Common Council

Regular Meeting

335 South Broadway
De Pere, WI 54115
http://www.de-pere.org

Minutes

Tuesday, December 15, 2015 | 7:30 PM | De Pere City Hall Council Chambers

1. Call to order: The Common Council Meeting was called to order on December 15, 2015 at 7:30 PM De Pere City Hall Council Chambers, 335 S. Broadway Street, De Pere, WI.

Attendee Name	Title	Status
Michael J. Walsh	Mayor	Present
Kevin Bauer	Alderperson	Present
James Boyd	Alderperson	Present
Scott Crevier	Alderperson	Present
Michael Donovan	Alderperson	Present
Jim Kneiszel	Alderperson	Present
Larry Lueck	Alderperson	Present
Dean Raasch	Alderperson	Present
Lisa Rafferty	Alderperson	Present

2. Pledge of allegiance to the Flag.

3. Approval of the Minutes of the December 1, 2015 Common Council Meeting.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Donovan, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

4. A Public Hearing on a vacation of a portion of public thoroughfare (George Street right-of-way adjacent to ED-844).

   A. Notice of Public Hearing.

   City Clerk-Treasurer Shana Ledvina announced that the public hearing was published in the Green Bay Press Gazette on November, 19, November 26, and December 3, 2015.

   B. Recommendation from the Plan Commission.

   Kim Flom, Director of Economic Planning, stated that the Plan Commission recommended approval of this vacation.

   C. Resolution #15-122, Regarding the Vacation of a Portion of Public Thoroughfare (George Street Right-of-Way Adjacent to ED-844).

   Mayor Walsh declared the public hearing open; no one wished to speak and the Mayor declared the public hearing closed and entertained a motion. Alderperson Donovan moved, seconded by Alderperson Boyd to approve the vacation. Alderperson Crevier asked who owns the land being vacated. City Attorney Judy Schmidt-Lehman explained that the City of De Pere owns the vacated portion of land and that the intent is to sell this land to the developer.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Donovan, Alderperson
SECONDER:	James Boyd, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

5. A Public Hearing on a Conditional Use Permit to allow St. Norbert College Sports Center use and for the expansion project at 601 Third Street.

A. Notice of Public Hearing.

City Clerk-Treasurer Shana Ledvina announced that the public hearing was published in the Green Bay Press Gazette on December 7, 2015.

B. Recommendation from the Plan Commission.

Kim Flom, Director of Economic Planning, stated that the Plan Commission recommended approval of the conditional use permit. St. Norbert College addressed the parking concerns for the area with a parking analysis.

C. Resolution #15-134, Authorizing and Approving a Conditional Use Permit (Parcels WD-28-32, WD-33 and WD-39-44).

Mayor Walsh declared the public hearing open; no one wished to speak and the Mayor declared the public hearing closed and entertained a motion. Alderperson Crevier stated that he will abstain from voting on this item.

RESULT:	**ADOPTED [7 TO 0]**
MOVER:	Larry Lueck, Alderperson
SECONDER:	Lisa Rafferty, Alderperson
AYES:	Bauer, Boyd, Donovan, Kneiszel, Lueck, Raasch, Rafferty
ABSTAIN:	Scott Crevier

6. A Public Hearing on the Rezoning of Parcel WD-D0020-3 for a 48,0000+ SF Place of Assembly at 1551 Lawrence Drive.(Plan Commission recommended denial.)

A. Notice of Public Hearing.

City Clerk-Treasurer Shana Ledvina announced that the public hearing was published in the Green Bay Press Gazette on December 4 and December 7, 2015.

B. Recommendation from the Plan Commission.

Economic Development and Planning Director Kim Flom explained that the recommendation from the Plan Commission was to deny the request to rezone the parcel. She provided background information on the Plan Commission Meeting held on November 30 at which staff provided an analysis that did not recommend the rezoning of the property to include places of assembly. Since that meeting, City Staff has received many calls, letters, and emails of support from Life Church members. She proceeded to review the map and provided an analysis of the land use and the site being discussed. She explained the City's Comprehensive Plan and its purpose. She explained that this parcel is in one of the most restrictive zoning districts in the City and that the area is less than 2% of the total land area in the City of De Pere. The type of use being requested is common in other similarly zoned commercial areas, amounting to nearly 70% of the total land area in the City of De Pere, but not in this particular area. She defined this type of

church as a "megachurch" because megachurches typically offer much more than just weekend masses to their members. Both the intensity of their land use as a megachurch as well as their growing membership is prompting the church to look at locating to a more commercial area. She explained that the Council has to look at land use and if the Life Church relocation fits into the City's Comprehensive Plan.

Mayor Walsh declared the Public Hearing open and the following individuals came forward to speak in favor of the rezoning for the Life Church relocation: George and Diane Koltz, Brian Hogwood, Tara Zach, Amy Mitchell, Jeff Hoisington, Kip Golden, Eric Verboncouer, Julie Carter, Dana Sitar, Dan and Lauren Gilanyi, Amy Spice, Angelica Suarez, Tammy Peterson, Bruce Levenhagen, Erik Hansen, Dave Deshazer, B.J. Garanja, Jeremy Thompson, Ryan Maher, Angela Conway Marshall, Alex Kockem, Nate Przybelski, Eric Harkoff, Patrine Coldwell, Ty Montgomery, James Jones, Randall Cobb, Scott Eastman, Nathalie Neree, Jeff Noeldner, Chaplain Konrad, Dana Holtzheimer, Pastors Shawn and Sunny Hennessy, Rochelle Doherty, Ken Smith, Michael and Taylor Caulfield, and Matthew Phillips. At 9:42 p.m., Mayor Walsh declared the public hearing closed and entertained a motion.

C. Ordinance #15-33, Amending Precise Implementation Plan (WD-D0020-3).

Alderperson Crevier moved, seconded by Alderperson Rafferty to approve the zoning request.

Mayor Walsh thanked everyone who called, emailed, or sent letters for their contact. He explained that no one with the City is against Life Church and that the issue before the Council is about zoning. In his 20 years of dealing with controversy this is the first time that the people in opposition have been so nice. He stated it is a testament to the pastors and the congregation and that he is impressed and appreciative for this.

Alderperson Crevier asked why the change in zoning is being referred to as substantial; Economic Development and Planning Director Kim Flom explained that a land use change is a major change under zoning code. Discussion followed regarding the Comprehensive Plan, the Zoning Code, and acceptable uses for this location. Discussion followed about who in the business park was contacted about the potential change in zoning to this area and Kim Flom replied that notices were sent to any that were located within 300 feet from the district.

Alderperson Rafferty asked if anyone was against this rezoning and Mayor Walsh replied that he only received two negative comments from residents.

Alderperson Bauer asked about the restrictive covenants put in place on the building by the developer. Alderperson Bauer moved, seconded by Alderperson Donovan to open the meeting. Upon vote, motion carried unanimously. Jeff Noeldner, owner of the empty parcel contiguous with the Sportsman's Warehouse building, came forward and shared the restrictive covenants with the Council. Discussion followed. Alderperson Bauer moved, seconded by Alderperson Kneiszel to close the meeting. Upon vote, motion carried unanimously.

Alderperson Raasch asked about conflicting case law related to religious land use. City Attorney Judy Schmidt-Lehman explained that there is a split in federal circuits regarding religious land use; generally the law prohibits local units of government from treating religious uses on unequal terms with secular uses but different parts of the country use different tests to determine this. One test looks to see if a zoning ordinance permits any type of assembly then it has to allow for all types of assemblies. Another test, applicable in Wisconsin, is to look at zoning

criteria to determine if secular and religious land uses are treated equally. Here, since we have neither non-commercial secular assembly nor religious assembly uses allowed, the Council is able to deny the request to rezone, but it needs to be looked at the way the law is applied and not how we want it to apply. Discussion followed. Alderperson Lueck requested copies of the restrictive covenant provided by Jeff Noeldner be passed around for Council review. The Mayor requested a 5 minute recess at 10:24 p.m.
Upon review of the restrictive covenant, there was no further discussion and the motion to approve the rezoning was approved 5-3 with Alderpersons Boyd, Kneiszel and Raasch voting nay. A second reading of the ordinance is required.

RESULT:	**SECOND READING REQUIRED [5 TO 3]**
MOVER:	Scott Crevier, Alderperson
SECONDER:	Lisa Rafferty, Alderperson
AYES:	Bauer, Crevier, Donovan, Lueck, Rafferty
NAYS:	James Boyd, Jim Kneiszel, Dean Raasch

7. Public comment upon matters not on the agenda or other announcements. None.

8. Recommendation from Finance/Personnel Committee to approve 2016 Recommendations for Seasonal Wage Scale

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Scott Crevier, Alderperson
SECONDER:	Larry Lueck, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

9. Recommendation from the Parks Director to authorize boiler replacement at the Community Center.

City Parks and Recreation Director Marty Kosobucki stated that the replacement will happen as soon as possible.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Dean Raasch, Alderperson
SECONDER:	Lisa Rafferty, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

10. Ordinance #15-34, Amending §150-22 De Pere Municipal Code Regarding Overnight Parking.

Alderperson Bauer moved, seconded by Alderperson Rafferty to amend the ordinance to include the day before, the day of and the day after the holidays listed in the ordinance. Upon vote, motion carried 7-1 with Alderperson Lueck voting nay. Alderperson Kneiszel moved, seconded by Alderperson Bauer to make this ordinance effective as soon as possible. Upon vote, motion carried unanimously. Discussion followed. Upon vote on the ordinance as amended, motion carried 7-1 with Alderperson Lueck voting nay.
Alderperson Donovan moved, seconded by Alderperson Raasch to reconsider the vote on the ordinance. Alderperson Bauer moved, seconded by Alderperson Kneiszel to approve the ordinance. Upon vote, motion carried unanimously.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Lisa Rafferty, Alderperson
SECONDER:	Jim Kneiszel, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

11. Ordinance #15-35, Amending §150-3(e) De Pere Municipal Code Regarding Parking Violation Penalties.

    This item was inadvertently skipped and will be addressed at the January 5, 2016 Common Council Meeting.

12. Resolution #15-135, Establishing Penalties for Certain Parking Violations.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Donovan, Alderperson
SECONDER:	Kevin Bauer, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

13. Resolution #15-136, Authorizing Agreement for Revaluation and Contract Assessor Services (January 1, 2016 - December 31, 2018).

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	James Boyd, Alderperson
SECONDER:	Jim Kneiszel, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

14. Resolution #15-137, Revising Sewer Service Rates (December 2015).

RESULT:	**ADOPTED [7 TO 1]**
MOVER:	Scott Crevier, Alderperson
SECONDER:	Kevin Bauer, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Rafferty
NAYS:	Dean Raasch

15. Resolution #15-138, Authorizing Issuance of a Promissory Note for Temporary Borrowing of $147,000 for Public Purposes.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Jim Kneiszel, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

16. Resolution #15-139, Authorizing Agreement with Care-Plus Dental Plans, Inc.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Lisa Rafferty, Alderperson
SECONDER:	Larry Lueck, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

17. Resolution #15-140, Regarding Reimbursement for Damage to Mail Receptacles Placed in the Public Way.

    Alderperson Rafferty asked about Appleton's policy that states that the City is not responsible for damaged mailboxes that are not within the USPS regulations for placement.

Public Works Director Scott Thoresen explained that the City of De Pere does not reimburse for mailboxes that were not within the USPS regulations.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Scott Crevier, Alderperson
SECONDER:	Kevin Bauer, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

18. Resolution #15-141, Regarding Certain Fees.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Larry Lueck, Alderperson
SECONDER:	Dean Raasch, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

19. Resolution #15-142, Authorizing Certain Fees for Health Department Services.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Donovan, Alderperson
SECONDER:	Jim Kneiszel, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

20. Resolution #15-143, Regarding De Pere Parks, Recreation and Forestry Recreation Programs, Swimming Pool and Community Center Fees 2016.

Alderperson Kneiszel asked if there are complaints from residents about the shelter fees being too expensive. Parks and Recreation Director Marty Kosobucki explained that the department compares fees to the surrounding communities and that the City of De Pere's fees are consistent with other Brown County communities.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Kevin Bauer, Alderperson
SECONDER:	James Boyd, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

21. Consider Community Service Grant Application.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Dean Raasch, Alderperson
SECONDER:	James Boyd, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

22. Appointment of Election Officials for 2016-2017 Elections.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Michael Donovan, Alderperson
SECONDER:	Lisa Rafferty, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

23. Voucher Approval.

Alderperson Crevier asked about a $29,000 payment to Jones Sign. City Administrator Larry Delo explained the payment was a partial payment for the new City sign on Highway 41 and that the sign hasn't been installed yet because the ground is too wet.

RESULT:	**ADOPTED [UNANIMOUS]**
MOVER:	Dean Raasch, Alderperson
SECONDER:	Scott Crevier, Alderperson
AYES:	Bauer, Boyd, Crevier, Donovan, Kneiszel, Lueck, Raasch, Rafferty

24. Operator License Applications.

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ITEM	NAME	ADDRESS	CITY	ST	ZIP
Previously Tabled Operator Licenses					
1	JANSEN, ERIC J.	525 DUTTON AVE.	GREEN BAY	WI	54304
2	WERNER, CAMERON B.	334 1/2 MAIN AVE.	DE PERE	WI	54115
New Operator License Applications for the 2014-2016 Licensing Period					
1	ADKINS, TARA R.	2529 LANDLER ST.	GREEN BAY	WI	54313
2	DEATHERAGE, JENNIFER A.	1975 SCHEURING RD., APT. #5	DE PERE	WI	54115
3	FIEST, CODY J.	917 SOUTHERN CROSS RD.	GREEN BAY	WI	54303
4	GRAVES, HANNAH, F.	2031 HIDDEN CREEK RD.	NEENAH	WI	54956
5	METOXEN, KATIE J.	1508 N. MENNEN CT.	GREEN BAY	WI	54304
6	SANDERS, ADAM P.	1668 TALUS CIR.	DE PERE	WI	54115
7	STERCKX, MICHELE A.	1304 SUNDOWN LN.	DE PERE	WI	54115
8	TAYLOR, SAMANTHA R.	2694 MEADOWCREST DR.	GREEN BAY	WI	54304
9	WARD, RACHAEL M.	452 S. ST. BERNARD DR., APT. #4	DE PERE	WI	54115
10	ZWICKY, AMY J.	320 S. ERIE ST.	DE PERE	WI	54115

Alderperson Bauer moved, seconded by Alderperson Raasch to table Previously Tabled Operator License Application #1 and to deny Previously Tabled Operator License Application #2. Upon vote, motion carried unanimously.
Alderperson Bauer moved, seconded by Alderperson Boyd to approve Regular Operator License Applications #1-7 and 10 and to table 8 and 9. Upon vote, motion carried unanimously.

25. Future Agenda Items.

Alderperson Donovan requested an update on the southern bridge.

26. City Administrator Annual Performance Evaluation.

At 10:56 p.m., Alderperson Raasch moved, seconded by Alderperson Kneiszel to close the meeting. Upon roll call vote, motion carried unanimously.
At 11:42 p.m., Alderperson Donovan moved, seconded by Alderperson Bauer to open the meeting. Upon roll call vote, motion carried unanimously.
Alderperson Bauer moved, seconded by Alderperson Raasch to approve a 5% salary increase to the City Administrator position. Upon vote, motion carried unanimously.

27. Adjournment.

Alderperson Bauer moved, seconded by Alderperson Lueck to adjourn the meeting at 11:43 p.m. Upon vote, motion carried unanimously.

Respectfully submitted,

Shana Ledvina, Clerk-Treasurer