

**JUNE 14, 2005**

Regular meeting of the Common Council was called to order by Mayor Meyers at 7:00 p.m., in the Council Chambers, City Hall Plaza.

**PRESENT:** Alanna Feddick, Gerald Nelson, Marty Anderson, Jerry Bennington, Sr., Chris Meyer, Donald Krueger, John Spiros, Tom Buttke and Edward Beaudry, Jr.

**ABSENT:** Michael Feirer

The flag was saluted and the pledge given.

Rev. Peter Ruggles, Good Shepherd Lutheran Church gave the invocation.

### **RECOMMENDATIONS FROM MAYOR**

Word to the Wise: Speak softly and sweetly. If your words are soft and sweet, they won't be hard to swallow if you have to eat them. Author: James Thurber

**CC05-199** Motion by Bennington, second by Nelson to approve the minutes of the Common Council meeting of May 24, 2005. All Ayes

**Motion carried**

**CC05-200** Motion by Krueger, second by Meyer to approve the minutes of the Common Council special meeting of June 7, 2005. All Ayes

**Motion carried**

No items were added to the agenda.

Amber Miller, Director of Planning and Economic Development introduced Brian Kratcha who is the new GIS Coordinator for the City of Marshfield.

### **PUBLIC COMMENT PERIOD**

Jeff Schultz of 201 N. Cedar Avenue talked about the city budget. There is support for the general idea of cutting government spending. But when discussing cutting specific programs it gets harder. The easiest cuts will come first and then it gets harder. We need to look at future spending and have fiscal discipline. We need to properly maintain existing infrastructure and facilities. We need to spend money today to fix problems that are minor before they become bigger and more expensive problems later on. If the City can exercise discipline spending, revenues will have time to grow and catch up to expenses and possibly resulting in a lower mill rate in the future. He urged the elected officials and city employees to communicate with residents on budget issues.

### **MINUTES OF GOVERNING BOARDS AND COMMISSIONS**

**CC05-201** Motion by Anderson, second by Bennington to receive and place on file the minutes of the University Commission of March 16, 2005; Community Development Authority of May 5, 2005; Library Board of May 10, 2005; Zoning Board of Appeals of May 10, 2005 and Fairgrounds Commission of May 18, 2005. All Ayes

**Motion carried**

**MINUTES OF ADVISORY BOARDS, COMMISSIONS AND COMMITTEES**

**CC05-202** Motion by Buttke, second by Beaudry to approve the minutes of the Plan Commission of June 7, 2005 special meeting. All Ayes  
**Motion carried**

**MINUTES OF COUNCIL COMMITTEES**

**CC05-203** Motion by Spiros, second by Feddick to approve the minutes of the Cable TV Committee of May 24, 2005. All Ayes  
**Motion carried**

**CC05-204** Motion by Buttke, second by Nelson to approve the minutes of the Board of Public Works of June 6, 2005.

Correction to the minutes to reflect that Alderperson Nelson was absent.

Vote on motion **CC05-204 as amended**; All Ayes  
**Motion carried**

**CC05-205** Motion by Feddick, second by Anderson to approve the minutes of the Finance, Budget and Personnel Committee of June 7, 2005.

Correction to the minutes to reflect that Alderperson Nelson was not present during the closed session.

Vote on motion **CC05-205 as amended**; All Ayes  
**Motion carried**

**CC05-206** Motion by Krueger, second by Bennington to approve the minutes of the Judiciary, License and Cemetery Committee of June 7, 2005. All Ayes  
**Motion carried**

**MINUTES OF COMMUNITY ASSOCIATIONS**

**CC05-207** Motion by Buttke, second by Feddick to receive and place on file the minutes of the Central Wisconsin State Fair Board of May 16, 2005.

Correction to the minutes, Dave Marsh was not listed as being present or absent but he gave a report at the meeting

Vote on motion **CC05-207 as amended**; All Ayes  
**Motion carried**

First reading of Ordinance No. 1051, amending Section 13-37 of the Municipal Code of the City of Marshfield relative to terrace requirements.

First reading of Ordinance No. 1052, attaching certain lands from the Town of McMillan, Marathon County, Wisconsin to the City of Marshfield, Wisconsin, creating Prairie Run planned unit development Phase I, and changing zoning for property located north of McMillan Street and further described hereinafter from R-2 (large lot single family residential to PUD-GDP (planned unit development - general development plan).

First reading of Ordinance No. 1053, amending Section 3-10 to include the creation of Ward 33.

**CC05-208** Motion by Buttke, second by Krueger to approve Final Resolution No. 2005-22, in the matter of Improvement Project No. 1822 - Alley Reconstruction (confined by Vine Avenue, Cherry Avenue, Cleveland Street and Doege Street). Nelson voted Naye, rest Aye.

**Motion carried**

**CC05-209** Motion by Bennington, second by Spiros to approve Final Resolution No. 2005-23, in the matter of Improvement Project No. 1747 - Milling of asphalt streets, asphalt street paving and storm sewer (Fairview Drive from its intersection with Marathon Street to and including its intersection with Schmidt Avenue, Fairview Court from and including its intersection with Fairview Drive, 6<sup>th</sup> Street from and including its intersection with Cherry Avenue to and including its intersection with Vine Avenue, Washington Court from its intersection with Washington Avenue, Bluebird Lane from and including its intersection with Fillmore Street to and including its intersection with Arnold Street, Fillmore Street from and including its intersection with Anton Avenue to and including its intersection with Galvin Avenue, and Juno Avenue from and including its intersection with Becker Road to and including its intersection with Fillmore Street. All Ayes

**Motion carried**

**CC05-210** Motion by Feddick, second by Anderson to approve Resolution No. 2005-24, correcting the number on Resolution No. 2005-21 which was approved at the May 24, 2005 Common Council meeting. All Ayes

**Motion carried**

**CC05-211** Motion by Bennington, second by Nelson to refer to the Plan Commission for recommendation regarding permanent zoning the Petition for Direct Annexation by Unanimous Approval by Jeff Meskill for Lots 1 and 2 of Marathon County Certified Survey Map No. 10844, being part of the SW 1/4 of the SW 1/4 Section 31, Town 26 North, Range 3 East, Town of McMillan, Marathon County, Wisconsin. All Ayes

**Motion carried**

**CC05-212** Motion by Buttke, second by Spiros to approve Budget Resolution No. 11-2005, appropriating \$1,500 from grant monies to the Public Library budget for the "1,2,3...Read with Me" program. All Ayes

**Motion carried**

**CC05-213** Motion by Beaudry, second by Meyer to approve Budget Resolution No. 12-2005, transferring \$112,000 from the Street Construction Capital Project Fund to the Storm Sewer Construction Fund. All Ayes

**Motion carried**

Discussion on the donation of a sculpture through the Marshfield Sunshine Rotary Club.

The morning Rotary Club asked Mr. Clyde Wynia to make metal sculptures for their two mini parks off the new parkway. He did make a turtle and large cat tails which sits in one of the parks. He has made another piece, which is a large dragon 16' to 18' tall. He is asking the City to hold him harmless and sign an Indemnification Agreement that would insulate him from liability.

The City's Insurance Company does not recommend signing the Indemnification Agreement. If the City elects to sign the agreement, that would take us out of the tort area of law and put us into the area of contract law in which we actually enter into a contract with the donor and we will provide that person with the protection. Unfortunately that does not give the City protection under the Recreational Immunity Statute because it is not a tort issue. Secondly, the City's Insurance Carrier does not insure the City for contractual liability of that nature.

City Administrator Brehm presented some options:

1. Don't accept the sculpture.
2. Accept the sculpture if Mr. Wynia withdraws his request for Indemnification.
3. Endorsement added to the City's policy if the City does sign the Indemnification Agreement as amended by the changes that the City Attorney had suggested. The estimated annual premium is about \$1800 a year.
4. Have a private group accept the sculpture if the City was to donate the land to them and they were to maintain that sculpture. He has asked two organizations but they have not had an opportunity to meet to discuss that.

Ultimately the City really has to ask the question, is the value of the sculpture worth the additional exposure and risk of potential lawsuit in the event of an injury or death if it would occur? Obviously the risk is there because in the first sculpture that was donated by Mr. Wynia, a request for indemnification was not asked of.

The donor is looking for an indemnification. He will not sell or donate the statue without the indemnification. It is the indemnification that trips the City up because we then don't have the recreational immunity protection, we have a contractual liability potential if somebody does get hurt and makes a claim against the donor.

**CC05-214** Motion by Buttke, second by Nelson to hold off on taking action on the donation of the sculpture until a future meeting and allow City Administrator Brehm to work with Mr. Wynia to see if there is a way to work this out. Bennington voted Naye, rest Aye

**Motion carried**

**CC05-215** Motion by Bennington, second by Feddick to go into closed session pursuant to Wisconsin Statutes, chapter 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; specifically the City Administrator had requested a closed session to discuss the St. Joseph's Hospital Day Care Center claim. Roll call vote, all Ayes. (Time: 7:59 p.m.)

**Motion carried**

Present in closed session: Alderpersons Feddick, Nelson, Anderson, Bennington, Meyer, Krueger, Spiros, Buttke and Beaudry, Mayor Meyers, City Administrator Brehm, City Attorney Hutchinson, Finance Director Strey and City Clerk Hall.

**CC05-216** Motion by Nelson, second by Bennington to return to open session. Roll call vote, all Ayes. (Time 8:24 p.m.)

**Motion carried**

**CC05-217** Motion by Bennington, second by Beaudry to approve the Settlement Agreement with Saint Joseph's Hospital of Marshfield, Inc. and direct appropriate staff to sign the agreement. All Ayes

**Motion carried**

**CC05-218** Motion by Buttke, second by Krueger to direct staff to come up with a budget resolution for consideration for the City's share of this agreement and bring it to the June 28, 2005 Common Council meeting. All Ayes

**Motion carried**

Motion by Bennington, second by Meyer to adjourn at 8:26 p.m.

**Motion carried**

Deb M. Hall  
City Clerk