

MONONA CITY COUNCIL MINUTES
August 6, 2018

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

Present: Alderpersons Chad Speight, Doug Wood, Andrew Kitslaar, Jennifer Kuhr, and Molly Grupe

Excused: Alderperson Nancy Moore (attempts at telephone contact were unsuccessful)

Also Present: Interim City Administrator/Finance Director Marc Houtakker, City Attorney William Cole, Senior Center Director Diane Mikelbank, Police Chief Walter Ostrenga, City Planner/Economic Development Director Sonja Kruesel, Recreation Director Jake Anderson, Project Coordinator Brad Bruun, Josh Straka from Strand Associates, Doug Pahl from Aro Eberle Architects, and City Clerk Joan Andrusz

ROLL CALL AND PLEDGE OF ALLEGIANCE

APPROVAL OF MINUTES

A motion by Alder Kuhr, seconded by Alder Grupe to approve the Minutes of the July 16, 2018 City Council meeting, was carried.

APPEARANCES

Peter McKeever, 6302 Southern Circle appeared before the Council and spoke for informational purposes regarding the Walmart settlement and in support of funding the League of Wisconsin Municipality's efforts against the Dark Store Theory.

Steve Griffith, 219 Fair Oaks Avenue, Madison appeared before the Council and spoke for informational purposes regarding the Four Lakes Yacht Club and the Riverfront Development.

Timothy Trpkosh, 6308 Metropolitan Lane, appeared before the Council and spoke for informational purposes regarding parking concerns with the Breakwater restaurant and the Riverfront Development.

Mr. Straka provided information on the Riverfront Development timeline. The road project bid package will be sent out in the next two weeks to start construction in October with completion in December without utility interruption. Mayor O'Connor advised Mr. Trpkosh to speak with Mr. Straka outside the meeting room for further information.

PUBLIC HEARING

There was no Public Hearing.

CONSENT AGENDA

A motion by Alder Speight, seconded by Alder Kitslaar to approve the following, was carried:

1. Approval of Applications for 2018/2020 Operator Licenses:
 - a. Andrew M. Damon, Pick 'n Save

- b. Mary K. Danielson, Silver Eagle Bar & Grill
2. Approval of Renewal Application for 2018/2019 Operator License:
 - a. Julie S. Kurt, Joe's Fire Station
3. Approval of Renewal Application for 2018/2020 Operator License:
 - a. Kayla A. Jeong-Ah Ball, The East Side Club
4. Approval of Application for a 2018 Temporary Operator License:
 - a. Kelley D. Van Egeren, Aldo Leopold Nature Center

UNFINISHED BUSINESS

A motion by Alder Speight, seconded by Alder Grupe to Convene in Closed Session Pursuant to Wisconsin Statute Section 19.85(1)(g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved (Wal-Mart Real Estate Business Trust v. City of Monona). On a roll call vote, all members voted in favor of the motion.

Upon reconvening in Open Session:

Alder Wood reported Walmart was assessed at \$28 million, went to Circuit Court to get a reduction to \$8 million, settled for \$18 million for the next four years, and can't challenge that assessment for two years. The assessor hired for the case reported a \$21 million value, so this is a reasonable settlement. Alder Kitslaar stated he is not happy with this outcome but it is the best that could be done for citizens; the Dark Store Theory loophole needs to be addressed. Alder Speight stated that theory does not pertain to this agreement; it is based on a true evaluation of the property.

A motion by Alder Wood, seconded by Alder Speight to approve Resolution 18-7-2278 Approving a Settlement Agreement with Wal-Mart Real Estate Business Trust, was carried.

Senior Center Director Mikelbank reported she is the only full-time Senior Center staff with two part-time staffers, one of whom recently retired. The Intern's workload justified a second full-time position to improve consistency and communication. She will not ask for additional staff as there is no room for it or additional programming. Mayor O'Connor agrees this position is needed; the Director couldn't leave the building for meetings. Alder Grupe reported the last staff request and hire was in 2011. Alder Speight reported many departments have part-time staff but the future needs full-time with a pay scale that attracts good people. Finance Director Houtakker noted a correction in the fiscal note; he calculated using a rate of \$15 in one area and \$18 in another. However, adjustment is not needed because the difference will be covered by the staff absence.

A motion by Alder Grupe, seconded by Alder Kitslaar to approve Resolution 18-7-2276 Amending the 2018 Operating Budget for a Full-Time Project Assistant Position in the Senior Center, was carried.

Police Chief Ostrenga reported the following was drafted by the School Resource Office using the City of Madison's model to update the Ordinance to include new electronic devices.

A motion by Alder Kuhr, seconded by Alder Kitslaar to approve Ordinance 7-18-702 Creating Chapter 198-6 of the Code of Ordinances Regarding Smoking and Vaping in Educational Facilities, was carried.

Police Chief Ostrenga reported the following is similar to the bullying Ordinance. The District Attorney won't prosecute sexting cases but this Ordinance will act as a deterrent. Alder Speight stated he is uncomfortable with the section that allows a person who did not send the image to be guilty for receiving it and not reporting it. Alder Kuhr stated some attempt should be made to report it. They have it but haven't distributed it, but their intentions are not known unless a report attempt is made. A deleted image can be found. It is incumbent upon adults to empower youth to stop this behavior.

Alder Grupe stated these points are valid. For example, a young woman would not know what to do. She questions whether students will be given information on this comfortable reporting option. Police Chief Ostrenga responded it will. Comments from students on a Herald-Independent article on sexting stated they feel coerced into this behavior. City Attorney Cole stated he agrees with Alder Speight but didn't cut the section that creates a mandatory report situation; it is proper and was left in because the true victim may not know about it and it could go on for a while.

Alder Wood stated criminalizing unsolicited receipt puts tremendous pressure on a young person. He hopes prohibiting this type of behavior is learned at home, not by law enforcement. It is inappropriate but sexting is consensual, widespread, and the Ordinance will be violated many times. Enforcement will be capricious. Police Chief Ostrenga stated this is a civil violation, not criminal; students are asked to go to a teacher, parent, or law enforcement personnel. Having a sext may be discovered during an investigation but not much time will be spent on finding out who has it. The School Resource Officer is already getting requests for this Ordinance when it's passed. It is an option outside of court to avoid a juvenile record. Alder Kitslaar stated pornography involving minors, solicited or unsolicited is illegal. Alder Speight stated it is intimidating to start a legal process. The person who sends the image is in violation. Charging the person possessing it is going too far.

A motion by Alder Speight, seconded by Alder Grupe to amend Ordinance 7-18-703 Creating Chapter 281-9 of the Code of Ordinances Regarding Sexting, removing Section 1:B.(2)(b), "The minor took reasonable steps to report the photograph or video to a parent, school official, or law enforcement official.", was carried. Alder Kuhr voted against the motion.

A motion by Alder Kitslaar, seconded by Alder Kuhr to approve Ordinance 7-18-703 Creating Chapter 281-9 of the Code of Ordinances Regarding Sexting as amended, was carried. Alder Kuhr voted against the motion.

Police Chief Ostrenga reviewed the changes made to the following Ordinance amendment since the last meeting. The word "weapon" was changed to "firearm" to match the statute language, and "educational facility grounds" was added to the section regarding "educational facility". Firearms in parks are already prohibited but the state conceal carry law trumps that. City Attorney Cole stated this does not apply to shelters or structures. A football stadium is a facility and conceal carry is prohibited there; they can be carried in open areas or parkland only. The Ordinance is only being broadened to include any ground of an educational facility. Stadiums do not need to be listed; they are covered adequately in the statute.

A motion by Alder Kitslaar, seconded by Alder Wood to approve Ordinance 7-18-704 Amending Chapter 334-4 of the Code of Ordinances Regarding Weapons in Public Buildings, was carried.

A motion by Alder Kitslaar, seconded by Alder Speight to approve Ordinance 7-18-705 Amending Chapter 335-8 C (1) of the Code of Ordinances Regarding Amplified Device Permits, was carried. A motion by Alder Grupe, seconded by Alder Speight to rescind this action because information was provided on a different Agenda item in error, was carried.

City Clerk Andrusz reported the following item brings the current Ordinance in line with actual practice. The Chief of Police can appoint a designee to issue Amplified Device Permits. The fee for the permit is also added to the Fee Schedule.

A motion by Alder Kitslaar, seconded by Alder Grupe to approve Ordinance 7-18-705 Amending Chapter 335-8 C (1) of the Code of Ordinances Regarding Amplified Device Permits, was carried.

Police Chief Ostrenga reported temporary above ground swimming pools are not included in the following Ordinance. The Building Inspector provided information for this Ordinance and is comfortable with enforcement. Updates from the last meeting were reviewed. Alder Wood stated he is still concerned that a small or portable pool would need a fence and a permit; fence height was discussed at the Public Safety Committee. Alder Grupe questioned whether the exempt language requires a pump. City Attorney Cole reported a filter could be removed if that was a perimeter. Over 40 lbs. was decided to be the cut-off no matter what is attached. Alder Kitslaar suggested a duration limit, such as overnight, would add enforceability. City Attorney Cole responded many gallons of water are needed for some small pools and frequent emptying may be a conservation issue. Alder Kuhr suggested if a fence is not preferred, ladder locks or other safety features could be required as a tool to do something about safety. City Attorney Cole responded a child could fall over a lower pool and drown. Police Chief Ostrenga reviewed a requirement for a cover that supports 250 pounds versus a fence.

A motion by Alder Speight, seconded by Alder Grupe to approve Ordinance 7-18-706 Repealing and Recreating Chapter 175-25 of the Code of Ordinances Regarding Swimming Pools and In-Ground Hot Tubs, was carried. Alder Wood voted against the motion.

Police Chief Ostrenga reported the School Resource Officer and Fire Chief requested the following fee increase to deter false fire alarms and the addition of a fine for urination or defecation.

A motion by Alder Kuhr, seconded by Alder Grupe to approve Ordinance 7-18-707 Amending Sections 335-1 A. (25) and 335-9 B. of the Fees, Fines, and Penalties Schedule, was carried.

City Clerk Andrusz reported the following Ordinance amendment updates meeting times and other requirements to match the state statute changes that were effective January 1, 2018.

A motion by Alder Kitslaar, seconded by Alder Kuhr to approve Ordinance 7-18-708 Amending Chapter 18-3 of the Code of Ordinances Regarding the Board of Review, was carried.

Mayor O'Connor reported the League of Wisconsin Municipalities is asking for contributions to continue their efforts toward elimination of the Dark Store Theory tax loophole.

A motion by Alder Speight, seconded by Alder Kitslaar to approve Resolution 18-7-2277 Allocating a Contribution from General Fund Balance toward the League of Wisconsin Municipalities' Dark Store Elimination Efforts, was carried.

NEW BUSINESS

A motion by Alder Wood, seconded by Alder Grupe to suspend the rules and take action on Resolution 18-8-2282 Authorizing Staff to Execute a Professional Services Contract for a Community-Wide Architectural History Survey, was carried.

City Planner Kruesel reported this is a \$24,000 grant to do a community-wide survey with recommendations for a report for historic designation. It provides a comprehensive guide for the Plan Commission to follow for future work. An RFP was sent to six firms, four responses were received and were interviewed. The Landmarks Commission chose Mead & Hunt. Alder Wood reported all four candidates the sub-committee interviewed were good and they were able to choose between two that were very good. Work probably won't start until the fall. Alder Grupe noted the team chosen were all women.

A motion by Alder Wood, seconded by Alder Speight to approve Resolution 18-8-2282 Authorizing Staff to Execute a Professional Services Contract for a Community-Wide Architectural History Survey, was carried.

A motion by Alder Wood, seconded by Alder Speight to suspend the rules and take action on Resolution 18-8-2283 Amending the 2018 Capital Budget for Community-Wide Architectural History Survey Services, was carried.

City Planner Kruesel reported this is to pay for and receive reimbursement for the grant approved above.

A motion by Alder Wood, seconded by Alder Speight to approve Resolution 18-8-2283 Amending the 2018 Capital Budget for Community-Wide Architectural History Survey Services, was carried.

A motion by Alder Grupe, seconded by Alder Speight to suspend the rules and take action on Resolution 18-8-2284 Approving Final Design Plans for the Riverfront Public Park Plaza, Shelter, and Streetscape Plan, was carried.

Recreation Director Anderson introduced Mr. Straka and Mr. Pahl. Mr. Straka projected and reviewed the design including the street plan with on-street handicapped parking. The public space was described; yearly maintenance will be required for the pavers; he suggests the contractor does this for a few years to show the Public Works staff how it's done. Project Coordinator Bruun reported the new vacuum truck will take care of this and thanks the Council for approving that vehicle. Mr. Straka reported stormwater management has been taken above the standard; landscaping and biobasins were described. Parking was maximized with as much greenspace as possible. A fence with removable art panels will be installed along the Four Lakes Yacht Club property. Lighting will match the developer's to provide a cohesive look. Recreation Director Anderson reported the drinking fountain/water bottle filling station is priced with the drain and plumbing included. Security cameras, speakers, and outlets will be included.

Alders praised the design's use of sustainable materials and accessibility to people and bicycles. Mr. Straka reported light pollution was addressed with down-lighting that will be timed and controlled. The bid includes all items. Recreation Director Anderson reported grant eligible items for the park were highlighted but should be disregarded; the DNR grant needs revision this week. The total grant request will be \$348,000. Mr. Straka and City Planner Kruesel reported that construction prices have risen; the street portion of the project was budgeted for \$2.4 million, the plan came in at \$2.1 million. The total project cost is \$3 million.

Mayor O'Connor expressed concern that the park cost is well over what was projected. Alder Wood stated the City is obligated to spend \$1.1 million, the project is going over by \$1 million, but the DNR grant will reduce this. Other funding sources should also be pursued. Recreation Director Anderson stated some costs are already paid and bid specifications are going out next week. Finance Director Houtakker reviewed a cost report; the City is spending \$800,000 over the requirement. Mr. Straka reported the planned seating is needed for functionality; it will be harder to install later if it's pulled from the plans now. He and City Planner Kruesel reported one reading is needed because the Plan Commission

and other reviews are needed. Mr. Straka stated that at least the bid should go in so the street can be done; there is a developer deadline and delay creates waste.

Recreation Director Anderson reported the shelter build-out contractor is working on costs to design an informal gathering space that also serves as program space. The shelter is a higher-end design to fit in with the development design. The grant will pay for many components. He and Mr. Straka discussed items that can wait. Recreation Director Anderson reported funding sources will be explored for the B Cycle Station; cost is for the initial installation and bicycles and it has a \$10,000 yearly maintenance contract. It is the first in the area outside of the City of Madison and supports tourism and economic development. Alder Speight stated the Tourism Board has to agree to pay for this and take on the annual commitment. Finance Director Houtakker reported an application has to be filed now and then annually thereafter.

Mr. Pahl projected and described the shelter build-out plan which is a true four-season facility. Other facilities were looked at for the design. The rubber floor is designed for ice skates. The ceiling uses cost-saving reclaimed milled wood from Woodland Park and is in the shape of Lake Monona. There are changing stations in all restrooms. A heat recovery system is used to conserve heat and cool air for doors that will be frequently opened and closed. Because it is part of a larger building they are being very careful in the design and to provide maximum use. Recreation Director Anderson described the Zamboni that could work on the ice and be used for field maintenance. Project Coordinator Bruun provided information on heat loss. Mayor O'Connor was impressed with how large the space ended up being.

A motion by Alder Speight, seconded by Alder Grupe to approve Resolution 18-8-2284 Approving Final Design Plans for the Riverfront Public Park Plaza, Shelter, and Streetscape Plan, was carried.

A motion by Alder Grupe, seconded by Alder Speight to suspend the rules and take action on Resolution 18-8-2281 Approving a Proposal from Rink Management Services Corporation for Ice Rink Consulting Services for the Riverfront Park Plaza, was carried.

Recreation Director Anderson reported this will allow Mr. Straka and Strand Associates to work with a designer and would provide an operating plan. He and they wanted expert opinions. Alders Speight and Kitslaar agree this was a good decision and an important step to take.

A motion by Alder Kitslaar, seconded by Alder Speight to approve Resolution 18-8-2281 Approving a Proposal from Rink Management Services Corporation for Ice Rink Consulting Services for the Riverfront Park Plaza, was carried.

A motion by Alder Speight, seconded by Alder Kitslaar to suspend the rules and take action on Resolution 18-8-2285 Approval to Apply for a National Endowment for the Arts – Our Town Grant, was carried.

Recreation Director Anderson reported this allows him to apply for the grant; the application is due on August 9. Funds are available and the Parks & Recreation Committee has worked toward this.

A motion by Alder Speight, seconded by Alder Kitslaar to approve Resolution 18-8-2285 Approval to Apply for a National Endowment for the Arts – Our Town Grant, was carried.

A motion by Alder Kitslaar, seconded by Alder Kuhr to suspend the rules and take action on Resolution 18-8-2280 Approving a Salary Range for the City Administrator Position, was carried.

Mayor O'Connor reported Director of Administrative Services Leah Kimmell was asked to gather comparable salaries. The current wage is second lowest. The Finance & Personnel Committee met a week and a half ago and wanted the salary high enough to attract a good range of candidates and set the range at \$102,500 to \$130,000. She asks members for job description input. Hiring will be done in-house with a committee appointed to review applications. The process will include a social event revised from that which was done in previous searches.

A motion by Alder Kitslaar, seconded by Alder Speight to approve Resolution 18-8-2280 Approving a Salary Range for the City Administrator Position, was carried.

A motion by Alder Speight, seconded by Alder Grupe to suspend the rules and take action on Resolution 18-8-2286 Approving a Temporary Salary Adjustment for the Interim City Administrator, was carried.

Mayor O'Connor reported Finance Director Houtakker is taking on additional responsibilities and he approved the proposed \$1,500 increase. Alder Speight questioned whether this was too low; Finance Director Houtakker is a dedicated public servant to the Council and community. Finance Director Houtakker expressed appreciation but is satisfied with the increase.

A motion by Alder Speight, seconded by Alder Kitslaar to approve Resolution 18-8-2286 Approving a Temporary Salary Adjustment for the Interim City Administrator, was carried.

REPORTS

Alder Grupe reported the August 14 Partisan Primary Election is next week and urges all to get out to vote. The Library vestibule project is in full swing; the Schluter Road entrance is closed. FoMLASH, the Library's fund raising scavenger hunt, is underway. Teams do random acts of kindness around the City with photographic evidence taken.

Alder Kitslaar reported the National Night Out is August 14 with Babcock Hall ice cream; a Madison Mounted Police contingent will be featured. He thanks all involved and all staff for their efforts for the All City Swim Meet. He was told Monona was the best host city of all.

Alder Kuhr reported Thursday will be Lindsey Wood Davis's last Community Media Committee meeting and publically thanks him for all he's done for the community. She may be in the dunk tank at 5:30 p.m. at the National Night Out.

Recreation Director Anderson reported a great job was done by all the All City Swim Meet volunteers. They made the City look great and he received no complaints. He urges everyone to attend the National Night Out event; Alder Grupe will be the emcee. The recent Traveling Bier Garten event was very successful and will be repeated in Schluter Park on August 30 from 5:00 to 8:00 p.m. He thanks Lindsey Wood Davis for his pointers on how to use the radio station for public announcements. Mayor O'Connor urges all to keep up the use and enthusiasm for the station.

City Clerk Andrusz reported in-person absentee voting ends at 5:00 p.m. on Friday. She reminds voters this is the Partisan Primary where votes can be cast in one political party only.

Finance Director Houtakker reported the City's equalized value increased 5% which is right around the Dane County average.

Mayor O'Connor reported the former City Administrator left last week Thursday and Sonja Kruesel's last day is next week Wednesday. The search will be done for the Administrator first, then the Planner. Finance Director Houtakker is the Interim City Administrator. She asks members to copy him on emails to staff so he's aware of what's going on and is kept apprised. She thanks the Recreation Department for the wonderful All City Swim Meet and the Public Works Department for the great water bottle filling station. It was a great event and showcase for the City.

APPOINTMENTS

There were no Appointments.

ADJOURNMENT

A motion by Alder Kitslaar, seconded by Alder Grupe to adjourn, was carried. (10:10 p.m.)

Joan Andrusz
City Clerk