

Meeting of: **COMMON COUNCIL OF THE CITY OF STOUGHTON**
Date/Time: Tuesday, June 23, 2015 @ 7:00 P.M.
Location: Council Chambers at the Public Safety Building
Members: Michael Engelberger, Sid Boersma, Ron Christianson, Eric Hohol, Greg Jenson,
Paul Lawrence, Tom Majewski, Tom Selsor, Regina Hirsch, Tim Swadley,
Sonny Swangstu, Pat O'Connor

CALL TO ORDER

Mayor Olson called to the meeting of the Common Council to order at 7:03pm.

Roll Call, Communications, and Presentations:

Clerk Kropf called the roll and noted that eight alders were present; O'Connor, Boersma, Engelberger, and Hohol were absent and excused.

Lieutenant Dan Jenks addressed the Council regarding the active shooter training that was conducted. He noted that the training was at the Stoughton Middle School and involved the help of the Police Department, Fire Department, EMS Department, Streets Department, and the Stoughton School District.

Hohol joined the meeting at 7:05pm.

Kettle Park West Update

Dennis Steinkraus from Forward Development Group (FDG) addressed the Council with an update on the Kettle Park West Development. He thanked the Council for approving the sixty day extension to FDG so that they may complete the pre-development work that is now required under the terms of the approved Developer's Agreement. He stated that a multiparty agreement involving the City, Wal-Mart, and Kettle Park West, LLC will be drafted. He noted that the agreement will be drafted with the construction lender executing a separate "subordination and consent" to the tri-party agreement. He stated that the construction lender will also ask the City to approve a standard collateral assignment. This assignment will transfer rights to the lender only as an additional security for a loan and that once the loan is paid in full, the lender will relinquish the collateral assignment and the rights will revert to the borrower.

Minutes and Reports: The following minutes and reports were entered into the record:

Minutes: Finance Committee (5/26/2015), Landmarks Commission (5/14/2015), Planning Commission (5/11/2015), Public Works Committee (4/20/2015), and Utilities Committee (5/18/2015)

Reports: Utilities Financial Reports & April Treasurer's Report

Public Comment Period:

Buzz Davis; 1021 Riverview Dr; Spoke in opposition to the use of contingency funds reconsideration.
Jim Blouin; 600 W Main St; Spoke in opposition of Tax Incremental Financing for Kettle Park West.

Kathleen Johnson; 319 S Franklin St; Spoke in opposition to the use of contingency funds reconsideration.

Ingrid Thompson; 217 N Franklin St; Spoke in opposition to the use of contingency funds reconsideration.

CONSENT AGENDA

A. Council Minutes: June 9, 2015

Motion by Lawrence, to approve the consent agenda, second by Swadley. Motion carried unanimously 9-0.

OLD BUSINESS

Possible reconsideration of the following motion adopted at the June 9, 2015 meeting of the Common Council: "That the city will not consider the use of any contingency funds outlined in the current developer's agreement until the project has been substantially completed."

Motion by Jenson, to reconsider the motion made by Alderperson Swadley made at the June 9, 2015 Common Council meeting that stated, "That the City will not consider the use of any contingency funds outlined in the current developer's agreement until the project has been substantially completed", second by Lawrence.

Swadley called a point of order regarding the reconsideration by Council. He stated that City of Stoughton Common Council Rule 10 did not allow this action because the contracts under consideration have already been signed and the motion made has been approved as part of the developer's agreement.

Attorney Dregne stated that it was his understanding that the amendment to the motion that was given by Alderperson Swadley at the June 9, 2015 meeting, was to amend the resolution not the developer's agreement. He also noted that no language contained within the Developer's agreement was changed to reflect that amendment.

Swadley stated that he made the motion with the intention of changing the Developer's Agreement, not just the resolution.

The minutes of the June 9, 2015 Council meeting were then read aloud. Hirsch questioned what the changes were in the new developer's agreement. Attorney Dregne noted that the changes made to the agreement included the date extension and to add a condition of approval with the agreement with Wal-Mart to provide for additional guarantees. Attorney Dregne stated that the amendment made was made to the resolution and not the developer's agreement.

Clerk Kropf read the amendment made to R-85-2015.

Mayor Olson stated that the amendment was to the resolution and the point of order is out of order.

Swadley appealed the chairs decision.

Selsor stated that he doesn't agree with Swadley's point of order. He stated that the original motion that was amended regarded whether the Council would consider approving the use of the contingency funds and it did not affect the developer's agreement in any way.

Motion to sustain the Mayor's ruling that that Point of Order was out of order passed on a roll call vote 6-3, with Hirsh, Majewski, and Swadley voting noe.

Hohol made a point of order that a person can request that a previously voted on motion be brought back to the Council for reconsideration without the Council having to vote to do so.

Attorney Dregne stated that it was his understanding of the Stoughton Common Council Rule 10, that the Council would have to second that request and vote on the reconsideration.

Mayor Olson affirmed Hohol's point, that a vote was not necessary. The original motion was reread and available for Council consideration.

Hohol asked the attorney to discuss the overview on contingency funds.

Attorney Dregne explained that the developer's agreement was put together before the final amounts for the construction were available and so the developer presented part of the projected costs in the developer's agreement as contingency amounts. The agreement allows the developer to request for approval for the use of the contingency funds at any time throughout the construction. He noted that the bid amounts will not be available until Thursday, June 25, 2015.

Selsor explained that he wanted to table this issue until all of the Council is present and when the bids are in.

Hohol explained that he also couldn't vote to use the contingency funds for this project until the bids have come in.

Swadley explained that his motion doesn't state that the contingency funds will never be considered in this project, but they can be considered once the project is substantially completed. He also wants to table this issue and possibly bring it back into closed session.

Motion by Selsor, to table agenda item #5 until the July 14, 2015 Common Council Meeting, second by Swadley.

Motion failed 4-5, with Hohol, Jenson, Swangstu, Christianson, and Lawrence voting noe.

Motion by Lawrence, to call the question, second by Christianson. The vote failed 5-4, with Majewski, Hirsh, Selsor, and Swadley voting noe, for a lack of a two thirds majority.

Mayor Olson clarified that this motion is a reconsideration the use of contingency funds not how

much will be used.

The motion was then reread as the motion made by Swadley that stated “That the city will not consider the use of any contingency funds outlined in the current developer’s agreement until the project has been substantially completed.”

Motion failed by a roll call vote 4-5 with Christianson, Jenson, Hohol, Swangstu and Lawrence voting no.

R-99-2015- Approving the use of contingency amounts in the Kettle Park West Development Agreement

Motion by Christianson, to table R-99-2015 until the July 14, 2015 Common Council meeting, second by Lawrence. Motion passed unanimously by acclamation 9-0.

R-46-2015- Authorizing Council approval of the revised Rules of the Common Council & Standing Committees

Motion by Jenson, to approve R-46-2015, second by Swangstu. Jenson stated that he felt there needed to be an adjustment made to section 10 of the Council rules pertaining to reconsideration of a motion.

Motion to amend by Jenson, to include language in section 10 of the council rules to state “first a vote is taken on a motion to reconsider and if it passes, the question can be debated and voted on again” after the first sentence in the section 10, second by Hohol. Amendment to the rules passed 9-0 unanimously by acclamation.

Motion to amend by Selsor to amend the Council Rule 7 B(4) to state: “The mayor may, in consultation with the Council President if feasible, approve sending the final agenda to council members, or amending the agenda, less than 5 days prior to the meeting, when the mayor, in consultation with the Council president if feasible, deems appropriate to protect the City's interests or to avoid unnecessary delay or hardship for the City or interested parties”, second by Hohol.

Attorney Dregne’s only concern with the amendment is if the Mayor cannot locate the Council President for his or her input.

Amendment to the motion carried unanimously by acclamation 9-0.

Original motion carried unanimously by acclamation 9-0.

O-2-2015- Amending Multiple Sections of the Historic Preservation Ordinance – Chapter 38 of the Stoughton Municipal Code

Lawrence presented O-2-2015 and explained that this item will be back before the Council for a vote at the next Council meeting.

NEW BUSINESS

O-3-2015- Amending the City of Stoughton Municipal Zoning Ordinance Section's 78-206(4)(r); 78-105(4)(b)2; 78-105(4)(c) and Appendix C- Relating to artisan studios and artisan production shops

Christianson presented O-3-2015 and explained that this will be back before the Council for a vote at the next Council meeting.

Selsor left the meeting at 8:56pm.

R-92-2015- Authorizing and directing staff to prepare a developer/ TIF agreement between the City of Stoughton and North American Fur Auctions, INC for the Business Park Expansion Lot

Motion by Christianson, to approve R-92-2015, second by Lawrence. Finance Director Sullivan explained that this is step one in getting a business into the Business Park Expansion. This would be the creation of TIF 6. Hirsch questioned why TIF is needed for this project. Finance Director Sullivan explained that currently there is no access to those lots. It would allow the city to build the road and allow not only this business but other businesses to come into that area as well. Motion carried unanimously by acclamation 8-0.

R-93-2015- Resolution approving the City of Stoughton Open Records Request Policy

Motion by Jenson, to approve R-93-2015, second by Lawrence. Jenson explained that the City didn't have a policy prior and this just lays ground rules on how to handle Open Records Requests. Hirsch wondered why City staff recommended the \$0.25 per page fee for hard copies, as laid out in the policy. Attorney Dregne stated that the Department of Justice (DOJ) has deemed that amount appropriate. Hohol explained that the fee is in line with other communities and the DOJ. He also reiterated that the fee would only apply to paper copies and that there wasn't a fee for electronic copies. Finance Director Sullivan explained that this policy would also be used for businesses that make frivolous open records requests towards the City.

Motion carried 8-0 unanimously by acclamation.

R-94-2015- Approving a Conditional Use Permit for Melonie Gaskin to operate a Group Daycare at 1425 E. Main Street, Stoughton, Wisconsin.

Motion by Christianson, to approve R-94-2015, second by Hohol. Christianson explained that this is a new daycare taking the place of a previous daycare at the same location. Motion carried 7-0 with Lawrence abstaining.

R-95-2015- Recognizing and celebrating the 35th Anniversary of the creation of WPPI Energy

Motion by Lawrence, to approve R-95-2015, second by Hohol. Motion carried unanimously by acclamation 8-0.

R-96-2015-Authorizing and directing the proper city official(s) to issue “Class A” Liquor licenses to Kwik Trip, INC. D/B/A Kwik Trip # 738, located at 1231 E Main St and Kwik Trip # 739, located at 517 W Main St

Motion by Hirsch, to approve R-96-2015, second by Christianson. Hirsch explained that it was the consensus of the committee that it would not be appropriate to approve these licenses. The request was brought forth by Kwik Trip corporate and not by the individual stores.

Motion failed 0-8.

R-97-2015-Authorizing and directing the proper city official(s) to approve a Temporary Class “B”/Class “B” Retailer’s License and a Special Event License to the Stoughton Chamber of Commerce for the Coffee Break Festival

Motion by Hirsch, to approve R-97-2015, second by Lawrence. Motion carried unanimously by acclamation 8-0.

R-98-2015- Authorizing and directing the proper city official(s) to approve a Special Event License to the Stoughton Chamber of Commerce for Corn-O-Kubbia

Motion by Hirsch, to approve R-98-2015, second by Lawrence. Hirsch explained that this is the second year for this event and the tournament this year will be held at Virgin Lake Park instead of Mandt Park. Motion carried unanimously by acclamation 8-0.

*****The Meeting May Close Per State Statute 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 require a closed session, and then reopen to take action on any items discussed in closed session and continue the regular course of business; RE:*** to consider a potential Four-Party Agreement among the City of Stoughton, McFarland State Bank, Kettle Park West LLC, and Wal-Mart Real Estate Business Trust, relating to the Kettle Park West Development

Motion by Hohol, to go into closed session, second by Lawrence. Motion passed 5-3, with Swadley, Majewski, and Christianson voting noe.

The meeting of the Common Council went into closed session at 9:20pm.

Motion by Hohol, to reconvene into open session, second by Lawrence. Motion carried unanimously by acclamation 8-0.

The meeting of the Common Council reconvened into open session at 10:33pm.

ADJOURNMENT

Motion by Hohol, to adjourn the meeting of the Common Council, second by Lawrence. Motion carried unanimously by acclamation 8-0. The meeting the Common Council adjourned at 10:33pm.