

CITY OF MENASHA
COMMON COUNCIL
Third Floor Council Chambers
140 Main Street, Menasha
Monday March 21, 2011
MINUTES

DRAFT

A. CALL TO ORDER

Meeting called to order by Mayor Merkes 6:00 p.m.

B. PLEDGE OF ALLEGIANCE

Moment of Silence for the people of Japan and for the fallen and injured officers of the Fond du Lac Police Department.

C. ROLL CALL/EXCUSED ABSENCES

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

ALSO PRESENT: Mayor Merkes, CA/HRD Captain (via telephone at 7:50p.m.), PC Stanke, FC Auxier, DPW Radtke, CDD Keil, C/T Stoffel Clerk Galeazzi, Atty Joseph Saltarelli (via telephone at 7:50p.m.), and the Press.

DEPT. HEAD EXCUSED: PHD Nett, PRD Tungate

D. PUBLIC HEARING

None

E. PUBLIC COMMENTS ON ANY MATTER OF CONCERN TO THE CITY

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

Steve Krueger, 943 Clovis Avenue, Menasha. Free fishing clinics in City of Menasha on May 21, June 11, and July 16

Dan Bissett, 5199 High Point Drive, Winneconne. Introduced himself as a candidate for the office of Winnebago Circuit Court Branch 5 Judge.

Paul Eisen, 1807 Brighten Beach Road, Menasha. Winnebago County Board of Supervisors voted to keep number of supervisors at 36. Redistricting information will be available soon.

Jim Longo, 1064 Kernan Avenue, Menasha. Opposed to sidewalks in Woodland Hills Subd.

Craig Kubiak, 969 Kernan Avenue. Menasha. Opposed to sidewalks in Woodland Hills Subd.

Mike Hagen, Woodland Hills developer. Separate out sidewalk from street/curb/gutter when voting on special assessment.

F. REPORT OF DEPARTMENT HEADS/STAFF/CONSULTANTS

1. [CDD Keil – Plan Commission approval of Woodland Hills Subdivision \(Ald. Taylor\)](#)

CDD Keil reported on the process of the Woodland Hills Subdivision Plat by the Plan Commission in 2002-2003. He explained the drainage map that was approved by the Plan Commission showed bike/pedestrian trail. The sidewalks to be installed in the City right-of-way. The bike/pedestrian trail is part of the official City maps.

2. Clerk Galeazzi - the following minutes and communications have been received and placed on file: Minutes to receive:

- a. [Administration Committee, 3/7/11](#)
- b. [Board of Public Works, 3/7/11](#)
- c. [Library Executive Director Search Committee, 3/2/11](#)
- d. [NM Sewerage Commission, 2/22/11](#)
- e. [Plan Commission, 3/8/11](#)
- f. [Sustainability Board, 2/15/11](#)

2. Clerk Galeazzi - the following minutes and communications have been received and placed on file:

Minutes to receive: (cont'd)

Communications:

- g. [CVMIC to PC Stanke, 3/1/11; 2010 Liability & Auto Physical Damage Dividend Payment](#)
- h. [Customer First, The Wire, March 2011](#)
- i. [Linda Stoll, Chair of Sustainability Board, 3/15/11; Walkable/bikeable neighborhoods](#)
- j. [Mayor Merkes, 3/16/11; Press Release-Menasha Employees Work Together to Balance Budget](#)
- k. [Ald. Taylor, 3/17/11; Post Crescent Article and blogs: Menasha residents speak out against sidewalks in Woodland Hills](#)

Mayor Merkes distributed a copy of an e-mail he received from Nila Miller, 1017 Kernan Avenue regarding the sidewalks in Woodland Hills area.

G. CONSENT AGENDA

(Prior to voting on the Consent Agenda, items on the Consent Agenda may be removed at the request of any Alderman and place immediately following action on the Consent Agenda. The procedures to follow for the Consent Agenda are: (a) removal of items from Consent Agenda; and (b) motion to approve the items from Consent Agenda.)

Minutes to approve:

- 1. [Common Council, 3/7/11](#)

Administration Committee, 3/7/11; recommends approval of:

- 2. [Extension of Listing Agreement with Core Development for Lake Park Villas Phase II Vacant Lots with a conclusion date of September 30, 2011](#)

Board of Public Works, 3/7/11; recommends approval of:

- 3. [Change Order MOD #0021-00; Neenah-Menasha Fire Rescue Station 36; Miron Job #101520; ADD \\$2,292.00](#)
- 4. [ACC Planned Service; Contract No. 2011-01; Public Protection Facility HVAC Equipment Replacement \\$115,487.00](#)

Plan Commission, 3/8/11; recommends approval of:

- 5. [Proposed Utility Easement-HWY 114 and Lake Park Square](#)

Ald. Englebert requested to remove item 2 (Core Development) from the Consent Agenda.

Ald. Zelinski requested to remove item 3 (Change Order MOD #0021-00) from the Consent Agenda.

Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve items 1, 4, and 5 of Consent Agenda. Motion carried on roll call 8-0.

H. ITEMS REMOVED FROM CONSENT AGENDA

- 1. Moved by Ald. Hendricks, seconded by Ald. Wisneski to approve item 2 of Consent Agenda (Extension of Listing Agreement with Core Development)
Discussion: Ald. Englebert will be abstaining.
Motion carried on roll call 7-0. Ald. Englebert - abstained
- 2. Moved by Ald. Taylor, seconded by Ald. Roush to approve item 3 of Consent Agenda (Change Order MOD #0021-00, N-M Fire Rescue Station 36, Miron Job #101520, ADD \$2,292.00)
Discussion: FC Auxier explained the change is for additional lockers for firefighter equipment.
Motion carried on roll call 8-0.

I. ACTION ITEMS

- 1. [Accounts payable and payroll for the term of 3/4/11 to 3/17/11 in the amount of \\$1,411,902.65](#)
Moved by Ald. Wisneski, seconded by Ald. Zelinski to approve accounts payable and payroll.
Discussion/Questions/Answers on expenditures.
Motion carried on roll call 8-0.

J. ORDINANCES AND RESOLUTIONS

1. [O-3-11 An Ordinance Relating to Restricted Parking \(7th & Appleton Road\)](#)
(Introduced by Ald. Taylor) (Recommendation of Board of Public Works)

Moved by Ald. Taylor, seconded by Ald. Langdon to adopt O-3-11
Motion carried on roll call 8-0.

K. APPOINTMENTS

L. HELD OVER BUSINESS

1. [R-9-11 Final Resolution Authorizing Public Improvements and Levying Special Assessments Against Benefited Property – Ribblesdale Subdivision and Woodland Hills Subdivision \(held 3/7/11\)](#)

Moved by Ald. Taylor, seconded by Ald. Zelinski to adopt R-9-11

Discussion ensued on different options for installation of sidewalks.

Craig Kubiak and Jim Longo spoke on holding off on installing sidewalks until the subdivision is totaled developed.

Moved by Ald. Benner, seconded by Ald. Langdon to amend to remove the installation of sidewalks on Woodland Hills Drive from the final resolution.

Motion on amendment failed on roll call 2-6. Ald. Benner, Langdon – yes.

Ald. Roush, Taylor, Wisneski, Hendricks, Zelinski, Englebert – no

Motion to adopt R-9-11 carried on roll call 8-0.

Mayor Merkes explained the development agreements (Items 2 & 3) would be acted on later on the agenda after the Closed Session. (See Item Q)

2. [Development Agreement between City of Menasha and Cypress Homes and Realty, Inc. \(held 3/7/11\)](#)
3. [Motion to Remove from the Table – Development Agreement between City of Menasha and The Ponds of Menasha, LLC \(tabled 3/7/11\)](#)

Mayor Merkes asked if there was no objection they would take up Item M after Item O.

No objection

N. PUBLIC COMMENTS ON ANY MATTER LISTED ON THE AGENDA

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

No one spoke

O. RECESS TO ADMINISTRATION COMMITTEE & BOARD OF PUBLIC WORKS

Moved by Ald. Wisneski, seconded by Ald. Langdon to recess to Administration Committee and Board of Public Works at 7:19 p.m.

Motion carried on voice vote

Reconvene at 7:55 p.m.

M. CLAIMS AGAINST THE CITY

- a. LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court (Northern District, IN.)
Case No. 4:09-CV-64-TLS; and State ex rel. American Bank v. City of Menasha et al.
Case No. 10CV77 Br. 4

Via the telephone, CA/HRD Captain and Attorney Joseph Saltarelli (Hunton & Williams) explained a settlement agreement was reached with bond holders. They reviewed settlement agreement with the Council. They explained the process and timeline.

Some questions needed to be addressed in Closed Session.

P. CLOSED SESSION

Moved by Ald. Roush, seconded by Ald. Langdon to Adjourn into Closed Session pursuant to sec. 19.85(1)(g) & (e) 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 (LaFayette Life Insurance Co. v. City of Menasha et al., U.S. District Court (Northern District, IN.) Case No. 4:09-CV-64-TLS; and State ex rel. American Bank v. City of Menasha et al. Case No. 10CV77 Br. 4); and Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session (Development Agreements with Cypress Homes and Realty, Inc. and The Ponds of Menasha, LLC).

Motion carried on roll call 8-0.

Q. OPEN SESSION

Moved by Ald. Roush, seconded by Ald. Wisneski to adjourn to Open Session.

Motion carried on voice vote

1. Moved by Ald. Wisneski, seconded by Ald. Roush to approve the Settlement Agreement presented to the council tonight in LaFayette Life Ins. Co. et al. v. City of Menasha et al. case no. 4:09-CV-64-TLS-APR, authorizing the attorney to conform Exhibits to the Settlement Agreement and execute the same. Motion carried on roll call 8-0.
2. [Development Agreement between City of Menasha and Cypress Homes and Realty, Inc. \(held 3/7/11\)](#)
Moved by Ald. Wisneski, seconded by Ald. Taylor to table until more information is available.
Motion carried on voice vote.
3. [Motion to Remove from the Table – Development Agreement between City of Menasha and The Ponds of Menasha, LLC \(tabled 3/7/11\)](#)
No Action

R. SET SPECIAL MEETING DATE

Schedule Special Common Council meeting for Resolution and other financial matters related to WPPI transaction.

A Special Common Council meeting will be held on March 24, 2011 at 5:00PM

S. ADJOURNMENT

Moved by Ald. Hendricks, seconded by Ald. Wisneski to adjourn at 9:16 p.m.

Motion carried on voice vote.

Respectfully submitted by Deborah A. Galeazzi, WCMC, City Clerk