

THESE ARE THE MINUTES OF A **COMMON COUNCIL**  
MEETING OF THE 29<sup>TH</sup> COMMON COUNCIL, HELD AT 7:45 P.M.,  
TUESDAY, **JULY 19, 2011**, IN THE COUNCIL CHAMBERS OF  
BROOKFIELD CITY HALL, 2000 N. CALHOUN ROAD,  
BROOKFIELD, WISCONSIN

MAYOR STEVEN PONTO WAS PRESIDING

**ALDERMEN PRESENT:** Mark Nelson, Gary Mahkorn, Rick Owen, Christopher Blackburn, Lisa Mellone, Ron Balzer, Jim Garvens, Edward “Buck” Jurken, Scott Berg, Dan Sutton, Renee Lowerr, Bob Reddin, Bill Carnell, Jerry Mellone

**ALDERMEN ABSENT & EXCUSED:** None

**ALSO PRESENT:** City Clerk Kristine Schmidt, Director of Public Works Tom Grisa, Director of Human Resources Jim Zwerlein, Director of Community Development Dan Ertl, City Attorney Karen Flaherty, Director of Finance Robert Scott, Police Chief Dan Tushaus, Director of Parks & Recreation Bill Kolstad, Director of Services Joe Amodeo

Mayor Steven Ponto called the Common Council to order at approximately 7:45 p.m. There was no one who wished to address the Council

The next Common Council meeting will be August 16, 2011.

Boy Scout Troop 71 led the Council in the Pledge of Allegiance.

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**ACTIONS OF THE COMMON COUNCIL**

A public hearing was heard regarding the request of the City of Brookfield to amend the 2035 *Comprehensive Plan* by revising “Chapter 5: Natural Resources and Recreation” through the consideration of an update to the City Park and Open Space Plan including any corresponding updates to the Greenway Corridor Plan – Brookfield.

**CONSENT AGENDA**

Alderman Nelson moved approval of the items on the Consent Agenda including the addendum. The motion was seconded by Alderman Jurken and carried unanimously. Recorded as a roll call.

- 1) Minutes of the Regular Common Council meeting of June 21, 2011.

*Actions and recommendations of the Plan Commission minutes of July 11, 2011, including the Plan Review Board minutes of June 16, 2011*

- 2) • **P.C. #1:** Actions and recommendations from the June 16, 2011, Plan Review Board meeting.
  - a. • **PRB #1:** Alsum Sweet Corn for conditional approval of their temporary use permit

to operate a farm produce stand on the lot east of 13785 W. North Avenue.

b. • **PRB #2:** Brookfield Christian School, 14155 W. Burleigh Rd., to replace an existing monument sign.

c. • **PRB #3a:** Heritage Christian School, 18000 W. Greenfield Ave., for a monument sign.

d. • **PRB #3b:** Heritage Christian School, 18000 W. Greenfield Ave., for a wall sign.

3) • **P.C. #4:** The North Face for approval of a revised plan and method of operation to permit building façade improvements for a store front at Brookfield Square Mall, 95 N. Moorland Road.

4) • **P. C. #7:** Amending the City of Brookfield 2035 *Comprehensive Plan* and creating *The Development Plan for Brookfield's 124<sup>th</sup> Street Corridor*.

5) Resolution amending the *City of Brookfield 2035 Comprehensive Plan* and creating *The Development Plan for Brookfield's 124<sup>th</sup> Street Corridor*. **Resolution No. 8351-11\***

6) Ordinance amending the *City of Brookfield 2035 Comprehensive Plan* and creating *The Development Plan for Brookfield's 124<sup>th</sup> Street Corridor*. **Ordinance No. 2256-11\***

*As recommended by the Finance Committee*

7) Vouchers exceeding \$50,000 requiring immediate action.

8) Resolution approving amending to the 2011 general fund budget requested by the Directors of Finance and Parks, Recreation & Forestry: increase expenditure account 03700006-560000 by \$67,000 for purposes of funding additional mosquito treatment program costs. **Resolution No. 8352-11\***

9) Resolution approving 2011 budget amendment requested by the Police Chief: transfer \$59,983 from contingency appropriation 07001700-590000 to various department accounts, and recognize \$13,645 in related grant revenue, for purposes of funding equipment purchases to implement the TraCS system and related items required by federal Criminal Justice Information System standards. **Resolution No. 8353-11\***

10) Request of the Fleet Services Division to purchase Highway Division tracked skid steer from JCB of Milwaukee for \$49,523.

*As recommended by the Human Resources & Public Safety Committee*

11) Resolution amending the City of Brookfield Non-Represented Employee Benefits Policy regarding employee retirement contributions pursuant to 2011 Wisconsin Acts 10 and 32. **Resolution No. 8354-11\***

12) Resolution regarding mandatory employee contributions to the Wisconsin Retirement System (enables employee payroll deductions toward pension to be treated as exempt from Federal and State income taxes). **Resolution No. 8355-11\***

13) Ordinance amending Section 2.40.050 B.3. and 2.40.120 and creating Sections 2.40.025 and 2.40.145 of the Municipal Code regarding the Civil Service System (establishes a grievance procedure for City of Brookfield employees pursuant to 2011 Wisconsin Act 10, Section 170 (now codified in Section 66.0509 (1m) Wis. Stats.). **Ordinance No. 2257-11\***

*As recommended by the Legislative & Licensing Committee*

14) Approval of Original Bartender Licenses (see agenda for applicants).

15) Approval of Renewal Bartender Licenses (see agenda for applicants).

16) Temporary Class B Beer & Wine license: SOS Center, Inc. 29<sup>th</sup> Annual Fundraising Event on September 10, 2011, at Immanuel Lutheran Church, 13445 W. Hampton Rd., 6-9:30 p.m.

17) Temporary Class B Beer license: Greater Brookfield Chamber of Commerce Business After 5 on July 21, 2011, at Eddie Z's Blinds and Drapery, 14640 W. Capitol Dr., 5-7 p.m.

*As recommended by the Water & Sewer Board*

18) Resolution approving the Private Property Inflow and Infiltration Reduction Policy and Program Guidelines. **Resolution No. 8356-11\***

*Council As A Whole*

19) Resolution establishing the division of the City of Brookfield into 24 wards, as depicted on the Official Ward Map. **Resolution No. 8357-11\***

20) Introduction of the Ordinance redistricting the boundaries of the Aldermanic Districts and approving of said plan and establishing polling places. *No action taken.*

21) Mayor's Appointment to the Library Board: Theresa M. Dahms – 3 year term expiring 7/1/2014.

***\* End of the Consent Agenda \****

21) Items removed from the Consent Agenda: None.

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**Plan Commission**

22a) Alderman Nelson moved to reconsider Item #28 from the June 21, 2011, Common Council meeting: P.C. #4 – Ryan Companies US Inc. and Bluemound Land Holdings LLC for approval of a rezoning from “O&LR/C #3” to “PDD” Planned Development District – Commercial, Preliminary Plat, PDD Specific Plan, and Final Plat for property located at 12821 W. Bluemound Road (former Quebecor building site) and 12935 W. Bluemound Road (Bluemound Bowl) to permit the construction

of an approximate 175,000 sq. ft. retail center at the former Quebecor site and a parking lot expansion for Bluemound Bowl. The motion was seconded by Alderman Mahkorn and carried unanimously.

22b) Alderman Nelson moved approval of the request of Ryan Companies US Inc. and Bluemound Land Holdings LLC for approval of a rezoning from “O&LR/C #3” to “PDD” Planned Development District – Commercial, Preliminary Plat, PDD Specific Plan, and Final Plat for property located at 12821 W. Bluemound Road (former Quebecor building site) and 12935 W. Bluemound Road (Bluemound Bowl) to permit the construction of an approximate 175,000 sq. ft. retail center at the former Quebecor site and a parking lot expansion for Bluemound Bowl amended as follows: The motion was seconded by Alderman Berg.

Mr. Ertl gave a brief report informing the Council that since the Council approved the rezoning for the Underwood Crossing Development on June 21, 2011 the city staff has learned that certain representations made to the Plan Commission and Council by Ryan Companies regarding the specific needs for the anchor retailer have changed as a result of some misunderstandings of some fine details. As a result, some of the Plan Commission recommendations and the PDD ordinance need to be revisited in order for the project to proceed. The amendments are as follows:

Plan Commission Condition #3, established on June 13, 2011, would be amended as noted below-

#3. The approval is subject to “A Development Agreement with Ryan Companies ~~and Target~~ that details all of the applicable requirements, restrictions and commitments listed below, including a stipulation to a user being constructed on Lot 3 that operates a full service department store with grocery. No land use in Underwood Crossing can operate 24 hours. Operating from 8:00 a.m. p.m. Monday through Saturday and 10:00 a.m. to 9:00 p.m. Sunday except for Black Friday and holiday sales.—This user shall ~~purchase own~~ the property as a corporate entity and shall include the architectural details as illustrated in the building elevation plans dated June 2, 2011. The user shall have on file with the City Clerk an Asset Protection Plan that addresses security methodologies and building and site security features. These measures shall be subject to modifications recommended by the Brookfield Police Department as needed in the event of acute security issues with the opportunity for the user to contest the modifications to the Brookfield common Council after hearing”.

Mr. Ertl explained Target will not be a signatory to the Agreement as Ryan Co’s will be responsible to complete the infrastructure supporting the project and post the financial securities. So it will be a sole agreement between the City and Ryan Companies. Ryan will assign the long term responsibilities on the future Target property- Lot 3- under the assignment terms of the Agreement. So Target’s name is deleted. He also explained that Target intends to operate their store consistent with other stores in the area and has no plans to create special hours for the Brookfield store but the corporation does not accept a prescribed set of operating hours. The preferred approach is to establish that no users at the Underwood Shopping Center can operate 24 hours. This is a more generalized statement.

| Plan Commission Condition #10, established on June 13, 2011, would be amended as noted below-

10. Clean-up of all contamination on the site and the building according to specifications of WDNR/EPA prior to building occupancy permits issuance for the anchor retail building.

Mr. Ertl explained that Ryan Co's will not be in the position to secure the WDNR "closure" letter by time of issuance of a building permit for Target but rather at occupancy.

Alderman Nelson moved to amend the June 13<sup>th</sup> Plan Commission Item #4 consistent with the recommendations as amended above. The motion was seconded by Alderman Mahkorn and carried unanimously.

The motion as amended carried unanimously.

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23a) Alderman Nelson moved to reconsider Item #29 from the June 21, 2011, Common Council meeting: Ordinance to rezone the property located at 12821 W. Bluemound Road (former Quebecor building site) and 12935 W. Bluemound Road (Bluemound Bowl) from "O&LR/C #3" to "PDD" Planned Development District – Commercial to permit the construction of an approximate 175,000 sq. ft. retail center at the former Quebecor site and a parking lot expansion for Bluemound Bowl (Underwood Crossing/Target). The motion was seconded by Alderman Berg and carried unanimously.

23b) Alderman Nelson moved to approve the Ordinance to rezone the property located at 12821 W. Bluemound Road (former Quebecor building site) and 12935 W. Bluemound Road (Bluemound Bowl) from "O&LR/C #3" to "PDD" Planned Development District – Commercial #17 to permit the construction of an approximate 175,000 sq. ft. retail center at the former Quebecor site and a parking lot expansion for Bluemound Bowl (Underwood Crossing/Target) which includes and incorporates the amendments which were acted upon in agenda Item #22b. The motion was seconded by Alderman L. Mellone.

Mr. Ertl explained the revisions recommended in the proposed amended ordinance which are similar to those stated for the Plan Commission actions of June 13, 2011.

A roll call vote was taken and carried unanimously. Ayes 14-No's 0. ***Ordinance No. 2255-11 - Amended\****

24) Alderman Mahkorn moved approval of the Plan Commission recommendations for P.C. #2 and #3 from the July 11, 2011, Plan Commission meeting: Request of Ryan Companies US Inc., Target Corporation, and Quad Graphics Corporation, c/o Tony Barranco, 50 South Tenth Street, Suite 300, Minneapolis, MN, for approval of a Development Agreement for property located at 12821 W. Bluemound Road (former Quebecor building site) to permit the construction of approximately 175,000 sq. ft. retail and retail service use to be built on Lots 1, 2, 3, 4, and 5 of "Underwood Crossing" at the former Quebecor site including an expanded parking lot for Bluemound Bowl, 12935 W. Bluemound Road and to outline the parameters for a dedication of Outlot 1 of "Underwood Crossing" at the former Quebecor site to the City of Brookfield, subject to City Attorney and City Engineer approval of fiscal

instruments securitizing completion of infrastructure and other site improvements and final language changes prior to execution of Agreement. The motion was seconded by Alderman Owen and carried unanimously.

25) Alderman Mahkorn moved approval of the Resolution approving amendment to state/local agreement between the City of Brookfield and the Wisconsin Department of Transportation regarding construction of improvements in US Highway 18 (Bluemound Road), with the City to be reimbursed for the cost of said improvements by the developers of the property at 12821 W. Bluemound Road. The motion was seconded by Alderman Owen and carried unanimously. **Resolution No. 8358-11\***

26) Mayor's Assignment of Legislative Referrals and Request for Services:

a. Referred to the Legislative & Licensing Committee, Code amendments necessitated by the adoption of 2011 Wis. Act 35, Concealed Carry of Weapons, including a possible resolution to prohibit concealed carry in municipal buildings. (*Referred by Mayor Ponto*)

27) Alderman Berg moved to adjourn. Seconded by Alderman Garvens and carried. 8:55p.m..

\* May be viewed in the City Clerk's Office.  
Minutes respectfully submitted by Kristine Schmidt, City Clerk