

MINUTES OF THE COMMON COUNCIL MEETING HELD AT THE GREENFIELD CITY HALL
ON TUESDAY, MARCH 15, 2016

The meeting was called to order by Mayor Neitzke at 7:01 p.m.

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| 1. ROLL CALL: | Aldersperson Lubotsky | Present |
| | Aldersperson Bailey | Present at 7:04 p.m. |
| | Aldersperson Kastner | Present |
| | Aldersperson Akers | Present |
| | Aldersperson Saryan | Present |
| ALSO PRESENT: | Jennifer Goergen | City Clerk |
| | Jeff Katz | Interim Director of Neighborhood Services |
| | Chuck Erickson | Community Development Manager |

2. An opening prayer was given by Pastor Dusty.

3. Pledge of Allegiance

4. It was moved by Aldersperson Kastner, seconded by Aldersperson Saryan, to approve the March 1, 2016 Council minutes, as recorded. Motion carried unanimously.

5. Mayor's Report

It was moved by Aldersperson Akers, seconded by Aldersperson Lubotsky, to approve the Intergovernmental Fiber Optic Project Agreement between the City of Greenfield, the Greenfield School District and the Whitnall School District. On a roll call vote, the motion carried unanimously.

6. Aldermanic Reports

Aldersperson Bailey said trees and shrubs are being purchased for the amphitheater at Konkel Park. He added that 52 trees are planned for that area which will also help with controlling the sound. He said Arbor Day will be held Saturday, May 7, 2016 at Dan Jansen Park. People may donate a tree at a cost of \$195 per tree. The plan is to plant 26 trees at Dan Jansen Park.

Aldersperson Kastner said last week Mayor Neitzke proclaimed Joel Stave Day at Whitnall High School. Joel was the record setting Quarterback at the University of Wisconsin Madison.

7. Announcements - None

8. Citizen Commentary – None

At this time, the Council proceeded with Item #11

9. Public hearing for approval of a Special Use, requested by MJB Real Sweet Dreams LLC, for a proposed Culver's Frozen Custard Restaurant at 6031 West Layton Avenue, Tax Key #618-9997

Notice of public hearing was published in the City's official newspaper on March 3, 2016.

Chuck Erickson, Community Development Manager, presented diagrams of the property in question. He indicated the size of the property is approximately 1.4 acres with the building size being approximately 4,300 sq. ft. There are approximately 67 parking stalls on the site which exceeds the parking requirements. The Plan Commission had a favorable recommendation regarding the proposed Special Use and the site/building/landscaping. The emphasis at the Plan Commission meetings has been on the site layout with regard to how it works with the corner, how it ties in with the adjacent property, and how it works within the context of the reciprocal easement agreement. The general perspective is, because this is so different than what was done at Wendt's Pub & Grill, that the new owner, Mr. Busalacchi, and Ms. Kleczka will need to re-do the private agreement for shared parking and access to reflect the changes. The Chief of Police had made a recommendation regarding the value of the two property owners working together in such a way that some driveway approaches, theoretically, could be closed. The direction to the Culver's team was to prepare a site plan that works for them but also dovetails into the possibility of an agreement being worked out between the property owners, if Mr. Busalacchi does purchase the property, to see if the shared arrangement can work.

Mayor Neitzke said the two parties have discussed potentially closing some access points. It does not appear that the property on the corner has a desire to close any of its access points. With regard to the interpretation of the easement between the parties, that is an issue between the parties.

The following addressed the Council for information only:

Kurt Klapperich of CBRE, 777 East Wisconsin Avenue, representing Loretta Kleczka, said they have had concern with changing the access to the Kleczka property but they have been open minded to working with Mr. Busalacchi and his engineering company. He said there is a new site plan which has just been shared by the other party's engineering company. He said Loretta Kleczka is interested in obtaining additional parking which is desperately needed by her tenants and could probably be designated spots in the rear of the Kleczka property which are the angled stalls. In the past, Mr. Wendt had an agreement with a couple tenants that really assigned those spaces for a certain sum of money. That agreement lasted for five years and then it terminated. The reciprocal agreement is concerned with shared access if one of the parking lots is full and then customers could park on the adjacent property. He believes Mr. Busalacchi is asking Mrs. Kleczka to accept the change in access to her site, incorporate the connection that was supposed to be done years ago at Mr. Wendt's expense, and see if both parties could work together. Mr. Klapperich said that when he reached out to Mr. Busalacchi's engineering staff, he was informed not to contact them but to contact Mr. Busalacchi. Mr. Klapperich was hoping he would get more information this evening with regard to what they have in mind. He said he understands there may be some TIF money that is available and the suggestion was made to Mrs. Kleczka that maybe there would be some funds available for her property to be improved, specifically, proper drainage.

Mayor Neitzke said historically there wasn't a desire to change any of the access points off of West Layton Avenue or South 60th Street. There are no changes to the access on the new site plan. With regard to any TIF assistance, the idea of straightening the corner was met with strong rebuttal so that is not going to happen. Staff took it upon itself to work with the developer to focus on their property and things associated with their property. He said he believes the only issue that is still outstanding is the interpretation of the easement and the cross easements and parking which is subject to the two parties and their legal teams. Mayor Neitzke reiterated with regard to the access, there is nothing the City could do because of the applicant that came in, to force an adjacent property owner to change the access on their property even though there was a strong desire by the City to do so due to the proximity of South 60th Street & West Layton Avenue and the traffic. It has been pretty clear throughout the process that there hasn't been a desire for the owner of the property on the corner to do anything so nothing was done.

Mr. Klapperich said he thought he made it clear at the Plan Commission meetings that they were receptive with working with Mr. Busalacchi but there were concerns that both they and the Planning staff had concerning the readjustment of curb cuts and access to the Kleczka property, specifically, the South 60th Street curb cut. Mr. Klapperich said he asked the civil engineer to work on that and he was expecting some sort of recommendation from them through Mr. Busalacchi addressing that concern. He said it was either bypassed, looked over, or they just didn't care.

After additional discussion, Mayor Neitzke said the item before the Council this evening is the Special Use.

Aldersperson Lubotsky said the City can't mediate. The City is not discussing the former agreement.

Mr. Erickson said with regard to the proposed site plan, it was the direction of the Plan Commission to present something that would enable, in the future, connectivity. The curb is staying. There isn't a connectivity with that driveway.

The following addressed the Council in favor:

Vinnie Busalacchi, W223 W3589 Ridgeside Court, said they are making the plan up-to-date. He said they are excited to be here and believes it would be a good fit for the community. He said they want to work with the schools and churches.

Jay Campbell, Campbell Construction, representing the Busalacchi family, Raposa Design Group & Sigma Group Civil Design Engineer, said he has worked with Culver's for years and the City is getting blessed with an operating family like the Busalacchi's and the impact it will have. The upper cross access that has been drawn in there is a current curb there which is on the Kleczka property. That will remain, they can't remove it. It was drawn in anticipation of honoring the reciprocal easement agreement that is in place. The site plan was drawn that it does comply with any items that were brought up by staff. He said that when they have reached out to the Kleczka family, they were basically told that they would not change anything on their side. It doesn't change anything on the Kleczka property. Mr. Campbell said they have designed it to comply with Greenfield, the State of Wisconsin, and the reciprocal easement agreement which is all they can do at this point in time.

It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to close the public hearing. Motion carried unanimously.

It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to approve the Special Use, requested by MJB Real Sweet Dreams LLC, for a proposed Culver's Frozen Custard Restaurant at 6031 West Layton Avenue, Tax Key #618-9997.

After a discussion, on a roll call vote, the motion carried unanimously.

10. Plan Commission Meeting held February 9, 2016

Item #6 It was moved by Alderperson Kastner, seconded by Alderperson Akers, to approve the Site/Building/Landscaping Review for a proposed Culver's Frozen Custard Restaurant at 6031 West Layton Avenue, subject to Plan Commission and staff comments, Tax Key #618-9997.

After a discussion, on a roll call vote, the motion carried unanimously.

At this time, the Council proceeded with Item #18

11. Plan Commission Meeting held March 8, 2016

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

Item #4 Certified Survey Map to create three lots for King of Glory (4330 South 84th Street): main church parcel and two single-family parcels as a follow-up to the prior approval of a rezoning of these corner lot areas at South 83rd Street & West Cold Spring Road and South 83rd Street & West Whitaker Avenue, subject to Plan Commission and staff comments, Tax Key #605-0084-001

Item #5 Special Use Review for Marc Lovora as the new owner/operator of the Bottoms Up Pub [which will be known as Laveers] at 5105 West Cold Spring Road, subject to Plan Commission and staff comments, Tax Key #602-9999-001

Item #6 Special Use Review for Rafael Luciano, as the new owner/operator of the McDonalds Restaurant at 5040 South 76th Street, subject to Plan Commission and staff comments, Tax Key #617-9975-032

Item #7 Special Use Review for James Logan to become the new owner/operator of Playoffs Pub at 8222 West Forest Home Avenue, subject to Plan Commission and staff comments, Tax Key #605-0170

Item #9 Building Review pertaining to exterior color changes proposed for the Red Robin Restaurant at 7575 West Edgerton Avenue, subject to Plan Commission and staff comments, Tax Key #650-8998-007

On a roll call vote, the motion carried unanimously.

12. Finance & Human Resources Committee Meeting held March 15, 2016

After a discussion it was moved by Alderperson Kastner, seconded by Alderperson Saryan, to approve the following:

Item #3 Agreement with Ehlers, City financial consultant, to provide Project Pro Forma Analysis as it relates to TIF #3 and a potential development interest in the 11 acres of area west of Braeger Ford (4100 South 27 Street) by Fiduciary Real Estate Development

Item #4 Schedules of disbursements in the amounts of \$152,159.01; \$415,130.90; \$2,126.36; \$12,803,268.87; \$2,469.23 and \$140,513.82

Item #5 Mileage reimbursements in the amount of \$897.80

On a roll call vote, the motion carried unanimously.

13. City Clerk's Report:

It was moved by Alderperson Akers, seconded by Alderperson Saryan, to adopt Resolution No. 3545.

RESOLUTION NO. 3545

RESOLUTION APPOINTING ELECTION OFFICIALS: CHIEF INSPECTORS, ALTERNATE CHIEF INSPECTORS, ELECTION INSPECTORS, ALTERNATE ELECTION INSPECTORS AND SPECIAL VOTING DEPUTIES FOR 2016-2017

WHEREAS, Wis. Stats. 7.30(4) (a) require the governing body to appoint election officials no later than the last regular meeting in December of each odd-numbered year for the 2016-2017 election cycle; and

WHEREAS, Wis. Stats. 7.30(4) (b) states that the two dominant parties are each responsible for submitting a list of names from which all appointees to inspector positions shall be chosen as outlined within the statutes; and

WHEREAS, the parties did not submit lists of election inspector nominees to the City Clerk, election officials are appointed without regard to party affiliation and are therefore considered unaffiliated; and

NOW, THEREFORE, BE IT RESOLVED that the Common Council of the City of Greenfield confirms the lists of election officials for the 2016-2017 election cycle.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on the 15th day of March, 2016.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk

On a roll call vote, the motion carried unanimously.

14. Appointments to various committees and commissions:

No appointment was made. Therefore, the following appointment is to be placed on the **NEXT AGENDA**:

Mayor appointments, confirmed by Council:

One member to the Fire & Police Commission for a term to expire 5/1/18 (formerly Nancy Kostecki)

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

Ahmed, Javeed-4601 South First St.
Bohmann, Steven J.-315 E. Lincoln Ave.
Jannusch, Daniel H.-8211 W. Oklahoma Ave.
Khalil, Elizabeth L.-12170 W. Cold Spring Rd.
Miller, Tiffany M.-11140 W. Woodside Dr.
Springsteen, Jill R.-5633 W. Howard Ave.
Torres, Lilliam-128 W. Lapham Blvd.

Alba, Gregory J.-5540 S. 44th St.
Bohme, Jennifer M.-119 W. State Rd.
Kaur, Sarabjeet, 7964 S. Wildwood Dr.
Melendez, Modesto A.-3016 Cone View Ln.
Sobocinski, Kyle D.-3645 S. 77th St.
Torres, Jesus-3016 Cone View Ln.

Motion carried unanimously.

16. It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to approve the issuance of a 2015-2016 Combination "Class B" Beer & Liquor License to MJL LLC, Marc J. Lovora, Agt., for the property located at 5105 West Cold Spring Road (first floor and basement) (Laveers). Motion carried unanimously.

17. It was moved by Alderperson Lubotsky, seconded by Alderperson Akers, to approve the issuance of a 2015-2016 Entertainment License to MJL LLC, Marc J. Lovora, Agt., for the property located at 5105 West Cold Spring Road (type of entertainment: patron style dancing, pool leagues, dart leagues, card tournament, DJs, karaoke, juke box, live bands). Motion carried unanimously.

At this time, the Council proceeded with Item #9

18. It was moved by Alderperson Saryan, seconded by Alderperson Kastner, to adopt Resolution No. 3546.

RESOLUTION NO. 3546

By the provisions of Sec. 24.66 of the Wisconsin Statutes, all municipalities may borrow money for such purposes in the manner prescribed, and

By the provisions of Chapter 24 of the Wisconsin Statutes, the Board of Commissioners of Public Lands of Wisconsin is authorized to make loans from the State Trust Funds to municipalities for such purposes. (Municipality as defined by Sec. 24.60(2) of the Wisconsin Statutes means a town, village, city, county, public inland lake protection and rehabilitation district, town sanitary district created under Sec. 60.71 or 60.72, metropolitan sewerage district created under Sec. 200.05 or 200.23, joint sewerage system created under Sec. 281.43(4), school district or technical college district.)

THEREFORE, BE IT RESOLVED, that the City of **Greenfield**, in the County(ies) of **Milwaukee**, Wisconsin, borrow from the Trust Funds of the State of Wisconsin the sum of **Seven Hundred Thousand And 00/100 Dollars (\$700,000.00)** for the purpose of **financing installation of city wide fiber optic network** and for no other purpose.

The loan is to be payable within **10** years from the 15th day of March preceding the date the loan is made. The loan will be repaid in annual installments with interest at the rate of **3.00** percent per annum from the date of making the loan to the 15th day of March next and thereafter annually as provided by law.

RESOLVED FURTHER, that there shall be raised and there is levied upon all taxable property, within the City of **Greenfield**, in the County(ies) of **Milwaukee**, Wisconsin, a direct annual tax for the purpose of paying interest and principal on the loan as they become due.

RESOLVED FURTHER, that no money obtained by the City of **Greenfield** by such loan from the state be applied or paid out for any purpose except **financing installation of city wide fiber optic network** without the consent of the Board of Commissioners of Public Lands.

RESOLVED FURTHER, that in case the Board of Commissioners of Public Lands of Wisconsin agrees to make the loan, that the **Mayor** and clerk of the City of **Greenfield**, in the County(ies) of **Milwaukee**, Wisconsin, are authorized and empowered, in the name of the city to execute and deliver to the Commission, certificates of indebtedness, in such form as required by the Commission, for any sum of money that may be loaned to the city pursuant to this resolution. The **Mayor** and clerk of the city will perform all necessary actions to fully carry out the provisions of Chapter 24, Wisconsin Statutes, and these resolutions.

RESOLVED FURTHER, that this preamble and these resolutions and the aye and no vote by which they were adopted, be recorded, and that the clerk of this city forward this certified record, along with the application for the loan, to the Board of Commissioners of Public Lands of Wisconsin.

PASSED AND ADOPTED by the Common Council of the City of Greenfield on the 15th day of March, 2016.

APPROVED:

Michael J. Neitzke, Mayor

ATTEST:

Jennifer Goergen, City Clerk

After a discussion, on a roll call vote, the motion carried unanimously.

19. Department of Neighborhood Services Report:

Discussion and decision regarding Fennelly agreement

Dave Fennelly, 12111 West Howard Avenue, and David Schuster, Terra Firma Landscape, S166W14427 Janesville Road, addressed the Council. Mr. Fennelly gave a summary of what has transpired with the property. He said he and his wife admit and apologize for the improvements they made on City of Greenfield property and added that their actions were never intentional or calculated as neighbors have suggested.

At 8:15 p.m., Mayor Neitzke announced he had to leave the meeting and relinquished the gavel to Council President Kastner who indicated he will be officially acting as Alderperson presiding over the meeting, not serving as Acting Mayor. Therefore, he will be a voting member.

The following neighbor also addressed the Council:

Tom Gavinski, 12101 West Howard Avenue, thanked the Council for rejecting the agreement the last time there was a vote on the agreement. He said the facts are pretty clear in this case. The property line has not changed. There have been multiple building permits filed by the Fennellys in 1990, 2000, 2014 where they submitted plans and plats. Certified survey maps show the same property lines. He said last time he was asked if he was harmed if the proposal goes through. He believes he answered 'no' but he would probably modify that because the wetlands and floodplain impacts everybody. He added there was a reason that the State had designated that and the Department of Natural Resources designated that as wetland and floodplain area so he would like the Council to consider that while deliberating what the right decision is in this case. Mr. Gavinski said he does not believe that putting the land back to its normal prior state is any sort of penalty.

Alderperson Kastner said the two options are to have the Fennellys remove the fire pit or retaining wall because it looks like the rest of the stuff was there and plant Buckthorn or take advantage of the swap of land that would then allow the City to have more access to more of the stream bedded area. He said he believes it would make more sense for the City to have more control over the stream bed than the less.

After additional discussion, it was moved by Alderperson Kastner, seconded by Alderperson Saryan, to approve the Fennelly agreement.

After a discussion, on a roll call vote, the motion carried unanimously.

At this time, the Council proceeded with Item #20a

19a. After Nick Buerger, Recreation Supervisor for the Parks & Recreation Department, addressed the Council, it was moved by Alderperson Akers, seconded by Alderperson Lubotsky, to approve \$5,000 from the Quality of Life fund and authorize Mayor to sign any entertainment related agreements, for the Konkel Park Amphitheater Grand Opening Event. Motion carried unanimously.

At this time, the Council proceeded with Item #20b

20. City Attorney's Report:

- a. The resolution was introduced for the vacation of unopened West Chapman Avenue right-of-way as platted where it goes through the northerly portion of 9600 West Layton Avenue, abutting Tax Key Nos. 607-9970-002, 607-9970-003, 607-9971 & 607-9968

At this time, the Council proceeded with Item #19a

- b. It was moved by Alderperson Akers, seconded by Alderperson Lubotsky, to go into closed session pursuant to Wisconsin Statutes, Section 19.85(1)(b)&(f) at 8:21 p.m. for the following:

Considering licensure, social or personal history, or medical information for purposes of issuing an operator license to Tina Cannizzaro

On a roll call vote, the motion carried unanimously.

- c. It was moved by Alderperson Akers, seconded by Alderperson Saryan, to adjourn closed session and reconvene into open session at 8:40 p.m. Motion carried unanimously.
- d. It was moved by Alderperson Akers, seconded by Alderperson Bailey, that the item regarding the issuance of an operator license to Tina Cannizzaro be placed on the **NEXT AGENDA** and that her supervisor/boss be asked to attend. Motion carried unanimously.

21. Items for future agenda – None

22. It was moved by Alderperson Akers, seconded by Alderperson Bailey, to adjourn the meeting at 8:41 p.m. Motion carried unanimously.

Jennifer Goergen, City Clerk

JG:slw

Distributed: March 17, 2016