit.

Alderperson Kastner asked if the City allows unregistered, untitled vehicles being parked and stored other than on actual car sales lots.

Roger Pyzyk, City Attorney, said that to his knowledge it is not allowed. He added, that the last time there was an issue with which the Mayor was extremely concerned, someone was allowed to park some vehicles on the Spiro's Custard property on West Forest Home Avenue and that raised some strong issues that it wasn't a proper Temporary Use to be issued.

Attorney Pyzyk said even when Kmart was a viable business, there use to be problems with people parking their cars in the lot facing South 27th Street with For Sale signs on them. While there are not For Sale signs on the cars currently in the Kmart lot, there are stickers on the cars. Attorney Pyzyk said the City has a strict ordinance when it comes to car lots and used car lots. There are public hearings and special uses so he would be very reluctant for the Council to approve a Temporary Use Permit of something that has not been done in the past nor is there a precedent to allow for it. Attorney Pyzyk said he would recommend that the Council not approve the Temporary Use, but as part of that motion inform the parties that the City would withhold any enforcement of the violation of having those vehicles on there until May 1, 2015 so that neither Rosen or Mr. Dorfman would be subject to any type of municipal citation for each vehicle for each day that they are there. He said he would assume that by that time in accordance with the application, the cars would be removed anyway.

It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to deny the issuance of a Temporary Use Permit to allow Rosen Nissan to continue parking vehicles at the vacant Kmart [parking lot at 4595 South 27th Street] and not to enforce any ordinance violation for the parking of those vehicles until the date of May 1, 2015. On a roll call vote, the motion carried unanimously.

Attorney Govern indicated he understood.

20. City Attorney's Report:

- a. After a discussion, it was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to approve the claim of Dragan Srdjenovic in the amount of \$1,336.42 based upon one of the estimates provided. On a roll call vote, the motion carried unanimously.
- b. It was moved by Alderperson Saryan, seconded by Alderperson Lubotsky, to go into closed session pursuant to Wisconsin Statutes, Section 19.85(1)(e)&(g) at 7:27 p.m. for the following:
 - (1) Discussion to consider the extension of a lease agreement for the communications tower located at 5300 West Layton Avenue (Law Enforcement Center) (Wentlandt)
 - (2) Confer with legal counsel regarding oral written advice for strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved in re State of Wisconsin vs. Joe Wofford Jr.

On a roll call vote, the motion carried unanimously.

- c. It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to adjourn closed session and reconvene into open session at 7:53 p.m. Motion carried unanimously.

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- d. It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to direct the Chief of Police to negotiate a dollar amount with Crown Castle regarding the tower on the Law Enforcement Center property located at 5300 West Layton Avenue (Law Enforcement Center). Motion carried unanimously.
- e. It was moved by Alderperson Kastner, seconded by Alderperson Lubotsky, to authorize the Mayor to proceed as directed regarding Judge Moroney's decision pertaining to Joe Wofford Jr. Motion carried unanimously.

21. Items for future agenda

Meijer's

- 22. It was moved by Alderperson Lubotsky, seconded by Alderperson Saryan, to adjourn the meeting at 7:55 p.m. Motion carried unanimously.

Jennifer Goergen, City Clerk

JG:slw

Distributed: April 10, 2015