



OFFICIAL MINUTES OF A COMMON COUNCIL MEETING

Minutes of a regular Common Council Meeting of the 35th Common Council held on **May 2, 2023** at 7:45 pm., in the Council Chambers, 2000 N. Calhoun Road, Brookfield, WI

Call to Order: Mayor Steven V. Ponto called the meeting to order at 7:48 pm.

Public Comment: All public comment listed below refer to the Wheel & Sprocket project proposed in 5d, 5e, 5f, and 5h.

1. Pauline Laduka – 2893 Nassau Drive – Opposed, did not speak.
2. Anna Miller - 14265 Newell Drive – Opposed, did not speak.
3. Mary Stephani – 14835 Clare Bridge Lane - Opposed, did not speak.
4. Jerry Stephani – 14835 Clare Bridge Lane - Opposed, did not speak.
5. Kathleen Meyer – 4155 Clare Bridge Lane - Opposed, did not speak.
6. Margaret Christman – 3005 Cottonwood Court - Opposed, did not speak.
7. Nancy Obradovich – 14360 Hyland Drive - Opposed, did not speak.
8. John Obradovich – 14360 Hyland Drive – Wheel and Sprocket would be out of place and exaggerated. Is not in favor.
9. Richard Voigt – 13720 Keefe Avenue – Opposed, did not speak.
10. Bill Meyer – 4155 Clare Bridge Lane - Opposed, did not speak.
11. Darlene Gryniwicz – 3275 Applegate Lane - Opposed, did not speak.
12. David Golab – 14055 Newell Drive – Spoke about the lack of public trust. Worried about videos not being posted online.
13. Brian Gburzynski – 4060 N 138th Street - Opposed, did not speak.
14. Lyle and Jean LaForge – 4225 Lilly Road - Opposed, did not speak.
15. Bob Wiltz – 14060 Lindsay Drive – Opposed to the project.
16. Sharon Kinney – 4060 N 138th Street - Opposed, did not speak.
17. Kevin Breslow – 3675 Domink Drive - Opposed, did not speak.
18. Lynn Voigt – 13720 Keefe Avenue - Opposed, did not speak.
19. Deborah Cavaliero Keller – 4070 N 145th Street – Not in favor of the project.
20. Kim Cavaliero Keller – 4070 N 145th Street – Not in favor of the project. Worried about traffic and noise. The building does not fit. Does not want the TIF.
21. Mike Mooney – 19000 W Bluemound Road – Is in favor of the project so the contamination can be cleaned up.
22. Rick Schoos – 3160 Old Lantern Court – Opposed to the project. Does not believe the city should pay for the remediation.
23. James Tupta – 3720 Fiebrantz Drive – Opposed, did not speak.
24. Vicki Filbrandt – 3840 Lilly Road – Opposed, did not speak.
25. Katie Hofstede-Gipp – 3740 N Lilly Road - Opposed, did not speak.
26. Barb Feest – 3875 Westwood Court - Opposed, did not speak.
27. David Feest – 3875 Westwood Court - Opposed, did not speak.
28. Thomas LaFontain – 3285 Old Lantern Drive – Opposed, did not speak.
29. Mary LaFontain - 3285 Old Lantern Drive – Opposed, did not speak.
30. James St Peter – 1340 Bonnie Lane - Opposed, did not speak.

31. John St Peter - 1340 Bonnie Lane - Opposed, did not speak.
32. Melissa Carabjal – 4640 N 159th Street - Opposed, did not speak.
33. Jim D’Ambrisi – 3605 Chesterwood Drive – Opposed to the project. He is not pleased with the process and referenced the comprehensive plan.
34. Dale Krubsack – 13700 Keefe Avenue - Opposed, did not speak.
35. Virginia Schultz – 13820 Keefe Avenue - Opposed, did not speak.
36. Bryan Gast – 14050 Newell Drive – Opposed to the project. Referenced the 21 page report he sent to the council members.
37. Colleen Klein – 3375 Fiebrantz Drive – Opposed, did not speak.
38. Frank Klein – 3375 Fiebrantz Drive - Opposed, did not speak.
39. Deborah McGinnis – 4045 N 145th Street – Opposed, did not speak.
40. Charles Kiker – 13430 Commons Drive - Opposed, did not speak.
41. Helen Zealy – 2460 Tru Lane – Supports, did not speak.
42. Katie Gerstmeier – 3130 Old Lantern Dr - Opposed, did not speak.
43. Andrea Greuel – 3290 Applegate Lane - Opposed, did not speak.
44. Kira Johnson – 3945 Fiebrantz Drive – In her backyard. She is opposed.
45. Jacob LaFontain – 4460 N 147th Street – Is not in favor of this project. Spoke about the comprehensive plan and the tax incentives.
46. Kim Martin – 4720 N 161st Street - Opposed, did not speak.
47. Dave Marcello – 3035 N Brookfield Road – Does not support the project due to size. Spoke about the additional lots surrounding the project. Spoke about the environmental cleanup.
48. David Rosenberg – 13885 W Capitol Drive – Bill’s Power Center – Opposed to the project because of what it can do to their business.
49. Bill Rosenberg – 13885 W Capitol Drive - Opposed, did not speak.
50. John Ryback – 3640 Lilly Road - Opposed, did not speak.
51. Ericka and Jeff King – 3660 Lilly Road - Opposed, did not speak.
52. Marguerite Radder – 3315 Fiebrantz Drive - Opposed, did not speak.
53. Richard Radder – 3315 Fiebrantz Drive - Opposed, did not speak.
54. Teri Popko – 1260 Fairlane Avenue - Opposed, did not speak.
55. Mike Burkard – 3305 Fiebrantz Drive - Opposed, did not speak.
56. Nancy Burkard – 3305 Fiebrantz Drive - Opposed, did not speak.
57. Brittany Smuk – 3935 Lilly Road - Opposed, did not speak.
58. Thomas Isaacs – 3935 Lilly Road - Opposed, did not speak.
59. Charles Braley – 14110 Lindsay Drive – He is opposed to the development.
60. Eva Duliskovich – 3535 Fiebrantz Drive - Opposed, did not speak.
61. Tiber Duliskovich – 3535 Fiebrantz Drive - Opposed, did not speak.
62. Steve Mehert – 14735 Woodland Place - Opposed, did not speak.
63. Sean McGinn – 3235 Old Lantern Drive - Opposed, did not speak.
64. Charles Meudt – 3180 Fiebrantz Drive - Opposed, did not speak.
65. Elizabeth Zaborske-McGinn – 3235 Old Lantern Drive - Opposed, did not speak.
66. Steven Mahmert – no address – Opposed, did not speak.
67. Lance Nielsen – 14220 Woodland Place - Opposed, did not speak.
68. Steve Johnson – 3945 Fiebrantz Drive - Opposed, did not speak.

Hearing no one else who wished to speak, the Public Comment closed at 8:58pm.

Announcements: The next regularly scheduled meeting of the Common Council is Tuesday, May 16, 2023, at 7:45 pm held in the Council Chambers of City Hall.

Roll Call: City Clerk Michelle Luedtke called the roll and noted the following members in attendance:

14 members present: Bill Carnell, Dave Christianson, Rick Owen, Bob Reddin, Thomas Szews, Jason

Anderson, Mike Hallquist, Chuck Bloom III, Gary Mahkorn (Council President), Scott Berg, Christopher Blackburn, Jerry Mellone, Kathryn Wilson, Kris Seals. (Number of members needed to meet quorum requirements: 10)

Members excused: none

Staff Present: *City Attorney Jenna Merten, Director of Public Works Tom Grisa, Director of Community Development Dan Ertl, Planning Administrator Richard Vanderwal, Director of Finance and Administration Robert Scott, City Clerk Michelle Luedtke*

Pledge: Alderman Kris Seals led the Council in the Pledge of Allegiance.

5/2/2023 - Minutes

Public Hearing #1:

Mayor Ponto read the request of the City of Brookfield, pursuant to Wis. Stat. § 66.0301, the City and Village of Elm Grove have negotiated a proposed intergovernmental boundary agreement providing for mutual agreed upon boundaries between the two municipalities along North Avenue. Specifically, three parcels of land owned by Waukesha County and located within the North Avenue right-of-way would be transferred from the Village of Elm Grove to the City of Brookfield as a result of the agreement. A copy of the proposed agreement is available at the Brookfield City Clerk's office.

City Attorney Merten spoke about the agreement.

Hearing no one who wished to speak, motion by Alderman Mahkorn, seconded by Alderman Reddin, to close the public hearing. Motion carried unanimously. 8:58pm.

Public Hearing #2:

Mayor Ponto read the request of the City of Brookfield to amend Section 17.64.010(A)(2) of the Municipal Code to add " q. General or clerical offices" as a Permitted Use to the B-3 Regional Business District.

Director of Community Development Ertl spoke about the amendment.

Hearing no one who wished to speak, motion by Alderman Mahkorn, seconded by Alderman Reddin, to close the public hearing. Motion carried unanimously. 8:59pm.

Consent Agenda

The following items were removed from the Consent Agenda: Aldermen Blackburn requested Item #2j be removed from the consent agenda.

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to approve all items on the Consent Agenda except for item 2j. The motion carried unanimously. 9:02pm.

1. Approval of Minutes.

- a. The April 18, 2023 regular meeting minutes of the Common Council.

2. Finance Committee

- a. Vouchers exceeding \$50,000 requiring immediate action.
- b. Resolution approving amendments to the 2023 capital improvement budgets requested by the Director of Finance and Administration.

Resolution No. 10666-23*

- c. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$450,000: street improvements.

Resolution No. 10667-23*

- d. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$2,200,000: water utility improvements.

Resolution No. 10668-23*

- e. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$605,000: park improvements.

Resolution No. 10669-23*

- f. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$825,000: acquisition of fire equipment.

Resolution No. 10670-23*

- g. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$700,000: acquisition of a horizontal grinder.

Resolution No. 10671-23*

- h. Initial resolution authorizing General Obligation Bonds in an amount not to exceed \$1,000,000: DPW building roof and door replacement.

Resolution No. 10672-23*

- i. Resolution to declare official intent under reimbursement bond regulations.

Resolution No. 10673-23*

- j. Resolution approving 2023 Police Grant fund budget amendment requested by the Director of Finance and Administration: appropriate \$88,317 to expenditure account 21030153-579516, to be funded by state law enforcement grant (American Rescue Plan Act monies).

This item was removed from consent.

Motion by Alderman Christianson, seconded by Alderman Owen, to approve the 2023 Police Grant fund budget amendment as proposed. Motion carried 13-1 with Alderman Blackburn voting no. 9:04pm. **Resolution No. 10674-23***

3. **Legislative & Licensing Committee**

- a. Resolution approving Original Bartender/Operator license for an applicant with violations - Dyllan J. Brown

Resolution No. 10675-23*

- b. Resolution approving Original Bartender/Operator licenses: Gage L. Laluzerne.

Resolution No. 10676-23*

4. **Council As A Whole**

- a. Resolution re-appointing Rodney Carter to the Board of Zoning Appeals for a 3-year term, commencing May 1, 2023, and expiring May 1, 2026.

Resolution No. 10677-23*

5. **NON-Consent Agenda: Items Removed from Consent (if applicable)**

- a. Legislative & Licensing Committee - Ordinance amending Sections 15.12.070, 15.12.130, 15.04.200 and 15.04.780 of the Plumbing Code regarding homeowner plumbing permits. (Recommended approval at the Leg. & Lic. Comm. 3-1 with Ald. Szews voting no.)

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to approve the ordinance amending the plumbing code as presented. Roll call vote 7 - 7 with Aldermen Christianson, Szews, Anderson, Hallquist, Berg, Wilson, and Seals voting no. Mayor Ponto breaks the tie with an in favor vote. Motion carried. 9:08pm. **Ordinance No. 2831-23***

- b. Council As A Whole - Resolution and Ordinance for an Intergovernmental Boundary Agreement with Village of Elm Grove

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to approve the resolution and ordinance for an intergovernmental agreement with the Village of Elm Grove as presented. Motion carried unanimously. 9:24pm. **Resolution No. 10678-23***; **Ordinance No. 2832-23***

- c. Plan Commission - Ordinance amending Section 17.64.010 of the Brookfield Municipal Code of the B-3 District

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to approve the ordinance amending the B-3 District as presented. Motion carried unanimously. 9:25pm. **Ordinance No. 2833-23***

- d. Plan Commission - Ordinance for amending the Lilly Road and Capitol Drive Neighborhood Plan.

- e. Plan Commission - Resolution for approval of the General Plan for two lots at 13925 W. Capitol Drive and 3950 Lilly Road, Property Tax Keys BRC1054035 and BRC1054038. (Recommended 5-1 at the Plan Commission with Ald. Owen voting no.)

- f. Plan Commission - Ordinance for Amending the Zoning of two lots at 13925 West Capitol Drive and 3950 Lilly Road, Property Tax Key Numbers BRC1054035 and BRC1054038 from B-1 Local Business District to Planned Development District General Plan – Mixed Use No. __ for the purpose of redeveloping the southeast corner of Lilly Road and Capitol Drive with a mixed-use project of commercial retail space and apartment units with Wheel & Sprocket to operate from new commercial space on the site.

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to approve items 5d, 5e, 5f as presented. 9:26pm.

Planning Administrator Richard Vanderwal presented.

Wheel and Sprocket representatives presented.

Council members discussed.

Roll call vote to approve 3-11 with Aldermen Christianson, Carnell, Reddin, Owen, Szews, Anderson, Bloom, Berg, Blackburn, Mellone, and Seals voting no. Motion failed. 11:20pm.

Motion by Alderman Reddin, seconded by Alderman Blackburn, to deny items 5d, 5e, 5f for the following reasons:

1. The requested height regulation of 60 feet/50 feet is not restrictive enough for that location. Specifically, a 60-foot building would be the tallest building in the Capitol Drive area and would negatively impact the public's health, safety, and welfare. The height would negatively alter the public's view and would not maintain the character of the established neighborhood, contrary to the principles in the Comp Plan.
2. The current setback at the Property is 25 feet, with a landscape surface ratio of 30%; the Owner has proposed an 18-foot setback. The Comp Plan envisions higher density housing accommodating multi-family developments with generous landscaping. The proposed location of the building having exterior footprints positioned up to 7-feet closer to the right-of-way, a 28% reduction in the separation, would negatively affect the health, safety, and welfare of the City as it does not maintain a synonymous character with the neighborhood and significantly alters the public's view. The Owner's request for 27.5% landscape surface ratio is appropriate, but only as measured from the 25-foot setback line, not 18 feet, to properly maintain the health, safety, and welfare of the City.
3. The floor area ratio is less restrictive than the current zoning on the Property, which is 30 percent. The floor area ratio of 133.69% is too dense, would far exceed any floor area ratio of the properties on Capitol Drive and the surrounding neighborhood for this type of development and negatively affects the health, safety, and welfare of the City as it does not maintain the character of the established neighborhood, contrary to the principles in the *2050 Comprehensive Plan*.

Roll call vote to deny 11-3 with Aldermen Hallquist, Mahkorn, and Wilson voting no. Motion carried. 11:22pm.

Resolution denial of General Plan - Resolution No. 10679-23*

Resolution denial of property owners' request to rezone - Resolution No. 10680-23*

Resolution denying the proposed amendment to the "Recommended Land Uses" map in "The Neighborhood Vision" - Resolution No. 10681-23*

g. CLOSED SESSION NOTICE 1:

Closed Session:

The Common Council for the City of Brookfield may vote to go into Closed Session for item 5d, 5e, 5f for the purpose to deliberate and confer with city staff to recommend the creation of a Planned Development District General Plan for properties located at 13925 W. Capitol Drive and 3950 Lilly Road. A Closed Session for these purposes is authorized pursuant to Wis. Stat. Sec. 19.85 (1)(g), which authorizes a governmental body, upon motion duly made, seconded, and approved upon by the majority of the members present as required under Wis. Stat. Sec. 19.85(1), to meet in Closed Session to conduct other specified public business whenever 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. Upon conclusion of the Closed Session, the Council will reconvene in Open Session, pursuant to Wis. Stat. Sec. 19.85(2), for possible additional discussion and action concerning any matter discussed in Closed Session or further business on the agenda. Persons attending or potentially attending the closed session would be the Mayor, Common Council Members, Director of Community Development, Director of Finance and Administration, Planning Administrator, City Attorney, City Engineer, Fire Chief, Director of

Public Works, and City Clerk.

There was no closed session voted on for this meeting.

- h. Plan Commission - Resolution approving a Project Plan for Tax Increment District Number Nine (TID No. 9) in the City of Brookfield, Wisconsin, Waukesha County for the creation of said district, designate and establish the boundaries of the TID Number 9, name TID Number 9, certify that the properties contain sufficient areas of environmental pollution, establish a creation date of TID Number 9, among other statutory requirements. (Recommended 5-1 voted no at Plan Commission with Ald. Owen voting no)

Motion by Alderman Mahkorn, seconded by Alderman Bloom, to postpone item 5h until September 5th, 2023. 13 in favor with Alderman Blackburn voting no. Motion carried. 11:24pm.

- i. CLOSED SESSION NOTICE 2:

Closed Session:

The Common Council for the City of Brookfield may vote to go into Closed Session for item 5h for the purpose to deliberate and confer with city staff to recommend the creation of an Environmental Remediation Tax Increment District for properties located at 13925 W. Capitol Drive and 3950 Lilly Road. A Closed Session for these purposes is authorized pursuant to Wis. Stat. Sec. 19.85(1)(e), which authorizes a governmental body, upon motion duly made, seconded, and approved upon by the majority of the members present as required under Wis. Stat. Sec. 19.85(1), to meet in Closed Session to conduct other specified public business whenever deliberating or negotiating the investing of public funds or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. Upon conclusion of the Closed Session, the Council will reconvene in Open Session, pursuant to Wis. Stat. Sec. 19.85(2), for possible additional discussion and action concerning any matter discussed in Closed Session or further business on the agenda. Persons attending or potentially attending the closed session would be the Mayor, Common Council members, Director of Community Development, Director of Finance and Administration, Planning Administrator, City Attorney, City Engineer, Fire Chief, Director of Public Works, and City Clerk.

There was no closed session voted on for this meeting.

Mayor's announcement of legislative referrals and requests for services.

None.

Adjournment

Motion by Alderman Bloom, seconded by Alderman Hallquist, to adjourn the meeting. Motion carried unanimously. The meeting adjourned at 11:25pm.