

MONONA CITY COUNCIL MINUTES
August 3, 2020

The regular meeting of the Monona City Council, via Zoom, was called to order by Mayor O'Connor at 7:02 p.m.

Present: Mayor Mary K. O'Connor, Alderpersons Nancy Moore, Kristie Schilling, Doug Wood, Jennifer Kuhr, Kathy Thomas, and Molly Grupe

Also Present: City Administrator Bryan Gadow, City Attorney William Cole, Finance Director Marc Houtakker, Police Chief Walter Ostrenga, Detective Sergeant Ryan Losby, Parks & Recreation Director Jake Anderson, Nick and Katie Novak, City Planner Doug Plowman, Harry Hawkins and Karen Reece from the Nehemiah Center, and City Clerk Joan Andrusz

ROLL CALL AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

Alder Schilling noted that the donation from Homburg Construction for the mound marker, as reported by Alder Kuhr, did not work out.

A motion by Alder Moore, seconded by Alder Grupe to approve the Minutes of the July 20, 2020 City Council meeting, was carried.

APPEARANCES

Gillian Fink, 6307 Westgate Road appeared before the Council via Zoom and spoke suggesting police use of Stop Sticks be delayed.

Jeff Hinz, 5100 Tonyawatha Trail appeared before the Council via Zoom and spoke against the park encroachment at 1224 Birch Haven Circle.

PUBLIC HEARING and CONSENT AGENDA

There was no Public Hearing or Consent Agenda.

UNFINISHED BUSINESS

City Administrator Gadow reported the CMAR is an excellent report, consistently graded "A", with no action required by the DNR.

A motion by Alder Grupe, seconded by Alder Moore to approve Resolution 20-7-2421 Approval to Submit 2019 Compliance Maintenance Annual Report (CMAR) Review and Recommendation, was carried.

Recreation Director Anderson reported there are no changes to the following Resolution pertaining to the Parks & Recreation Board decision to allow a lease for the encroaching shed and require removal of the encroaching boat launch at 1224 Birch Haven Circle. Mr. Novak reported he reached out to the previous owners for documentation; they had the shed permit but nothing for the boat lift. He asks for a shed

easement, which is reasonable because a permit was issued, and will remove the lift at his expense, which will be a financial burden due to COVID-19 work loss. Alder Thomas reported she withdrew an alternate Resolution from consideration after her conversations with the Novaks. The previous owner was granted a permit and allowed to have the shed.

Recreation Director Anderson reported there is still a question about how the property was conveyed to the City; there may be use restrictions in place. The Board was concerned about the precedent set. He wants to be comfortable in defending other encroachments and doesn't want people to build things and then ask forgiveness. This is not the case here, but future permits will be more closely reviewed.

Alder Wood stated the hand-drawn diagram from the application years ago shows the shed is not on park property; the permit shouldn't have been granted. The Board felt a lease arrangement wasn't long term. City Attorney Cole provided clarification; an easement is a property right, is usually permanent, and goes to a new owner with a property's sale. A lease is not permanent and doesn't transfer to a buyer. A title search, at the owner's expense, should be done to see how the property was conveyed in case there are use limitations.

Mr. Novak stated it would be harder to sell the house without the shed. A lease would cause issues at the time of sale. Because the City granted the permit, it should be a permanent easement. The 19 to 20 square feet of park property is not as valuable as the waterfront property and there is no other place to store items. Mrs. Novak stated the lot is odd-shaped and there's no other place for a shed. City Planner Plowman agreed; because of shoreline setbacks, nothing else is buildable.

Mayor O'Connor agrees a title search should be done. City Administrator Gadow stated the word "license" could be changed to "easement" and be contingent upon a title search. City Attorney Cole stated this would have to include the City being allowed to grant an easement. Alder Thomas suggested people want the Board to be heard. Alder Wood responded the Board knows their decision is a recommendation, and the owners don't want this dragged out.

Alder Kuhr stated she is against any allowance here; the permit was done wrong and this should be a lease so it can be corrected at the time of sale. Alder Schilling reported the Board's decision was made on a very close vote. Alder Wood stated he will vote in favor because the setback restrictions preclude any other location; the permit was granted, though in error; and the small size of the encroachment. City Attorney Cole suggested the Novaks reimburse the City for the cost of the title search. Mr. Novak verified with Mayor O'Connor that he and Mrs. Novak would cover the cost.

A motion by Alder Thomas, seconded by Alder Wood to amend Resolution 20-7-2422 Enforcing Encroachment of Structures at 1224 Birch Haven Circle onto City Property in the "Now, Therefore" section as follows:

- "...grant the property owner a ~~license~~ an easement,"
- "...to remain in its current location ~~until such time as either the property is sold or the city requests removal for any reason.~~"
- "The ~~license~~ easement is ~~conditioned~~ contingent upon a title search,..."

Alders Kuhr, Moore, and Grupe voted against the motion. Mayor O'Connor voted in favor, citing Alder Wood's reasons, thereby breaking the tie. The motion carries.

A motion by Alder Kuhr, seconded by Alder Moore to approve Resolution 20-7-2422 Enforcing Encroachment of Structures at 1224 Birch Haven Circle onto City Property as amended. Alders

Kuhr, Moore, and Grupe voted against the motion. Mayor O'Connor voted in favor, thereby breaking the tie. The motion carries.

NEW BUSINESS

A motion by Alder Grupe, seconded by Alder Wood to suspend the rules and take action on Resolution 20-8-2428 Providing for the Sale of \$4,725,000 Taxable General Obligation Refunding Bonds and Authorizing the Redemption of Taxable General Obligation Promissory Notes, Dated October 3, 2011 and Taxable Note Anticipation Notes, Series 2017D, was carried.

Finance Director Houtakker reported this allows Financial Consultant Jeff Belongia to start negotiations with bond holders. It will refinance two loans, including a 2017 taxable BAN 5-year note. Because of the low market rate, this should be done now. It is a TIF strategy; TIF #6, the health clinics, will be a donor district to TIF #5, Garden Circle, which needs funding. Values in TIF #5 have gone down, and it should be paid off more quickly. TIF #6 will be paid off in 10 years instead of 7, but this will save money in the end.

A motion by Alder Thomas, seconded by Alder Grupe to approve Resolution 20-8-2428 Providing for the Sale of \$4,725,000 Taxable General Obligation Refunding Bonds and Authorizing the Redemption of Taxable General Obligation Promissory Notes, Dated October 3, 2011 and Taxable Note Anticipation Notes, Series 2017D, was carried.

A motion by Alder Thomas, seconded by Alder Grupe to suspend the rules and take action on Resolution 20-8-2426 Authorizing a Contract with the Nehemiah Center for Community Facilitation Services and Resolution 20-8-2429 Amending the 2020 Operating Budget to Fund Community Facilitation Services, was carried.

City Administrator Gadow reported one of the 5 action steps approved in response to the June 2 police call is to study how racial bias can be addressed. The 3-year process includes analysis of implicit bias, staff training, including the Police Department, forming an advisory committee, and an African American history seminar.

Mr. Hawkins reviewed the history of the Center and its consulting services, providing information on the staff and their duties. There are 3 members. The community assessment in the first year will prepare people for change. A community input group will be formed in the second year to continually provide the City with feedback. The 3-year timeframe is flexible. Ms. Reece reviewed the assessment process and listening sessions that will come out with goals and provide guidance with continual evaluation throughout.

Alder Moore questioned how the Truth & Reconciliation Commission formed by the community will work with this group. She noted that sometimes those that need it don't get involved, and COVID-19 may also be a factor in getting members. Mr. Hawkins responded this group won't replace the Commission. People may not be as comfortable to be open and share when it's subject to an open records request. This group is outside the City processes. However, there is overlap. Ms. Reece clarified this is not an effort to get around transparency, but they want to get the City to its goals.

Alder Moore also questioned whether the Center had worked with other municipalities. Mr. Hawkins responded they've had no previous contractual relationship with a municipality. They get people excited and involved and then those people draw others in. Ms. Reece stated there is flexibility to bring in other people as needed. The idea is that the work is ongoing and not all voices can be heard. Alder Grupe stated she is very excited about this and is glad to be the first municipality to undertake this program.

Alder Schilling agrees; people of color site safety concerns when being asked to state their address so they avoid meetings. She appreciates the scope of the proposal. City Administrator Gadow reported the one comment received was in favor of this action. Mayor O'Connor reported she received many recommendations for the Center. Members agree feedback has been positive. Ms. Reece stated they will start work right away. Mayor O'Connor requested they direct questions to City Administrator Gadow.

A motion by Alder Thomas, seconded by Alder Grupe to approve Resolution 20-8-2426 Authorizing a Contract with the Nehemiah Center for Community Facilitation Services, was carried.

City Administrator Gadow reported funding for the Nehemiah Center contract will come out of undesignated funds.

A motion by Alder Moore, seconded by Alder Grupe to approve Resolution 20-8-2429 Amending the 2020 Operating Budget to Fund Community Facilitation Services. On a roll call vote, all members voted in favor of the motion.

Police Chief Ostrenga provided information on Resolution 20-8-2427 Adopting Police Standard Operating Procedure (SOP) 2020-1 Stop Sticks. The Department is the only one in Dane County without these very effective tools. The cost is in the Operating Budget. There are many high speed pursuits. He has waited for a year to form a plan for safety of the officers on the dangerous Beltline. He made the decision to have a second officer present as a lookout. The devices work on secondary roads as well. The policy restricts when they can be used and how to use safely. Policies are on the website and the updates are now called "General Orders"; what's been updated stands out.

Detective Losby stated he is an emergency vehicle operator trainer. He has been trying to push purchase of Stop Sticks since 2004. This particular tool is more a danger to officers than anyone else. It is a proven tool to slow speeds and save lives. Stolen vehicles are now the second issue the Department deals with the most after heroin. The Beltline is the perfect location to use Stop Sticks.

Alder Grupe questioned whether damage to an uninvolved vehicle is covered, and whether, in the training document, use of deadly force and location they can be used is in conflict with the disengagement policy, and whether data on use is collected. Police Chief Ostrenga responded officers have to use due regard and have to stop a pursuit when others are in danger. They are disciplined if they continue an unsafe chase. Each situation is different and this is an effective tool. Places where Stop Sticks can be deployed varies. They can't be used on a vehicle with less than 4 wheels unless imminent bodily harm is threatened. They wouldn't be used during rush hour; high speed incidents usually occur late at night when traffic is low. The tire doesn't blow up; a slow leak occurs that eventually slows the vehicle. Detective Losby responded they can be used in other situations, but usually only high speed incidents. Alder Thomas stated the danger to people is significant when someone drives at high speed. Several other Departments have had them for 10 years and consider them invaluable.

Alder Schilling voiced concern that these devices are dangerous for officers. Because the City's goal is de-escalation, she questions this as another use of force tool. In addition, "tire deflation device" should be used instead of "Stop Stick", which sounds very severe. Police Chief Ostrenga responded "Stop Stick" is the brand name of the product. Alder Wood stated the Public Safety Committee also needs to review the pursuit policy and requested a copy of that policy for Council member's review. Police Chief Ostrenga responded they are currently reviewing the use of force policy and can work on the pursuit policy soon. Emergency vehicle operation training is required every 2 years; use of Stop Sticks is part of that.

City Administrator Gadow began the Discussion and Update on Staffing, Budgetary and City Operations Contingency Plans for COVID-19. The only update is getting information out on the statewide mask order.

REPORTS

Members announced meeting dates and times and provided the following:

Alder Schilling reported the mound marker was placed on Monona Drive on July 22.

City Clerk Andrusz reported the new drive-up ballot drop box is being put to good use; 50 ballots were delivered over the weekend and more than 15 were received today. In-person absentee voting will continue through Friday until 5:00 p.m. Many mailed absentee ballots have been requested and continue to be returned. The deadline to return a ballot is 8:00 p.m. on Election Day, August 11, when the box will be locked to prevent late deliveries.

Mayor O'Connor thanks Council President Wood for filling in as Acting Mayor in her absence.

APPOINTMENTS

A motion by Alder Thomas, seconded by Alder Grupe to approve the following, was carried:

1. Anne Brophy – Chief Inspector, effective immediately through December 31, 2021.
2. Susan Fox – Chief Inspector, effective immediately through December 31, 2021.
3. Diane Steele – Chief Inspector, effective immediately through December 31, 2021.
4. Joyce Hornburger – Election Inspector, effective immediately – December 31, 2021.
5. Sara de Felice – Election Inspector, effective immediately – December 31, 2021.

ADJOURNMENT

A motion by Alder Wood, seconded by Alder Grupe, to adjourn was carried. (8:44 p.m.)

Joan Andrusz
City Clerk