

AUGUST 23, 2005

PUBLIC HEARING: Called to order by Mayor Meyers at 6:45 p.m., in the Council Chambers, City Hall Plaza regarding vacation of east 30 feet of South Apple Avenue between 21st Street and 25th Street.

FOR: Gary Beil of 2310 Wallonnie Drive explained that he was the one that requested the vacation of the east 30 feet of S. Apple Avenue. He would like the property turned over to the property owners.

AGAINST: None

Public hearing closed at 6:48 p.m.

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: Michael Feirer, Alanna Feddick, Marty Anderson, Jerry Bennington, Sr., Chris Meyer, Donald Krueger, John Spiros, Tom Buttke, and Edward Beaudry, Jr.

ABSENT: Gerald Nelson

The flag was saluted and the pledge given.

Pastor John Freel, Believers Church gave the invocation.

RECOMMENDATIONS FROM MAYOR

Word to the Wise: There is no better measure of what people are than what they do when they are totally free to choose. Author: William Bulger

CC05-284 Motion by Buttke, second by Feirer to approve the minutes of the Common Council meeting of August 9, 2005. All Ayes

Motion carried

There were no items added to the agenda.

PUBLIC COMMENT PERIOD

None

CITY ADMINISTRATOR'S REPORT

City Administrator Brehm gave a report on the following:

1. State's 2005-2007 Biannual Budget
2. City's 2006 Budget
3. Citizens' Survey
4. Comprehensive Plan
5. MACCI's August Business Plan Benchmark Report

MINUTES OF GOVERNING BOARDS AND COMMISSIONS

CC05-285 Motion by Bennington, second by Anderson to receive and place on file the minutes of the University Center Commission of May 18, 2005; University Center Commission of May 26, 2005; Fairgrounds Commission of July 20, 2005; Library Board of August 9, 2005; Zoning Board of Appeals of August 9, 2005 and Marshfield Utility Commission of August 15, 2005 (approval of the minutes will constitute approval of Job Order #17107 at a cost of \$35,352). All Ayes

Motion carried

MINUTES OF ADVISORY BOARDS, COMMISSIONS AND COMMITTEES

CC05-286 Motion by Feirer, second by Feddick to approve the minutes of the Electrical Board of August 3, 2005; Historic Preservation Committee of August 8, 2005 and Plan Commission of August 16, 2005. All Ayes

Motion carried

MINUTES OF COUNCIL COMMITTEES

CC05-287 Motion by Feirer, second by Bennington to approve the minutes of the Committee on Aging of August 4, 2005. All Ayes

Motion carried

CC05-288 Motion by Buttke, second by Krueger to approve the minutes of the Parks, Recreation and Forestry Committee of August 17, 2005. All Ayes

Motion carried

CC05-289 Motion by Feirer, second by Meyer to approve the minutes of the Board of Public Works of August 15, 2005. All Ayes

Motion carried

CC05-290 Motion by Feddick, second by Anderson to approve the minutes of the Finance, Budget and Personnel Committee of August 16, 2005.

CC05-291 Motion by Buttke, second by Krueger to separate motions FBP05-086, FBP05-087 and FBP05-088 from the Finance, Budget and Personnel Committee minutes of August 16, 2005. Feddick voted Naye, rest Aye

Motion carried

(Motion FBP05-086 Motion by Beaudry, second by Bennington to authorize the City Administrator to begin the process to fill the vacant Firefighter position in the Fire and Rescue Department. Feddick, Spiros and Anderson voted Naye, Bennington and Beaudry voted Aye. Motion failed; Motion FBP05-087 Motion by Beaudry to authorize the City Administrator to begin the process to fill the vacant Records Secretary position in the Police Department. Motion died for lack of a second; and Motion FBP05-088 Motion by Beaudry, second by Bennington to authorize the City Administrator to begin the process to fill the 2 vacant Dispatcher positions in the Police Department. Feddick, Spiros and Anderson voted Naye, Bennington and Beaudry voted Aye. Motion failed)

CC05-292 Motion by Buttke, second by Krueger to send motions FBP05-086, FBP05-087 and FBP05-088 back to the Finance, Budget and Personnel Committee for more discussion. All Ayes

Motion carried

Vote on motion **CC05-290 as amended**; All Ayes

Motion carried

CC05-293 Motion by Bennington, second by Feddick to approve the minutes of the Judiciary, License and Cemetery Committee of August 16, 2005. All Ayes

Motion carried

MINUTES OF COMMUNITY ASSOCIATIONS

CC05-294 Motion by Bennington, second by Feddick to receive and place on file the minutes of Main Street Marshfield of July 13, 2005 and Central Wisconsin State Fair Board of July 18, 2005.
All Ayes

Motion carried

CC05-295 Motion by Meyer, second by Spiros to approve Resolution No. 2005-27, vacating and discontinuing the east 30 feet of that portion of South Apple Avenue between 21st Street and 25th Street. All Ayes

Motion carried

CC05-296 Motion by Buttke, second by Bennington to approve Resolution No. 2005-28, approving the Plat entitled Woodsvew Subdivision 1st Addition to the City of Marshfield, Franz Real Estate & Homes, LLC, owner, as approved by the City Plan Commission. All Ayes

Motion carried

CC05-297 Motion by Buttke, second by Feirer to approve Resolution No. 2005-32, approving a Type I Amendment (amendment of service area boundary without increasing the land area within the boundary) to the Marshfield Sewer Service Area Plan. The amendment will add 46 acres to Section 31 of the Town of McMillan, add 37 acres to Section 26 of the City of Marshfield, and remove 83 acres from Section 21 of the Town of Cameron. All Ayes

Motion carried

Consideration of a donation of a sculpture from Clyde Wynia.

Aldersperson Feddick explained that she as well as other members of the Council felt that this sculpture is something they wanted the City to have. She has received no negative information or comments from any member of the public regarding this sculpture. She talked to a local insurance company who stated that the cost of a rider of that type would be between \$750 - \$1,000.

CC05-298 Motion by Anderson, second by Meyer to rescind the original action that was taken at the Common Council meeting of July 26, 2005 regarding the sculpture which was to “accept the sculpture and direct the appropriate city staff to sign the hold harmless agreement once the changes were made that were recommended by City Attorney Hutchinson.” Krueger voted Naye, rest Aye

Motion carried

Dennis Tweedale, Chief Executive Officer for the Wisconsin League of Wisconsin Municipalities Insurance Program explained the league program. When this issue came up he reviewed it and made a recommendation for the City to not enter into an Indemnification/Hold Harmless Agreement because the legislature has given us very good protections, so why give it away. If the City wants to accept the statue, there would be three exposures:

1. Premise Medical Payments. Anyone that is hurt on property owned by the City of Marshfield there is a no-fault medical reimbursement policy. It is excess over health insurance that an individual may have but there is \$10,000 available.
2. There is also the exposure of if this is given to the City and put on City property and an individual gets hurt. Even though the insurance company would argue that it is recreational immunity and assuming that they would win, there would be no judgment but they would still have their defense cost which is approximately \$5,000.

3. With what is being proposed in this indemnification is the insurance company would have the liability of a nongovernmental entity. Legislature has protected them with a \$50,000 limit. If you were to name an individual than the sky is the limit.

The pricing that he came up with for the additional insurance is based on the assumption that there would be at least one claim every three years. Even if they won the case there are still court costs of approximately \$5,000 to defend it. He is not in the business of pricing policies for people that have no dollar limits. All he is pricing off of is based on their claim experience. His additional charge is for naming a nongovernmental employee because they are going to have to step in as his attorney and take it through the courts as far as he deems to go because he is an insured under the City's policy.

The Mayor recommended to the Common Council to accept the donation but not sign the Hold Harmless Agreement. It would be wonderful to have this sculpture in the City of Marshfield but you need to ask yourself if signing this agreement would be in the best interest of the residents of Marshfield. He is representing the 19,258 people in Marshfield. He is protecting those 19,258 people. He is not protecting an accomplished artist. That is why he made this recommendation.

CC05-299 Motion by Feddick, second by Anderson to accept the statute and sign the Hold Harmless Agreement as originally presented by Mr. Wynia.

City Attorney Hutchinson said that as a point of order it would be his opinion that the agenda says that as a recommended action that there would be none. It is for discussion purposes only. It would be inappropriate to take action and he felt that it would be a violation of the Open Meeting Law because the public doesn't have adequate notice that some action might be taken at this meeting.

Aldersperson Beaudry pointed out that the recommended action is just that, a recommended action. It doesn't mean that the Council has to follow the recommended action.

City Attorney Hutchinson also stated that the motion that the Council took to rescind the last action was inappropriate because you can't rescind something that has already been acted on.

Recessed at 8:10 p.m.
Reconvened at 8:17 p.m.

Vote on motion **CC05-299**; Krueger and Beaudry voted Naye, rest Aye.
Motion carried

Motion by Bennington, second by Meyer to adjourn at 8:18 p.m.
Motion carried

Deb M. Hall
City Clerk