



CITY OF PORT WASHINGTON, OZAUKEE COUNTY, WI
COMMON COUNCIL MEETING
TUESDAY, MARCH 2, 2021 AT 7:30 P.M.
Port Washington City Hall, 100 W. Grand Avenue, Port Washington, WI 53074

MINUTES

1. **ROLL CALL-** Mayor Martin Becker convened the Common Council meeting at 7:30 p.m. Members present were Alderpersons Deborah Postl, Paul Neumyer, Mike Gasper, Dan Benning, Jonathan Pleitner, Pat Tearney and John Sigwart. Also present was City Engineer Rob Vanden Noven, City Planner Bob Harris, City Attorney Eric Eberhardt, City Administrator Anthony Brown, and City Clerk Susan Westerbeke.
2. **PLEDGE OF ALLEGIANCE TO THE FLAG-** The Pledge of Allegiance was recited.
3. **CONSENT AGENDA**
All items listed under the Consent Agenda are considered routine and will be enacted by one motion. There will be no separate discussion of these items unless a Council member so requests, in which event the item will be removed and considered at this point on the agenda.
 - A. Approve Minutes of Previous Meeting
 - B. Approve January 2021 Invoices

MOTION MADE BY ALD. PLEITNER, SECONDED BY ALD. POSTL TO APPROVE THE MINUTES OF THE PREVIOUS MEETING AS PRESENTED AND THE JANUARY 2021 INVOICES AS PRESENTED.
Motion carried unanimously.

4. MAYOR'S BUSINESS

A. Presentation by Jennifer Philips-Vanderberg and Jon Crain regarding the Bird and Pollinator Program in the City of Port Washington- Jennifer Philips-Vanderberg gave a presentation, included information on the decline of bird and insect populations over the years. We are in a bird migration corridor along the lakeshore, which magnifies the significance of providing natural habitat, plants and trees as a food and nesting source. Jon Crain gave a presentation on the current plantings and created habitats in the City within our Parks and natural spaces. The public is encouraged to provide planting.

5. OFFICERS'/STAFF REPORT

- A. City Engineer's Report by Rob Vanden Noven.
 1. 2020 Capital Improvement Project Updates
 - a. Breakwater- Walkway Section A-C will start up again in May. The Gateway area was damaged over the winter and is being reviewed by Foth Engineering at this time. The Breakwater is currently closed for public safety.
 - b. Sanitary Sewer Rehabilitation Project in the Marina Parking Lot (Behind Duluth Trading)- This lengthy project will be completed next week.
 - c. Lake Street Project (Trash Rack)- The Trash Rack in Valley Creek area has been installed and this project is now completed.
 2. 2021 Capital Improvement Project Updates
 - a. LED Streetlight Conversion- We Energies will begin this project in the next two weeks. 783 existing streetlights will be converted and the cost recouperation will be realized in a short amount of time.
 - b. Sidewalk Installation on Hales Trail, Sunrise Drive and Crestview Drive- This project should begin in mid-April. Letters will be sent out to homeowners in the affected area before the project begins.

- c. Street Improvement and Sidewalk Maintenance Program- This project went out for bid and the bid opening is Thursday this week. This will go to the Board of Public Works and is for sidewalks in the area west of Spring Street.

B. City Planner's Report by Robert Harris.

1. Update on February 18, 2021 Plan Commission Items related to Cedar Vineyard Subdivision- Previous meetings considerations of this project were reviewed including the proposed subdivision plan, Ozaukee County Nature Preserve, the CSM and Preliminary Plat. Rezoning will be considered at the Public Hearing during this meeting.
2. Update on Heart of the Harbor Project- This project was reviewed, the plan for the plaza space on E. Main Street and the project components including benches, tables, and a fire sculpture. The pavers and landscaping will be completed by the City.

C. City Clerk's Report- None.

6. PUBLIC COMMENTS/APPEARANCES

Your comments are welcome. Please limit comments to three (3) minutes. If you need more time, contact the City Administrator, and ask that your topic be placed on a Common Council Agenda.

Joe Burke- Approves of the development for more homes in the city but is concerned about providing enough police and fire coverage. Would like to see the School District build a track and install artificial turf on the baseball fields.

Andrew Bolwerk- Concerned about the proposed used car sales lot next to his home on N. Wisconsin Street. It may affect his property value and he would like to see more landscaping buffers for the neighboring properties put in. Also concerned about additional noise and traffic with young children in the area.

Rudy Gudgeon- The real estate broker working with the proposed buyer of the property on N. Wisconsin Street. This buyer is proposing a business that is very similar to what has been occurring there for many years. He is trying to work with the City to address concerns of the surrounding property owners.

7. FROM STANDING COUNCIL COMMITTEES

A. FINANCE AND LICENSE COMMITTEE

1. Review and Approval of Budget and Financial Policies – One-Time Revenue Policy- Ald. Pleitner reported on the policy. This policy will address the one-time revenues or expenses related to item such as grants or single purchases that do not repeat throughout the budget year. For smaller amounts \$10,000 or less the City Administrator would review and approve. For larger amounts over \$10,000 the approval would be given by Finance & License Committee and Common Council. This was approved by the Finance and License Committee prior to this meeting. MOTION MADE BY ALD. BENNING, SECONDED BY ALD. PLEITNER TO APPROVE THE BUDGET AND FINANCIAL POLICIES AS PRESENTED. Motion carried unanimously.

8. FROM CITY BOARDS/COMMISSIONS

A. PLAN COMMISSION

1. Public Hearing for a Date Extension of an Existing Conditional Use Grant for an Assisted Living and Memory Care Facility at the Prairie's Edge Development; Located on the East Side of Wisconsin Street and north of Sunset Road- The Mayor opened the Public Hearing for comment. Present by phone was the developer's attorney Lisa Wood. They are requesting an extension of date due to poor weather this winter, which would allow them more time to begin site work. There being no further comments the Public Hearing was closed.

2. Conditional Use Grant to Extend the Date of an Existing Conditional Use Grant for an Assisted Living and Memory Care Facility at the Prairie's Edge Development Located on the East Side of Wisconsin Street and north of Sunset Road- The City Planner reviewed the Conditional Use Grant which was approved last year with conditions. The only change being requested is for an extension date from March 1st to July 1st. The Plan Commission approved. Attorney Eberhardt informed Council that the Amended Conditional Use Grant included in their meeting packet by the Planning Department is not the most current. There was another amendment approved on November 17, 2020, which is the document that the amendment is being requested from. The Land Covenant should be received with this amended CUG request. MOTION MADE BY ALD. BENNING, SECONDED BY ALD. SIGWART TO APPROVE THE REVISED CONDITIONAL USE GRANT SUBJECT TO THE RECEIPT OF AN AMENDED LAND CONVENANT. Motion carried unanimously.

3. Ordinance 2021 – 2: Rezoning of a Revised Preliminary Plat from a Base Zoning of RS-1 Single Family Residential, B-2 Local Business, and PUL Public Utility Lands, with an OPD Overlay Planned Development to RS-1 Single Family Residential and B-2 Local Business, with an OPD Overlay Planned Development for the Cedar Vineyard Subdivision; Located on the East Side of S Lakeshore Road and South of Dynna Drive. First Reading- The City Planner reviewed the Ordinance, which reflects the revised Cedar Vineyard Preliminary Plat and includes the street and lots. The Vineyard will be moved due to the smaller footprint. The Plan Commission approves of the explanation of the zoning, residential and business with the winery as commercial. The City Attorney recommends making the rezoning conditional on the sale of the property at a date certain, the use of the property for Cedar Vineyard planned subdivision, and land conditionally rezoned only for the present buyer. There will be a second reading of this item at the next meeting.

9. UNFINISHED BUSINESS

A. Public Hearing for a Conditional Use Grant for the Sale and Servicing of Used Vehicles at 922 N. Wisconsin Street- The Mayor opened the Public Hearing for comment.

Muhamed Abdiu - Potential buyer and proposed business operator of the property at 922 N. Wisconsin St. addressed his concerns over the available parking space allowed on the site. With the sale of used cars, the need for parking spaces and adequate inventory is necessary for success of the business.

Rick Peiffer - Representing the current property owners of 922 N. Wisconsin St. explained in detail the history and former use of the property as a car service business for many years. Other surrounding business properties are commercial uses with large parking areas and have had exceptions made.

Scott Janeshek - Supported the proposed use at this site since it is a conditional use and can be reviewed after a year for proper compliance.

Joe Burke - Would like the Council to make the right decision; asked if the City needs another car sales and service business?

There being no further public comments, the Public Hearing was closed.

B. Conditional Use Grant for the Sale and Servicing of Used Vehicles at 922 N Wisconsin Street- The City Planner reviewed the Plan Commission's December 2020 rejection of, and subsequent changes to, the applicant's (Muhamed Abdiu's) site plans for the requested conditional use grant (CUG). The Plan Commission's denial was based on two items with which the Commission disagreed and would be contrary to municipal codes: (1) the proposed parking of used cars for sale within the 20' setback area adjoining the single-family residence to the south; and (2) a proposed 7' landscape buffer on the west side of the property, instead of the required 10' buffer. The City Planner reviewed those conditions which the Plan Commission had recommended be approved including, but not limited to, customer parking on the north side of the building, and, due to multiple lots comprising the site and lot lines that extend into Wisconsin Street, a requirement that a certified survey map (CSM) be prepared and submitted to consolidate the lots and to correct the lot lines by dedicating the Wisconsin St. right-of-way land to DOT for public highway purposes. The proposed CUG included in the Council's agenda materials includes the following Conditions on the Operations:

a. Type of operation permitted: sale of used automobiles; and repair and servicing of automobiles.

b. Hours during which operation is permitted: 9:00 a.m. to 6:00 p.m. Monday through Friday; and 10:00 a.m. to 5:00 p.m. on Saturday for automotive sales and service and repair.

c. Duration of Conditional Use: A period of twelve (12) months from the date of Common Council approval of the CUG, after which the Council may extend the CUG to an annual review period or indefinitely if no problems are documented.

d. Conditions on the Site: (1) The Premises shall conform to the approved site, parking and landscaping plan dated 1-26-2021 and referenced as Site Plan Option 1; (2) No vehicle parts shall be stored outside; (3) All signs on the premises shall comply with the sign code; (4) The existing freestanding sign pole located on the southwest portion of the Premises shall be removed by [a specific date]; and (5) a Certified survey Map (CSM) shall be prepared and submitted to the City by the owner to consolidate all existing parcels on the premises into one (1) lot.

The City Attorney elaborated on the legal memo the City Planner included in the Council's agenda materials, comparing prior and current laws governing the process and evidentiary standards applied by municipal governing bodies when considering and acting on applications for CUGs. The City Attorney also expressed his legal opinion that action on the applicant's requests for variances from the 20' side yard setback and/or 10' landscape buffer requirements are outside the lawful authority of the Council and are the exclusive jurisdiction of the Zoning Board of Appeals under state and local zoning laws.

Further questions and discussion followed, with more detailed answers and information provided by the applicant and by Rudy Gudgeon, a realtor involved in the pending sale/purchase of the subject property.

MOTION BY ALD. SIGWART, SECONDED BY ALD. PLEITNER, TO APPROVE A CONDITIONAL USE GRANT (SHOWN AS SITE PLAN 1) FOR USE OF THE PREMISES AT 922-926 N. WISCONSIN STREET TO SELL AND SERVICE USED VEHICLES, ON THE CONDITIONS SET FORTH IN THE CONDITIONAL USE GRANT INCLUDED IN THE AGENDA MATERIALS, BUT WITHOUT VARIANCES FROM THE ZONING CODE'S 20' SETBACK AND 10' LANDSCAPE BUFFER REQUIREMENTS.

AFTER DISCUSSION, ALD. GASPER OFFERED "FRIENDLY AMENDMENTS" TO ALD. SIGWART'S MOTION TO SPECIFY THAT THE EXISTING SIGN POLE AND BASE MUST BE REMOVED FROM THE PREMISES BY 12/31/2021, AND TO ALLOW THE NEW PROPERTY OWNER TO CONSOLIDATE THE FOUR EXISTING PARCELS COMPRISING THE PROPERTY INTO ONE OR MORE LOTS BY SUBMITTING A CERTIFIED SURVEY MAP FOR THE CITY'S APPROVAL (Ald. Gasper explained that the latter provision would afford the new owner more flexibility to sell the north parcel of land separately, if and when desired.) ALD. GASPER'S AMENDMENTS WERE ACCEPTED BY ALDS. SIGWART AND PLEITNER, AND WITHOUT ANY OBJECTION. Motion carried unanimously.

10. NEW BUSINESS

A. Ordinance 2021- 3: Relating to Sewer Service Charges, Credits and Prorations. First Reading- The City Engineer reviewed the current City Code which provides for a summer sewer service credit, which is a deduction incurred in the period of May 1 – September 1. Staff believes this inequitably affects rate payers based on circumstances and the existing code allows for residents to install a deduct meter to more accurately measure water which is not directed to the sewer. This ordinance further clarifies the requirements for installation of a deduct meter. It is estimated that this ordinance will provide additional annual revenue to the Sewer Utility in excess of \$50,000/year which will offset projected rate increases require to complete the needed maintenance work as recommended by the recent evaluation of the wastewater treatment plant. This item will have a second reading at the next meeting.

11. FORTHCOMING EVENTS- Various events were mentioned.

12. PUBLIC COMMENTS/APPEARANCES- None.

13. ADJOURNMENT- MOTION MADE BY ALD. POSTL, SECONDED BY ALD. NEUMYER TO ADJOURN THE MEETING AT 10:24 P.M. Motion carried unanimously.

Respectfully submitted,
Susan L. Westerbeke, City Clerk
