

CITY OF MENASHA  
Special Joint Common Council and  
Menasha Electric and Water Utility Commission  
Third Floor Council Chambers  
140 Main Street, Menasha  
December 6, 2010  
MINUTES

DRAFT

A. CALL TO ORDER

Meeting called to order by Mayor Merkes at 5:00 p.m.

B. ROLL CALL/EXCUSED ABSENCES

PRESENT: Aldermen Roush, Taylor, Wisneski, Langdon, Hendricks, Zelinski, Englebert, Benner

PRESENT: Commissioners Fahrbach, Guidote, Roush, Mayor Merkes

EXCUSED: Commissioners Allwardt

ALSO PRESENT: CA/HRD Captain, C/T Stoffel, Melanie Krause, Dick Sturm, Clerk Galeazzi, Attorney Todd Palmer (via telephone)

C. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA

(five (5) minutes time limit for each person)

No one spoke.

D. ACTION ITEMS

1. Moved by Ald. Wisneski, seconded by Ald. Taylor to adjourn into Closed Session pursuant to sec. 19.85(1) (g) conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

[\(Sierra Club v. City of Menasha, et al, U.S. District Court \(Eastern District, WI\)\)](#), Case #09-C-122; LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court. (Northern District, IN), Case No. 4:09-CV-64-TLS); State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4 Motion carried on roll call 8-0.

Moved by Comm. Guidote, seconded by Comm. Roush to adjourn into Closed Session pursuant to sec. 19.85(1) (g) conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved.

[\(Sierra Club v. City of Menasha, et al, U.S. District Court \(Eastern District, WI\)\)](#), Case #09-C-122; LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court. (Northern District, IN), Case No. 4:09-CV-64-TLS); State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4 Motion carried on roll call 4-0.

Attorney Todd Palmer, via the telephone, gave a brief background on the law suit filed by Sierra Club against the City of Menasha and Menasha Utilities under the clean Air Act. Attorney Palmer went over the Consent Decree. He is recommending approving the Consent Decree.

General discussion occurred.

Comm. Fahrbach left at 5:45 p.m.

Moved by Ald. Roush, seconded by Ald. Wisneski to adjourn into open session at 6:00p.m.  
Motion carried on roll call 8-0.

Moved by Comm. Roush, seconded by Comm. Guidote to adjourn into open session at 6:00p.m.  
Motion carried on roll call 3-0.

Attorney Todd Palmer from DeWitt Ross & Stevens SC explained to the gallery the contents of the Consent Decree.

Moved by Ald. Hendricks, seconded by Ald. Wisneski for approval of the Consent Decree in Sierra Club v. City of Menasha, et al., case number 1:09-cv-122 as it was presented to us today and to authorize Attorney Todd Palmer, DeWitt Ross & Steven SC, as counsel for the City of Menasha, including Menasha Utilities, to execute the Consent Decree and bind both public bodies to the terms and conditions contained there.  
Motion carried on roll call 8-0.

Moved by Comm. Guidote, seconded by Comm. Roush for approval of the Consent Decree in Sierra Club v. City of Menasha, et al., case number 1:09-cv-122 as it was presented to us today and to authorize Attorney Todd Palmer, DeWitt Ross & Steven SC, as counsel for Menasha Water & Utilities, to execute the Consent Decree and bind the body to the terms and conditions contained there.  
Motion carried on roll call 3-0.

## E. ADJOURNMENT

Moved by Ald. Roush, seconded by Ald. Langdon to adjourn at 6:05 p.m.  
Motion carried on voice vote.

Moved by Comm. Roush, seconded by Comm. Guidote to adjourn at 6:05 p.m.  
Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC