

CITY OF DELAVAN
COMMON COUNCIL MEETING
July 14, 2009

Call to Order: Mayor Nieuwenhuis called the regular meeting of the City of Delavan Common Council to order at 6:30 p.m. in the Municipal Building Council Chambers.

Roll Call: The following members were present: Mayor Nieuwenhuis, Aldermen Siedelmann, Reddy, O'Connor, Johnson, Kilkenny and Finley. Also Present: City Administrator Salitros, City Attorney Koch, Building/Zoning Administrator Walling, and City Clerk Kitzman.

Pledge of Allegiance and Invocation: Mayor Nieuwenhuis led the pledge and invocation.

Approval of Minutes: Alderman O'Connor moved to approve the minutes of June 9, 2009, June 16, 2009 (2), June 22, 2009 and June 23, 2009 (2), June 29, 2009 (2) and June 30, 2009. The motion was seconded by Alderman Finley and unanimously carried.

Public Comments: Noreen Joppa Nelson, 122 North Second Street, commented on the awesome participation in the July 4th parade. Joe Bell, 54 Arbor Ridge Drive, spoke on the controversy surrounding hiring a parks and recreation director. Allen Buzzell, 353 Tyrrell Court, spoke in favor of the Goes Lithographing Company coming to Delavan.

Jennifer O'Neill Stone, 1122 Phoenix Street #8, spoke against the proposed rezone for FN Land Corporation. Dan Hogan, 561 Park Avenue spoke about the problems with traffic and was opposed to the apartment complex for FN Land Corp. Mr. Scheurmann, 1115 Phoenix Street, asked how much the apartment complex would cost the taxpayers. Mrs. Kinney, 1122 Phoenix Street, also spoke against the apartments.

Mayor Nieuwenhuis and Alderman O'Connor promoted the Relay for Life for the American Cancer Society. Allen Buzzell spoke on the Honor Flight to Washington DC to the WW II memorial.

Reports of Standing Committees - Finance and Treasurer's Report: Alderman Siedelmann reported on the meeting of July 13th. Minutes are on file and available to the public. Alderman Siedelmann moved to approve the Treasurer's Report for June 30, 2009. The motion was seconded by Alderman Johnson and carried unanimously.

General Operations: Alderman Johnson reported on the meeting of June 16th. He noted minutes are on file and available to the public.

Public Works: Alderman Kilkenny reported on the meetings of June 2nd and June 23rd where they discussed sidewalks and curbs and formulated the capital project plans for the 2010 budget.

Town of Delavan Lake Committee: Alderman Finley spoke on the projects for the Lake Committee. The next meeting is August 3rd at the Town Hall.

Library Board of Trustees: Alderman Finley indicated the next meeting will be July 15th.

Fire Station Task Force: Mayor Nieuwenhuis indicated there has not been a meeting.

Tri-Community Meeting: Alderman Finley indicated no meeting took place.

Lake Comus Protection and Rehabilitation District: Alderman Kilkenny indicated there has not been a meeting.

Communications Commission: Alderman Reddy reported on the public cable access channel and the website. The Council meeting will be broadcast at 9 a.m. and 7:30 p.m. for a week after the meeting.

On the recommendation of the Mayor, Alderman Finley moved to rearrange the agenda. The motion was seconded by Alderman Johnson and carried unanimously.

Public Hearing on a Conditional Use Permit for construction of a 50,000 square foot manufacturing building with four 45 foot tall silos which is a light industrial land use in the Manufacturing General Zoning District to be located at 2233 Hobbs Drive. Applicant: Poly-Flex, Inc. Mayor Nieuwenhuis opened the public hearing. Bill Lechner of Poly-Flex reviewed the plans for their building that will bring 40 jobs to Delavan. Fred Burkhart, Walworth County Economic Development Alliance, noted he has worked with Poly-Flex for the past two years to stay in Walworth County. Allen Buzzell, 353 Tyrrell Court, spoke in favor of the project. Council members thanked Poly-Flex for being open with the public and no closed meetings were needed. There being no further parties wishing to be heard, the public hearing was closed.

R-479 Resolution for a Conditional Use Permit for construction of a 50,000 square foot manufacturing building with four 45 foot tall silos which is a light industrial land use in the Manufacturing General Zoning District to be located at 2233 Hobbs Drive. Applicant: Poly-Flex, Inc.: Alderman Johnson moved to approve the request for a Conditional Use Permit for a 50,000 square foot building and four 45 foot high silos located at 2233 Hobbs Drive which is Light Industrial land use in the Manufacturing General zoning district pursuant to the plans prepared by Combs & Associates dated June 15, 2009, identified as project No. 109-124. The motion was seconded by Alderman Finley and carried unanimously.

R-480 Resolution Authorizing the Execution of Closing Documents from the City of Delavan to SCB Properties, LLC. (Poly-Flex, Inc.): Alderman Reddy moved to adopt the resolution authorizing the execution of the property sale closing documents to SCB Properties, LLC. The motion was seconded by Alderman Siedelmann and carried unanimously upon call of the roll.

R-481 Initial Resolution regarding Industrial Development Revenue Bond Financing to Benefit Goes Lithographing Company. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution: Todd Taves of Ehlers & Associates, financial advisor for the City of Delavan, explained the City would be lending their name to the bonds that would not go against the City's debt capacity. The company is then required to obtain the financing. Mr. Taves explained arbitrage issues with the IRS that Goes will need to comply with.

Alderman Siedelmann moved to approve the Initial Resolution regarding Industrial Development Revenue Bond Financing to benefit Goes Lithographing Company. The motion was seconded by Alderman Finley, and carried unanimously upon call of the roll.

Public Hearing - A request to rezone the southern portions of XAS1 00002 and XA107300001 from Office Park (OP) to Residential Multi Family-12 (RM-12), located north of Phoenix, east of Park Avenue, and west of the Delavan Professional Building. Applicant FN Land Corp. and a request to rezone the northern portions of XAS1 00002, XA107300001 and XA107300001A from Office Park (OP) to Business Local (BL), located south of Kunes Country Ford at 1234 E Geneva Street. Applicant FN Land Corp. Mayor Nieuwenhuis opened the public hearing. Tom Neshek from FN Land Corp. indicated the project was returned to the Plan Commission for review of the stormwater issues that have been reviewed by the engineers and approved. The developer will have a \$2 million investment in the project.

Dan Hogan, 564 Park Avenue, is opposed to the project because of the location. Allen Buzzell, 353 Tyrrell Court, was concerned about quality property management for the project. Jennifer O'Neill Stone, 1122 Phoenix Street #8, was concerned about parking on Phoenix Street.

Alderman Siedelmann spoke on traffic in the area and would like to have a road constructed between Phoenix and Geneva Street. He also expressed concern about the stormwater calculations. Alderman Finley felt the property should remain zoned for office, since there is properly zoned real estate on the west side of the city for apartments. Alderman Johnson also expressed concern about the project.

Mr. Neshek state that F & N withdraws both of their petitions. There being no further parties wishing to be heard, the public hearing was closed.

Ordinance to rezone the southern portions of XAS1 00002 and XA107300001 from Office Park (OP) to Residential Multi Family-12 (RM-12), located north of Phoenix, east of Park Avenue, and west of the Delavan Professional Building. Applicant FN Land Corp. Alderman Kilkenney move to remove this item from the agenda. The motion was seconded by Alderman Finley.

Ordinance to rezone the northern portions of XAS1 00002, XA107300001 and XA107300001A from Office Park (OP) to Business Local (BL), located south of Kunes Country Ford at 1234 E Geneva Street. Applicant FN Land Corp. Alderman Johnson moved, seconded by Alderman Finley, and unanimously carried to remove this item from the agenda.

RC-276 Petition for Direct Annexation for 4.40 acres of land from the Town of Darien located at 975 W. Walworth Avenue and Assign Temporary Zoning of Institutional (I). Petitioner-Walworth County Metropolitan Sewerage District: Alderman Johnson moved to approve the petition for Direct Annexation of 4.4 acres

owned by WalCoMet and assign the temporary zoning classification of Institutional. The motion was seconded by Alderman Finley and carried unanimously.

Consider approval of Development Agreement between the City of Delavan and Green Isle Properties, LLC: City Attorney Koch indicated this development agreement has been reviewed for the past two years with staff. The development agreement provides adequate protection for the City. Alderman Siedelmann noted this will save approximately \$50,000 annually on irrigation costs for the golf course. Alderman Johnson moved to approve the Development Agreement between the City of Delavan and Green Isle Properties, LLC. The motion was seconded by Alderman Siedelmann.

Alderman Kilkenny moved on page 7, #8 to strike “These private streets must be built to City street standards and observe all offsets and required in our subdivision code.” The motion was seconded by Alderman Finley.

Alderman Kilkenny explained his desire to have the road remain public. Frequently property owners will request additional services from the City and we are unable to provide the services since the street is too narrow. Attorney John Maier, representing Green Isle, explained the Green Isle Property Owner’s Association is required to maintain the street. Attorney Maier opined the effect of the motion is to change the preliminary plat as it was previously approved.

The amending motion was defeated with Alderman Kilkenny voting in the affirmative. The original motion to approve the Development Agreement carried with Alderman Kilkenny dissenting.

Consider approval of Final Plat for Green Isle Subdivision: Alderman Finley moved, seconded by Alderman O’Connor, to approve the Final Plat of the First Phase for Green Isle Subdivision. The motion carried with Alderman Kilkenny dissenting.

Consider Three-Party Design Engineering Services Contract between the City of Delavan, the Wisconsin Department of Transportation and Strand Associates, Inc. for STH 50-East Geneva Street/Seventh Street from Wisconsin Street to Wright Street. Alderman Siedelmann moved to approve the Three-Party Design Engineering Services Contract between the City of Delavan, the Wisconsin Department of Transportation and Strand Associates, Inc for STH 50-East Geneva Street/Seventh Street from Wisconsin Street to Wright Street at an amount not to exceed \$95,878.97. Alderman Finley seconded the motion that carried unanimously upon call of the roll.

Consider award of the 2009 Sidewalk Repair Program Contract to Venske Concrete & Construction in the amount of \$17,704.12: Alderman Siedelmann moved to award the 2009 Sidewalk Repair Program Contract to Venske Concrete & Construction of Fort Atkinson, WI in an amount of \$17,704.12. The motion was seconded by Alderman Kilkenny. City Administrator Salitros noted the bids were on measured quantities and the actual contract would be for the unit price since some sidewalks may be added or removed. He asked if staff would need to come back with a change order for the addition

of any sidewalk. The consensus was that would not be necessary. The motion carried unanimously upon call of the roll.

Consider award of proposal for Drain Line Installation on McDowell Street to Odling Construction of Delavan in the amount of \$1,860: Alderman Kilkenny noted the item was approved by the Finance Committee and it does not need Council consideration. Alderman O'Connor moved, seconded by Alderman Finley to remove this item from the agenda. The motion carried unanimously.

Review requirement to have Public Sidewalk at 532 S Third Street owned by Daniel Murphy. Alderman Kilkenny noted at the Public Works Committee meeting there was a discussion on sidewalks. At that time the street was included in the public works street project, however later removed. Alderman Kilkenny moved that since no Council action was taken, the public sidewalk should remain and be considered if the road project is brought forward again. The motion was seconded by Alderman Finley.

Mr. Murphy indicated he was under the impression that the Public Works Committee said he could bury his sidewalk, and now the City is saying that I can't. Mr. Murphy indicated he has paid to have the sidewalk that was in disrepair covered and he would not have done so without permission. A lengthy discussion ensued on the value of this sidewalk as it goes to nowhere and was in disrepair. Alderman Kilkenny moved to amend the motion "Removal be suspended until review by public works and the Council." The amendment was seconded by Alderman Finley. After much discussion, all motions were withdrawn.

Alderman Siedelmann moved to leave the sidewalk alone until such time as reconstruction is reconsidered for South Third Street. The motion was seconded by Alderman Reddy. City Administrator Salitros confirmed that it is the intention of the council that enforcement of sidewalk condition standards are being waived by Council at this location for the time being. The motion carried unanimously.

Review Petition to Eliminate Sidewalk at 111 Walnut Street from Thomas Niquette. Mr. Niquette indicated that Walnut Street is under construction and will include rebuilding the sidewalk in front of his house. He noted this is the only section of sidewalk on that side of the street. Public Works Assistant Weckel indicated the Water Department is doing the project and will repair curb, gutter and sidewalk damaged during construction, but no additional sidewalk would be added. Alderman Finley moved to remove the Walnut Street sidewalk at 111 Walnut Street. The motion was seconded by Alderman Johnson. The motion carried unanimously.

R-482 Resolution designating Surplus Property of Fire Department Truck #1: Alderman Finley moved to adopt the resolution designating Truck #1 as surplus property. The motion was seconded by Alderman Johnson. City Administrator Salitros explained the fire truck may be sold on E-bay. The Council had no objection to utilizing E-bay. The motion carried unanimously.

Approval of Bills: Alderman Siedelmann moved to approve Warrant 09-06 and Supplemental List of Bills in Excess of \$5,000 for June, 2009. The motion was seconded by Alderman Johnson and carried unanimously upon call of the roll.

Schedule Goal Setting Session: The Council consensus was to use the same facilitator as last time, and to schedule a goal setting session possibly for a Saturday morning at the Community Meeting Room at 820 East Geneva Street.

Discussion and possible action on City Administrator Search: Alderman Kilkenny noted the current administrator's contract ends January 9th and the hiring process takes time. A discussion ensued on whether the administrator should be replaced. City Attorney Koch indicated the meeting was not properly agendicized to discuss personnel issues. Alderman O'Connor moved to table for further discussion and a possible closed session. The motion was seconded by Alderman Johnson. The motion carried with Aldermen Reddy, Kilkenny and Finley dissenting and Mayor Nieuwenhuis voting in the affirmative.

Suggested Future Agenda Items: Alderman Finley asked for a discussion and possible action from moving the cable PEG station from the school to city hall. Mayor Nieuwenhuis asked that the Communications Commission review the matter.

Adjourn: There being no further business to come before the Common Council, the meeting adjourned at 9:18 p.m. upon a motion by Alderman O'Connor, seconded by Alderman Finley and unanimously carried.

Susan Kitzman
City Clerk

**SPECIAL COMMON COUNCIL
June 16, 2009**

Call to Order: Mayor Nieuwenhuis called the special meeting to order at 9:30 p.m. in the Municipal Building Council Chambers. The special meeting was called by Aldermen Reddy, Finley and Kilkenny.

Roll Call: The following members were present: Mayor Nieuwenhuis, Aldermen Siedelmann, Reddy, O'Connor, Johnson, Kilkenny and Finley. Also Present: City Administrator Salitros, City Attorney Koch, Public Works Assistant Weckel and City Clerk Kitzman..

Public Comment: Steve Clardy, 309 S 4th Street, Royce DeBow, 628 Westbury Lane, Dan Kilkenny, N3616 Elm Ridge Road, Dory Block, S 7th Street, Joe Bell, 54 Arbor Ridge Drive all expressed concerns or opinions on the proposal for the YMCA to provide parks and recreation services.

Discussion and possible action regarding proposal of YMCA to provide the City with contract recreational services. Alderman Kilkenny moved to confirm that the July

20th meeting will convene as scheduled and to have the city attorney review legal requirements for adopting the YMCA proposal if desired by the Council. The motion was seconded by Alderman Finley. After much discussion the motion carried unanimously upon call of the roll.

Adjourn: There being no further business to come before the Common Council, Mayor Nieuwenhuis adjourned the meeting at 10:10 p.m.

Susan Kitzman
City Clerk