

CITY OF OCONOMOWOC
Common Council
May 21, 2019 - 7:30 PM
City Hall - Council Chambers

Present and responding to roll call were the following:

Council:	Matt Rosek
	Charlie Shaw
	Kevin Ellis
	Karen Spiegelberg
	Derek Zwart
	Tom Strey
	Lou Kowieski
	Andy Rogers

Also Present:

Staff:	David Nold
	Sarah Kitsembel
	Stan Riffle
	Betsy Bleck
	Ron Buerger
	Robert Duffy
	Kevin Freber
	Mark Frye
	Jason Gallo
	John Kelliher
	Joe Pickart
	Ivan Lam
	Chris Dehnert

Call to Order and Confirmation of Appropriate Meeting Notice

Pledge of Allegiance

Roll Call

Public Hearing

- a. The purpose of the hearing is to hear public comment on a Conditional Use Permit to allow construction of a duplex at 578 S. Concord Road. Per the Allowable Uses listed in Section 17.106 of the Oconomowoc Zoning Code, duplex use requires a CUP in the Suburban Residential (SR) zoning district. If approved, the applicant would be allowed to construct a two-family structure.

The public hearing opened at 7:34 pm. Gallo explained the property is zoned Suburban Residential and the City's Zoning Code provides for a duplex upon the granting of a conditional use permit. In 2006 a request was received to change the zoning from SR to duplex but the request was postponed due to needing proper plans, and the applicant didn't proceed. Gallo said the plans have been updated by a licensed surveyor, and the map of the property reflects the 100 year floodplain, wetlands, setbacks and easements. The units will not have a basement, and each unit will have 2 access points and a 3 car garage with 125' between the driveways. Plan Commission recommended approval of the CUP. Gallo said the CUP must have measurable standards which he reviewed, and Council must determine if the applicant has shown that the use conforms to zoning standards. The following interested persons spoke:

Vickie Bence, 526 S Concord Rd, asked what is the intent for the land from the proposed building to the bridge as she is concerned for the people who use the bridge and property for fishing.

Diane Folker, 573 S Concord Rd, lives across the street from the property, and said this is just a 2 lane road. She was concerned with the construction and how long it would last.

Aaron Honadel, 590 S Concord Rd, is concerned for the wildlife which comes to the property and the trees that will be taken down. He has issues with a high end project being built in this neighborhood, it's hard to back out of his driveway onto the road, and requested a project schedule.

Jane Owen, 520 S Concord Rd, said in 2009 Gallo requested that the property be used for canoes; most homes in the area are single-story; the property is in a conservancy corridor; the use is contrary to the land use plan; water is high in this area; the land was filled in; and there are a lot of factors to consider and due diligence to do first.

Pat Johnson, 401 E Shore Dr, Clearwater Beach FL, is the property owner and intends to move back to Wisconsin. He said he has met every condition; is not requesting any variances; should be able to get the contractor's vehicles off the road during construction which should take 6-8 months; and there will be no additional buildings on the property.

Council questioned if soil testings had been done; what is the properties history; was the environmental corridor considered; and issues due to road concerns. Gallo explained the 75' ordinary high water mark; said soil testing is the responsibility of the applicant; he was aware of ash being dumped on a different property in the area but not this one; didn't believe the environmental corridor has any impact; and the duplex use has very little traffic impact. Riffle said if the use meets all criteria in the City's Zoning Code, then the applicant is allowed to get the permit. No other comments were received. The hearing closed at 8:00 pm.

b. Public Hearing

The purpose is to hear public comment on a Conditional Use Permit to construct a 155' tall monopole tower at 662 E. Wisconsin Avenue. Per Allowable Uses listed in Section 17.106 of the Oconomowoc Zoning Code, towers of any height require a CUP in the Mixed-Use Commercial Zoning District.

c. Public Hearing

The purpose is to hear public comment on a Conditional Use Permit to construct a 185' tall monopole tower at N67 W36773 CTH K. Per Allowable Uses listed in Section 17.106 of the Oconomowoc Zoning Code, towers of any height require a CUP in the Urban Reserve Zoning District.

Riffle explained two public hearings were scheduled to be held this evening regarding cell towers. The notices had already been published when a request was received from the applicant stating their legal representatives would not be able to attend this evening and thus, unable to answer any questions that may come up. They requested this matter be adjourned to the Council meeting on June 4, 2019 at 7:30 pm. The intent is to hold a public hearing, hear evidence, close the public hearing and make a decision on the same evening. There will be no public comments received regarding these matters this evening.

Approval of Meeting Minutes

a. Minutes of April 16, 2019

Motion to approve the minutes of the April 16, 2019 meeting as presented made by Strey and seconded by Shaw.

Motion carried 8-0-0. Voted no: (None).

Comments/Suggestions from Citizens

Lynn Stull, 212 Pine St stated she has sent emails to the Mayor and City Administrator Kitsemel on data, cyber security, facial identity and 5G issues. She has an issue with the lack of response she received to her emails about her suggestion to create an IT committee which could help navigate these types of issues, bring in an expert, and her request to consider an emergency ordinance. She believes the City is set on a Smart City concept.

Consent Agenda (Items listed under the Consent Agenda are considered in one motion - a Council member may request to remove an item):

Motion to approve the Consent Agenda made by Shaw and seconded by Zwart.

Motion carried 8-0-0. Voted no: (None).

a. Licenses

b. Resolution Granting a 6 Month Class "B" License to the Oconomowoc Area Baseball Club

c. Electric Utility Easement Agreement Between the City of Oconomowoc and Dawn Ridgewell (W368 N5623 Indianhead Trail)

- d. **Treasurer's Report**
 - 1. **April Treasurer's Report**

Committee Reports

- a. **Public Services - Strey, Chr; Ellis; Zwart, Secy**
 - 1. **Consider/act on Resolution Awarding Contract for Rosenow Creek Trail Project**

Kelliher gave a Power Point presentation on the history and timeline of the Rosenow Creek Trail project, noting the last action Council took was to make a change to the project to remove the southern portion of the trail and recommend to staff that the project be re-bid, separating the inspection services from the construction. Staff reworked the project plan with the authorized consultant, re-bid it and four bids were received with the low bid being received from Blaze Landscape Contracting Inc in the amount of \$347,532.50. Staff recommended a 10% contingency (\$34,700) to be used to do any additions or changes to the project based on soil conditions or any challenges that may arise during construction. Anything above the 10% would come back to Council for approval. Kelliher said all direct purchase amenities (trail signage, trash cans, benches, landscaping and other miscellaneous items) would be done through staff (approx. \$32K). Kelliher added the total project comes to \$414,232.50, with \$300,000 budgeted, so a budget amendment of \$114,232.50 would be necessary for this project to move forward. Council questioned what the trail will connect to. Kelliher explained the Bike & Pedestrian Plan shows the trail connectivity plan runs along Lake Drive, along Hwy P behind future commercial property, up to the new NE Regional Park with future trails to Hwy K. Council commented on project costs over the 10% contingency. Riffle said with public construction if you have a contingency in the contract you would be authorizing staff, on the basis of the construction management's legitimate recommendation, to do a change order up to \$34,700. If the project goes over the 10% contingency, it comes back to Council. Council asked if we have considered any community sponsorships or donations for some of the amenity items, such as a bench and what is the deficit on the Park Impact Fee Fund at now. Kelliher said people can make donations for tree planting or benches, but we don't actively pursue those; he will share the information with some organizations who may be willing to sponsor or donate and will also add it to the City newsletter; Council has approved funding projects before funds were collected in the Park Impact Fee Fund in the past and most recently the Phase I NE Region project was approved; and with the current project, if approved, the amount borrowed will bring the total to approx. \$1.8M.

Motion to adopt the Resolution Awarding the Contract for the Rosenow Creek Trail Project and approving the budget amendment made by Shaw and seconded by Kowieski.

Motion carried 7-0-1. Voted no: Strey.

2. Consider/act on Resolution Awarding Inspection Services Contract for the Rosenow Creek Trail Project

Motion to approve the resolution awarding Inspection Services Contract to Clark Dietz for the Rosenow Creek Trail Project made by Kowieski and seconded by Zwart.

Motion carried 7-0-1. Voted no: Shaw.

Kelliher explained the recommendation from Committee was to award the contract to Clark Dietz (not the low bid). He gave a Power Point presentation and said Ruekert & Mielke (R/M) was hired to do the design for the trail project, and one of their responsibilities was to establish a list of hours for inspection services to allow City staff to do an RFP for Construction Inspection Services. The RFP was sent to 17 firms, and the timeline was shortened because we changed the scope of the project. Two proposals were received, and four of the 17 firms responded saying they were interested in the project but their staff was already committed to other projects. Staff evaluated the proposals, and both firms meet the minimum qualifications for the project. Kelliher explained R/M as the design engineer is required to provide notice of award to the approved contractor; complete all contract documents with signatures; and coordinate and run the preconstruction meeting. In addition R/M would need to provide design clarification or additional information if needed, for a total of approximately 14 hours or \$1,736. Kelliher explained the cost breakdown between the two firms, and Mayor said the resolution amount should be \$40,610 with the potential of \$1,736 additional for R/M. Council didn't like the part of the resolution where it states that this is a unit based contract with estimated hours to complete construction services so the final contract price may vary; questioned if this language was in the RFP; and would like to make it a not to exceed contract with a 10% contingency added. Riffle stated the RFP is already out, the contract is the contract; and you can't change the contract now. He has not seen the RFP for this item, but most RFP's have standard provisions relating to what the contract will be and what it will include. Riffle added if we are legally able to approve this contract with a not to exceed with a 10% contingency, this would be Zwart's amendment to the resolution. Zwart said he would like to strike the line above it because it's redundant. It says BE IT FURTHER RESOLVED that Task #1 to be performed by R/M is authorized in the amount of \$3,674 but five lines up it says the same thing and we don't need that. He thinks we should change it to \$1,736. Riffle said staff will change the resolution.

Motion to amend the resolution as follows: change amount in the fourth Whereas from \$3,674 to \$1,736; change applicable language to reflect Clark Dietz award of contract in the amount of \$46,010; add a provision to the resolution to enter into, if possible, a not to exceed contract for said inspection services with a 10% contingency, that if exceeds 10% it needs to come back to Council for review, made by Zwart and seconded by Strey.

Motion carried 7-0-1. Voted no: Shaw.

Shaw had concerns awarding a contract to a company that has a lower proposal score and a higher cost especially when the company that has the higher proposal score and the lower cost is a reputable firm and we have dealt with them before.

Plan Commission

- a. **Consider/act on Conditional Use Permit to Construct a Duplex at 578 Concord Road**
Riffle stated if this is approved the understanding of the Council is that the applicant provided substantial evidence that they met the criteria under the ordinance. Council stated based on the evidence presented and questions answered by the applicant and staff, there was substantial compliance with all zoning and CUP requirements to establish the duplex in the location chosen.
Motion to approve a Conditional Use Permit to construct a duplex at 578 Concord Road made by Rosek and seconded by Spiegelberg.
Motion carried 7-0-1. Voted no: Ellis.
- b. **Consider/act on Extraterritorial Certified Survey Map to Create a New Lot Adjacent to N67 W36785 McMahon Road, Town of Oconomowoc**
Gallo explained this request is for approval of an ETZ-CSM located in the Town of Oconomowoc which would create a 2.2 acre buildable lot with 500' of frontage on McMahon Road. The property is approx. 4,800 linear ft from North Lake Road, and the applicant intends to build a house on the site. The CSM will transfer the remaining 4 acres from the 6.17 acre site to an adjacent parcel owned by the same applicant. The Town approved the rezoning and CSM, and Plan Commission recommended approval.
Motion to approve the Extraterritorial Certified Survey Map to create a new lot adjacent to N67 W36785 McMahon Road, Town of Oconomowoc made by Kowieski and seconded by Strey.
Motion carried 8-0-0. Voted no: (None).

New Business

- a. **Consider/act on Resolution Authorizing Community Development Authority to Initiate E. WI Avenue Corridor Site Plan Design Concepts Request for Proposals**
Duffy explained the City established a Strategic Plan goal to encourage development and opportunities along the East Wisconsin Avenue corridor. The CDA put together a Request for Proposals which would provide a market and land use approach to identify potential projects which are feasible to pursue within the area.
Motion to adopt the Resolution authorizing the Community Development Authority to initiate the East Wisconsin Avenue Corridor Site Plan Design Concepts Request for Proposals made by Kowieski and seconded by Spiegelberg.
Motion carried 8-0-0. Voted no: (None).
- b. **Consider/act on Resolution Authorizing Legal Services for Sanitary Sewer District Matters**
Kitsembel explained the City has been approached by our adjacent sanitary sewer districts with regard to contract terms. Our City Attorney is unable to represent the City's interests due to a conflict of interest and recommended the City use Attorney Andrew Rossmeissl from the Herrling Clark law firm. He is willing to assist the City with these matters and charges \$245/hr. Services will be charged to the Sewer Utility.
Motion to adopt the Resolution authorizing Legal Services for Sanitary Sewer District matters made by Ellis and seconded by Shaw.
Motion carried 8-0-0. Voted no: (None).

Mayoral Appointments with Council Confirmation

a. Mayoral Appointments and Reappointments to City Boards, Commissions, Authorities, etc. with Council Confirmation

Mayor appointed Jack Melvin to the Board of Assessment Review; Jared Chapiewsky to the Library Board; and Mike Miller to the Western Lakes Fire District Fire Commission.

Motion to confirm the Mayor's appointments made by Shaw and seconded by Rosek.

Motion carried 8-0-0. Voted no: (None).

Mayor reappointed Kurt Schrang and Anne Krogstad to the Architectural Commission; Bonnie Goodson as an Alternate to the Board of Review; Lori Boldig to the Bureau of Economic Development & Tourism Commission; Joe Kozinski, David Manke and Stephen Carlson Jr to the Community Development Authority; Matt Mulder to the Library Board; Joseph Moroni, Scott Antonneau, Jimi Hall and Lauren Wittnebel to the Parks & Recreation Board; Dean Frederick to the Plan Commission; Richard Mercier to the Police and Fire Commission; Jeff Roemer to the Western Lakes Fire District Fire Board; Diane Gard to the Western Lakes Fire District Fire Commission; Kyle Driscoll, Ken Brotheridge and Bonnie Goodson as an Alternate to the Board of Zoning Appeals.

Motion to confirm the Mayor's reappointments made by Spiegelberg and seconded by Zwart.

Motion carried 8-0-0. Voted no: (None).

Mayoral Appointments of City Attorney and Assistant City Attorney, with Council Confirmation

Motion to confirm the reappointment of H. Stanley Riffle as City Attorney made by Strey and seconded by Zwart.

Motion carried 8-0-0. Voted no: (None).

Motion to confirm the reappointment of Jeff Ek as Assistant City Attorney made by Zwart and seconded by Kowieski.

Motion carried 8-0-0. Voted no: (None).

Staff Reports

Kelliher thanked City department heads, staff at City Hall, Park staff, staff at the Community Center, and volunteers who help at the Community Center and park events. He said his lasting imprint to City residents would hopefully be that he helped create a quality of life for the community for a long, long time to come. He thanked the elected officials for their support as well as through the challenges. Kitsembel thanked Kelliher for all he did for the City.

Reports and Comments from the Mayor

Mayor thanked Kelliher for his dedication to the City and congratulated him on his new position with the City of Brookfield.

Reports and Comments from the Aldermen

Council thanked Kelliher for his patience as they worked through issues and hard

work on projects; said Bleck and two staff members at the Library were well deserving of recognition for entertaining a group of kids who stopped in unexpectedly at the Library; and there will be an event on Memorial Day starting at 10 am at City Beach, then onto a ceremony at the Veteran's Bridge and concluding at the Labelle Cemetery.

Adjourn

Motion to adjourn made by Strey and seconded by Shaw. Motion carried 8-0-0.

Voted no: (None). The meeting adjourned at 9:28 PM.

Chris Dehnert, Deputy Clerk