

THESE ARE THE MINUTES OF A **COMMON COUNCIL**
MEETING OF THE 27TH COMMON COUNCIL, HELD AT 7:45 P.M.,
TUESDAY, **MARCH 18, 2008**, IN THE COUNCIL CHAMBERS OF
BROOKFIELD CITY HALL, 2000 N. CALHOUN ROAD,
BROOKFIELD, WISCONSIN

MAYOR JEFF SPEAKER PRESIDING

ALDERMEN PRESENT: Scott Berg, Gary Mahkorn, Steve Ponto, Rick Owen, Christopher Blackburn, Bill Carnell, Lisa Mellone, Ron Balzer, Mark Nelson, Jim Garvens, Dan Sutton, Jerry Mellone, Mike Franz, Bob Reddin

ALDERMEN ABSENT & EXCUSED: None

ALSO PRESENT: City Attorney Karen Flaherty, Director of Finance Robert Scott, Director of Administration Dean Marquardt, Director of Community Development Dan Ertl, City Clerk Kris Schmidt, Director of Public Works Tom Grisa, Director of Human Resources Jim Zwerlein

Mayor Jeff Speaker called the Common Council to order at approximately 7:55 p.m.

Two people spoke during the 15 minute segment set aside for citizens to address the Council. Aldermen Gary Mahkorn and Lisa Mellone discussed the Elmbrook School Referendum election to be held on April 1st.

The next Common Council meeting will be April 1.

Alderman Mike Franz led the Council in the Pledge of Allegiance.

ACTIONS OF THE COMMON COUNCIL

A public hearing was heard regarding the request of the City of Brookfield to amend portions of Chapter 17, the Zoning Code, pertaining to Dining with Outdoor Seating and Construction Completion. (*Separate minutes were taken.*) 8:20 p.m.

CONSENT AGENDA

Alderman J. Mellone moved approval of the items on the Consent Agenda, except for Items #21 and #26. The motion was seconded by Alderman Blackburn and carried unanimously. Recorded as a roll call.

- 1) Minutes from the Regular Common Council meeting of March 4, 2008.

Actions and recommendations of the Plan Commission minutes of March 10, 2008, including the Plan Review Board recommendations of February 21, 2008

- 2) • **P.C. #1:** Plan Review Board recommendations of February 21, 2008 –

- a. PRB #1: Unitarian Universalist Church West, 13001 W. North Ave., for approval of a revised plan and method of operation permitting installation of roof top solar collector panels.
 - b. PRB #2: Time Warner Telecom for approval of a revised plan and method of operation permitting the installation of two additional stand-by generators at 3235 Interview Drive.
 - c. PRB #3: Kings Way Land Development LLC for re-approval of a preliminary survey map, final certified survey map for the Preserve at Chapel Hill combining same with 4275 N. Brookfield Road and relocating a stormwater detention basin thereupon. No new lots will be created.
 - d. PRB #4: Dr. David Ferber and Mrs. Heather Perkins for a garage in excess of 900 sq. ft. at 3420 Sunnyview Lane.
 - e. PRB #5: V.K. Development, 235 N. Executive Dr., for a wall sign, 28' x 2' 1-1/2" = 59 sq. ft., advertising Indiana Insurance, logo.
 - f. PRB #6: O'Sullivan's Public House, 12525 W. North Ave., for a monument sign 8' 10" x 3' 10" = 34 sq. ft. advertising: O'Sullivan's Public House.
- 3) • P.C. #2: Brookfield Academy for approval to schedule a conditional use public hearing permitting construction of an approximate 88,464 sq. ft. new high school building in two phases at 3215 N. Brookfield Road.
 - 4) • P.C. #3: Simon Group LTD for preliminary plat approval of Hill Park, a six lot subdivision with four outlots located at 18250 Burleigh Road.
 - 5) • P.C. #4: Dr. Ricardo Araujo DDS and Michelle Araujo for approval of a new plan and method of operation, preliminary survey map and final certified survey map permitting construction of an approximate 3,634 sq. ft. commercial building with parking lot at 14430 W. Greenfield Avenue. No new lots will be created.
 - 6) • P.C. #5: Revised Streetyard Landscape requirements of the "Site Development Standards for Non-Residential Uses and creating Section 3.28.010 (LL) and amending Sections 17.100.050 2B. and C. of the Municipal Code regarding the creation of a landscape plan review fee and codification of the revised landscape standards.
 - 7) Resolution approving the Streetyard Landscape Requirements of the "Site Development Standards for Non-Residential Uses, dated December 10, 2007". **Resolution No. 7853-08***
 - 8) Ordinance creating Section 3.28.010 (LL) and amending Sections 17.100.050 2.B. and C. of the Municipal Code regarding Landscape Standards Fees, Updates and Revisions. **Ordinance No. 2129-08***

As recommended by the Finance Committee

- 9) Vouchers exceeding \$50,000 requiring immediate action.
- 10) Resolution approving Financial Advisory Agreement with RBC Capital Markets with respect to 2008 general obligation corporate purpose bonds to be issued to fund the City's capital improvement program. **Resolution No. 7854-08***
- 11) Resolution approving amendment to agreement between the City and Netow Enterprises

relative to State municipal flood control grant (Calhoun Dam removal), and approving 2008 Stormwater fund budget amendment requested by the Directors of Public Works and Finance: increase Stormwater fund revenues and expenditures by \$297,033. **Resolution No. 7855-08***

- 12) Resolution affirming City financial policies regarding risk management and budget amendment. **Resolution No. 7856-08***
- 13) Request of the Fleet Division to purchase three 3/4 Ton Trucks from Ewald Automotive Group for \$56,334 for the Highway, Water, and Parks & Recreation Departments.
- 14) Request of the Fleet Division to purchase an Ambulance from Foster Coach Sales, Inc. for \$182,388.
- 15) Request of the Fleet Division to purchase 1/2 Ton Express Cargo Van from Ewald Automotive Group for \$16,709 for Facilities Maintenance.
- 16) Request of the Fleet Division to purchase two Highway Department Patrol Trucks from Lakeside International Trucks for \$133,300 for the Highway Department.

As recommended by the Legislative & Licensing Committee
(All licenses granted subject to further administrative approval)

- 17) Original Bartender Licenses (see Legislative & Licensing agenda for names).
- 18) Renewal 6-month Class B license: Brookfield Jaycees at Wirth Park, 2585 Pilgrim Rd.: Cathryn M. Dorangrichia – Agent.
- 19) Ordinance amending Section 1.12 of the Municipal Code regarding Bail Amounts. **Ordinance No. 2130-08***

As recommended by the Board of Public Works

- 20) Resolution approving the 2007 Highway Statistics Annual Report. **Resolution No. 7857-08***
- 21) *Removed from the Consent Agenda.*
- 22) Resolution awarding the bid for the 2008 Road Resurfacing Project No. R-08-01 to Payne and Dolan, Inc. for \$1,878,642.50. **Resolution No. 7859-08***
- 23) Resolution awarding the bid for the 2008 Epoxy Pavement Marking Project No. R-08-03 to Brickline, Inc. for \$56,000. **Resolution No. 7860-08***

As recommended by the Water & Sewer Board

- 24) Preliminary Resolution declaring intent to exercise special assessment powers under Section 66.0703, Wis. Stats.: Brookdale/Lothmoor Water Main Project #W-08-02 and Santa Maria Court Water Main Project #W-08-03. **Preliminary Resolution No. 7861-08***

25) Resolution awarding the bid for the Camelot Forest Water Main Relay Project No. W-08-01 to Wanasek Corporation for \$721,587.50. **Resolution No. 7862-08***

26) *Removed from the Consent Agenda.*

Council As A Whole

27) Mayor's Reappointments to the Board of Review:

- a. Kari Clappier – three year term expiring January 1, 2011.
- b. Howard Washechek – three year term expiring January 1, 2011.

*** End of the Consent Agenda ***

28) Items removed from the Consent Agenda as follows:

21) Alderman Owen moved approval of the Resolution allowing City of Brookfield residents to take small quantities of rocks, stones, broken up concrete, broken up asphaltic concrete, soil, recyclable rechargeable batteries and cell phones to the Recycle Center beginning April 1, 2008. The motion was seconded by Alderman Nelson and carried unanimously. **Resolution No. 7858-08***

26) Alderman Berg moved approval of the Resolution requesting Lake Michigan water from the City of Milwaukee to serve the southeast portion of the City of Brookfield and request that the City of Milwaukee acknowledges this formal request, and directs the appropriate officials to initiate the process. The motion was seconded by Alderman Owen and carried unanimously. **Resolution No. 7863-08***

Finance Committee

29) Alderman Garvens moved approval of the Resolution approving amendments to the 2008 capital improvement budgets requested by the Director of Finance. The motion was seconded by Alderman Reddin and carried unanimously. **Resolution No. 7864-08***

30) Alderman Garvens moved approval of the Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$4,195,000: street improvements. The motion was seconded by Alderman Reddin and carried Ayes 10, Nays 4 with Aldermen Carnell, L. Mellone, Blackburn, and J. Mellone voting nay. **Initial Resolution No. 7865-08***

31) Alderman Garvens moved approval of the Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$535,000: park improvements. The motion was seconded by Alderman Sutton and carried unanimously. **Initial Resolution No. 7866-08***

32) Alderman Garvens moved approval of the Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$1,400,000: water utility improvements. The motion was seconded by Alderman Reddin and carried Ayes 12, Nays 2 with Aldermen Blackburn and J. Mellone voting nay. **Initial Resolution No. 7867-08***

33) Alderman Garvens moved approval of the Initial Resolution authorizing General Obligation Bonds in an amount not to exceed \$3,170,000: fire station relocation/reconstruction. The motion was seconded by Alderman Berg and carried Ayes 13, Nays 1 with Alderman J. Mellone voting nay. **Initial Resolution No. 7868-08***

Legislative & Licensing Committee

34) Alderman Ponto moved adoption of the Ordinance renaming and amending all subsections of Chapter/Title 2 – Elected Officials, Administration and Personnel – except those dealing with the Code of Ethics, the Civil Service System, Emergency Management, Fire Department, and Public Records. The motion was seconded by Alderman Owen.

Alderman Sutton moved to amend Section 2.08.010 (B) to read, “....The council president may serve as a member of not more than one standing committee. His appointment thereto shall be by a three-fourths vote of all members of the council”. The motion was seconded by Alderman L. Mellone and failed Ayes 5, Nays 9 with Aldermen Blackburn, Carnell, J. Mellone, L. Mellone and Sutton voting aye.

The original motion carried unanimously. **Ordinance No. 2131-08***

Council As A Whole

35) Alderman Ponto moved approval of the Resolution rescinding Res. #2155 by eliminating the Industrial Revenue Bond Committee as the policy decisions have been assumed by the Economic Development Committee. The motion was seconded by Alderman Nelson and carried unanimously. **Resolution No. 7869-08***

36) Alderman Ponto moved approval of the Resolution rescinding Res. #4981 by eliminating the Americans with Disabilities Committee as the policy decisions have been assumed by the Human Resources and Public Safety Committee and Finance Committee. The motion was seconded by Alderman L. Mellone and carried unanimously. **Resolution No. 7870-08***

37) Alderman Ponto moved to convene into Closed Session for the following purpose: Discussion and possible action relative to settlement offers for the purchase of two homes relating to the challenge to take by condemnation lawsuits filed in Waukesha County by Craig S. Husar and Danielle M. Husar, 785 S. Calhoun Road, v. City of Brookfield (07-CV-3479) and Robert P. Marsh and Karen L. Marsh, 835 S. Calhoun Road, v. City of Brookfield (07-CV-3481). Under:

a. 19.85(1)(e) Deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons required a closed session; and

b. 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.

The motion was seconded by Alderman Garvens and carried unanimously. Recorded as a roll call. 9:22 p.m.

Present during closed session were as follows: City Clerk, City Attorney, Director of Public Works, Director of Human Resources, Director of Community Development, Director of Administration, and Director of Finance.

Alderman Garvens moved to reconvene into Open Session per Section 19.85(2) Wisconsin Statutes. The motion was seconded by Alderman Sutton and carried unanimously. Recorded as a roll call. 9:55 p.m.

Alderman Ponto moved to reject the settlement offers to purchase the homes. The motion was seconded by Alderman Reddin and carried Ayes 12, Nays 2 with Aldermen J. Mellone and Blackburn voting nay.

38) Legislative Referrals and Request for Services:

a. Alderman Lisa Mellone moved for a request for services that Section 6.08 – Dogs and Cats – of the Municipal Code be reviewed as to whether it can be effectively enforced by the Police Department. Review through Police Department and City Attorney.

39) Alderman Ponto moved to adjourn. The motion was seconded by Alderman Garvens and carried unanimously. 9:58 p.m.

* May be viewed in the City Clerk's Office.
Minutes respectfully submitted by Kristine A. Schmidt, City Clerk