

OFFICIAL PROCEEDINGS OF THE WAUSAU COMMON COUNCIL
held on Tuesday, July 12, 2016, at 7:00 pm in the Council Chambers at City Hall.
Mayor Mielke presiding.

Roll Call

07/12/2016 7:00:11 PM

Roll call indicated 11 members present.

<u>District</u>	<u>Aldersperson</u>	<u>Present</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Kellbach, Karen	YES
9	Gehin, Joe	YES
10	Abitz, Sherry	YES
11	Smith, Dennis	YES

Public Comment (Pre-registered citizens for matters appearing on the agenda)

- 1) Jameson Diedrich, 518 N 7th Ave, appealed to the Council on the denial of his Operator's License; he works at Day's Bowl-a-Dome. He stated this was his only alcohol related offense and his BAC was only at .07. He has worked there three years without any problems and it is his livelihood. He requested the Council approve his license.
- 2) Erin Sobjeck, 725 ½ S 5th Ave, appealed the denial of her Operator's License. It was denied before and she felt it should be approved because it was her only form of income and she is up for a promotion. She indicated she does not drink when she works.
- 3) Deb Ryan, 702 Elm St, stated she was concerned with going forward with the Frantz development at this point. She recommended they start over with the RFP process.
- 4) Laverne Plantiko, 810 Adams St, spoke in opposition to spending \$2 million on the riverfront project. He felt there should be a town hall meeting for the people regarding the project. He stated we have a right to have a voice and a choice through a referendum.
- 5) Dottie Miner, 330 N 3rd St, downtown resident, spoke regarding alcohol consumption on The 400 Block and the problem with the group of homeless people that sit and drink there all day.
- 6) Kenzie Payne, 515 ½ N 3rd St, Apt 5, downtown resident, did not feel banning alcohol on The 400 Block was the cure-all for the unsightly community members, rather it will get rid of the people who come to enjoy Wausau's quality of life.
- 7) Mary Beth Moberg, of the Northwoods Goldsmith, 314 Scott St, opposed banning alcohol from The 400 Block; she acknowledged the problem group, but the police should enforce the laws already in place.
- 8) Glen Moberg, Co-owner of Northwoods Goldsmith, agreed with Mary Beth and felt the police should arrest the problem drinkers and keep them from coming back. He felt they already had the tools they needed to deal with it.
- 9) Christopher Weems, 500 Grand Ave, Apt 515, spoke in favor of the alcohol ban because something needed to be done.
- 10) Tyler Vogt, Malarkey's Pub/Townies Grill, stated he was not speaking as an opportunist and did not sell alcohol to the people causing the problems. He felt there were three problems on the square: 1) the all-day drinkers, 2) behavioral issues, and 3) homeless people. He did think any of them were mutually exclusive of any other. He was concerned about the proposed ban and felt we should use the laws already on the books.
- 11) Bernie DeLonay, PO Box 5161, spoke regarding The 400 Block commenting she hoped they did not ban alcohol and to enforce the current law.
- 12) Elizabeth Field, 2007 Lamont St, spoke regarding the proposed drinking ban for The 400 Block, she did not feel the problems had to do with drinking and would not change the bad behavior of some of those that are acting out. She pointed out the riverfront development is about to be built and this will bring people down to the block. She suggested a compromise on times and dates or a pilot program with a two year sunset to test the efficacy of the rule.
- 13) Mark Craig, 814 Adams St, of Compass Properties, was concerned that an alcohol ban on the block will have an undesirable impact. He felt if they felt compelled to have a ban that they compromise and discuss a ban only until 4:00 pm., daily. The downtown is for everyone. He stated Compass Properties was opposed to new office and retail space on the river, but fully supportive of residential.
- 14) Jim Tipple, former Mayor, spoke against a ban on alcohol on The 400 Block and felt they should either table it or vote it down until a better solution become available.
- 15) Mayor Mielke indicated he had a letter from Krista Salas, owner of Rosenberry Inn, strongly opposed to the alcohol ban.

Communications & Committee Reports

None

Consent Agenda

07/12/2016 7:38:27 PM

Motion by Nutting, second by Peckham to approve all items on the consent agenda as listed:

16-0601 Minutes of previous meeting(s). (06/14/2016) *Withdrawn-minutes not completed.*

02-1005 Resolution of the Finance Committee approving acquisition of 702 West Thomas Street.

02-1005 Resolution of the Finance Committee approving acquisition of 910 West Thomas Street. **02-1005** Resolution of the Finance Committee approving acquisition of 1118 West Thomas Street.

99-1111 Resolution of the Plan Commission amending the Precise Implementation Plan for 510 North 17th Avenue to allow for a twelve-stall parking expansion, in a UDD, Unified Development District.

Yes Votes: 11 No Votes: 0 Result: PASS

80-0828 Complete Ban

07/12/2016 8:39:20 PM

Motion by Rasmussen, second by Wagner to adopt an ordinance of the Public Health & Safety Committee amending Section 9.04.025 Consumption or possession of intoxicants on streets and Section 9.20.020 Regulations of persons.

Rasmussen stated on behalf of PH&S Committee, we have been trying to solve this problem for the last two years, creating tools, including the public intoxication and park ban ordinances, but the police can tell you, it doesn't work. There are two ordinances proposed a complete ban, other than during permitted events or a partial ban prohibiting alcohol before 4:00 pm. She pointed out whether they adopt a partial alcohol ban or a total ban the events on the block are exempted; whenever there is a permitted event carry-ins will be allowed. Events has not been the issue; it is the rest of the daytime that we have a problem.

Captain Matt Barnes, Wausau PD, stated the ordinances give us the authority to issue citations, which to the average citizen is a big deal; for an individual that has no intention of paying, they don't care and it is a joke to them. He explained public intoxication is more than just being intoxicated and to be cited they must be also be a nuisance; we must be careful to be fair. We do not have officers or CSOs at the block during all the open hours, nor do we really want that image for the block. He indicated the official position of the Police Department is we want a policy set that affects change and even though it won't solve all of the problems, it will solve some. Abitz requested that PH&S or the CIP Committee consider purchasing a camera for The 400 Block to assist the Police Department. Discussion followed regarding the pros and cons of banning alcohol completely or partially.

Yes Votes: 2 No Votes: 9 Abstain: 0 Not Voting: 0 Result: FAIL

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	NO
2	Wagner, Romey	YES
3	Nutting, David E.	NO
4	Neal, Tom	NO
5	Gisselman, Gary	NO
6	McElhaney, Becky	NO
7	Rasmussen, Lisa	YES
8	Kellbach, Karen	NO
9	Gehin, Joe	NO
10	Abitz, Sherry	NO
11	Smith, Dennis	NO

80-0828 Amendment #1

07/12/2016 8:45:13 PM

Motion by Gehin, second by Peckham to amend the Alternate Ordinance of the Public Health & Safety Committee Amending Section 9.04.025 Consumption or possession of intoxicants on streets and Section 9.20.020 Regulations of persons - to add a sunset date of no later than October 1, 2017.

Gehin felt there should be a sunset on the ordinance because it forces us to re-think this through the winter months; if we find that it is working we can put it back in place.

Yes Votes: 11 No Votes: 0 Result: PASS

80-0828 Amendment #2

07/12/2016

Motion by Peckham, second by Abitz to amend the Alternate Ordinance of the Public Health & Safety Committee Amending Section 9.04.025 Consumption or possession of intoxicants on streets and Section 9.20.020 Regulations of persons - to add the alcohol ban to be on non-holiday week days only.

Peckham felt this alcohol ban should be on week days only and to simply post signs that state “No Alcohol on Block Before 4:00 PM on non-Holiday Week Days.” Rasmussen felt the policy needs to be clear and easily identifiable and this would be too cumbersome and complicated to communicate. It has to be easily explained to citizens and visitors and be enforceable, so we need to make it as clean as we can in order to gage results. It can always be expanded in the future.

Yes Votes: 4 No Votes: 7 Result: FAIL

(NOTE: The individual votes were not recorded on City Vote)

80-0828 Amendment #3

07/12/2016 8:52:44 PM

Motion by Rasmussen, second by Wagner to amend the Alternate Ordinance of the Public Health & Safety Committee Amending Section 9.04.025 Consumption or possession of intoxicants on streets and Section 9.20.020 Regulations of persons - to add language specifically exempting Class 1, Class II, and Class III Special Events that have been issued a permit.

Yes Votes: 11 No Votes: 0 Result: PASS

80-0828 Alternate – Partial Ban

07/12/2016 8:53:59 PM

Motion by Peckham, second by Rasmussen to adopt the Alternate Ordinance of the Public Health & Safety Committee amending Section 9.04.025 consumption or possession of intoxicants on streets Amending Section 9.20.020 Regulation of persons, as amended on Council floor.

Yes Votes: 11 No Votes: 0 Result: PASS

16-0703

07/12/2016 8:55:03 PM

Motion by Abitz, second by Peckham to approve the Mayor's appointment to the Transit Commission.

Yes Votes: 11 No Votes: 0 Result: PASS

16-0108

07/12/2016 9:10:08 PM

Motion by Neal, second by Gisselman to table the decision regarding approval or denial of the Operator’s License for Jameson Diedrich to be reconsidered at the August Council meeting.

Rasmussen stated PH&S has set criteria for denial recommendations. In this particular case, Mr. Diedrich’s violation was so new and so fresh that it hadn’t been to court yet. The committee was looking for him to re-apply once all the court process was completed.

Rasmussen noted in the case of Erin Sobjeck, she did not attend the meeting, but sent someone else in her place. She pointed out the Ms. Sobjeck was recommended for denial a year ago and was given a chance by the committee with a one year license and since that time she has had another OWI. She recommended Sobjeck’s denial be upheld.

McElhaney questioned if Jameson Diedrich was convicted of OWI. Diedrich stated his court date was tomorrow and he was told by an attorney the charge was going to be dismissed because he was not legally intoxicated. Rasmussen recommended we uphold the denial for Diedrich as well, and if his situation works out though court the committee would allow him to re-apply at that point. Diedrich pointed out that would mean he would have to pay the \$100 license fee again and there is no refund if denied. Neal wanted to table this decision to the next Council meeting in order to bypass the reapplication fee. Rasmussen did not feel it would be fair to others who have had to repaid the application fee.

Yes Votes: 2 No Votes: 9 Abstain: 0 Not Voting: 0 Result: FAIL

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	NO
2	Wagner, Romey	NO
3	Nutting, David E.	NO
4	Neal, Tom	YES

5	Gisselman, Gary	YES
6	McElhaney, Becky	NO
7	Rasmussen, Lisa	NO
8	Kellbach, Karen	NO
9	Gehin, Joe	NO
10	Abitz, Sherry	NO
11	Smith, Dennis	NO

16-0108 Amendment

07/12/2016 9:11:27 PM

Motion by Peckham, second by Neal to amend the Resolution of the Public Health & Safety Committee approving or denying various licenses as recommended, to remove Jameson Diedrich from the license list and send his application back to Public Health & Safety for reconsideration based on the outcome of his court hearing.

Yes Votes: 7 No Votes: 4 Abstain: 0 Not Voting: 0 Result: PASS

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	NO
8	Kellbach, Karen	NO
9	Gehin, Joe	YES
10	Abitz, Sherry	NO
11	Smith, Dennis	NO

16-0108

07/12/2016 9:13:48 PM

Motion by Abitz, second by Neal to approve a Resolution of the Public Health & Safety Committee approving or denying various licenses as amended on council floor.

Gehin indicated he was an applicant for a Temporary Operators License on the list so he would abstain from voting.

Yes Votes: 10 No Votes: 0 ABS: 1 Result: PASS

15-0708

07/12/2016 9:35:58 PM

Motion by Rasmussen, second by Nutting to adopt a Joint Resolution of the Economic Development and the Finance Committees accepting the final plan, lease the property and provide resources for the East Riverfront Redevelopment Area project as proposed by Frantz Community Investors (FCI) - Riverlife Villages (Phase 1).

Rasmussen stated from an economic development standpoint, one thing we need to recognize is that it is a phased project. Even though there is a substantial commitment on the part of the city investing in this project to move forward, it is really stimulating future growth. ED and Finance requested that the recommendation by Ehler's that there be a net rate of return shared back with the city to retire this debt be inserted into this agreement. There is also a provision that if the increment is not generated as planned that conventional loan repayment structure would kick in.

McElhaney questioned what indication we had that concludes that this type of housing and mixed use property is something the Wausau market will bear. Schock explained this process started many years ago with the East Riverfront Master Plan and Market Study that highlighted the potential for the marketability of the properties. That plan contemplated a specific mixed use vision for the area; one that would be engaging for residents, provide jobs and add neighborhood retail appropriate for the area. The plan has changed over time from the original proposal, which is part of the process. Discussion followed.

Yes Votes: 10 No Votes: 1 Abstain: 0 Not Voting: 0 Result: PASS

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES

5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Kellbach, Karen	YES
9	Gehin, Joe	YES
10	Abitz, Sherry	YES
11	Smith, Dennis	NO

15-1009

07/12/2016 9:36:39 PM

Motion by Rasmussen, second by McElhaney to adopt a Resolution of the Finance Committee approving modification of the 2016 Budget for the Personnel Costs Associated with the Finance Department Staff Retirements.

Yes Votes: 11 No Votes: 0 Result: PASS

15-1108

07/12/2016 9:37:22 PM

Motion by Neal, second by Peckham to adopt a resolution of the Plan Commission amending the General Development Plan for 912, 920/1000, 1006, 1010, 1100, 1202 and 1212 North First Street, in a UDD, Unified Development District.

Yes Votes: 11 No Votes: 0 Result: PASS

Suspend the Rules

07/12/2016 9:37:45 PM

Motion by Neal, second by Gehin to suspend the rules: 12(A) Referral of Resolutions and 11(D) Transmission of Committee Business to Council (2/3 Vote required).

Yes Votes: 11 No Votes: 0 Result: PASS

16-0704

07/12/2016 9:40:20 PM

Motion by Gehin, second by Nutting to adopt a Resolution of the Common Council approving application for an administration of the Safe Drinking Water Loan Program.

Lindman explained the US EPA provided some funding to distribute throughout the country for lead service line on the private side. In the State of Wisconsin the federal funds are distributed through the DNR and they are using the Safe Drinking Water Loan Program to accomplish that. It is a principal forgiveness loan, or essentially a grant, but you have to go through the loan program. He indicated we applied for \$300,000 for 2017 to assist in the replacement of the private side lead service lines. The DNR requires a resolution from the governing body authorizing staff to apply and they have extended that for us.

Yes Votes: 11 No Votes: 0 Result: PASS

02-1005

07/12/2016 9:40:49 PM

Motion by Kellbach, second by Neal to adopt a Resolution of the Finance Committee approving acquisition of 810 West Thomas Street.

Yes Votes: 11 No Votes: 0 Result: PASS

15-1109

07/12/2016 9:42:44 PM

Motion by Nutting, second by Rasmussen to adopt a Resolution of the Finance Committee authorizing modification of the 2016 budget for legal fees.

Yes Votes: 11 No Votes: 0 Result: PASS

03-1111

07/12/2016 9:43:27 PM

Motion by Neal, second by Rasmussen to adopt a Joint Resolution of the Human Resources and Finance Committees approving salary range market adjustment of assistant city attorney.

Yes Votes: 11 No Votes: 0 Result: PASS

Public Comment or Suggestions

- 1) Deb Ryan, 702 Elm St, stated she attend the recent Forest Park meeting, which included Gisselman, Neal and Schock where it was said, "The future of Wausau is not the mall." She hoped they would review the mall decision and pull it out.

CLOSED SESSION

07/12/2016 9:45:23 PM

Motion by Rasmussen, second by Neal to move into CLOSED SESSION pursuant to Wis. Stat. Section 19.85(1)(g) for the purpose of 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, for the purpose of conferring with legal counsel regarding pending tax litigation involving CVS Pharmacy, Inc., Case No. 15CV452

Yes Votes: 10 No Votes: 0 Abstain: 0 Not Voting: 1 Result: PASS

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Kellbach, Karen	YES
9	Gehin, Joe	YES
10	Abitz, Sherry	YES
11	Smith, Dennis	NV

(Note: Smith stepped out of Council Chambers during this vote.)

CLOSED SESSION:

07/12/2016 9:46:44 PM

Motion by Wagner, second by Neal to move into CLOSED SESSION pursuant to Wis. Stat. Section 19.85(1)(g) for the purpose of 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, regarding litigation involving Keene Winters, Case No. 2016CV291.

Yes Votes: 11 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES
8	Kellbach, Karen	YES
9	Gehin, Joe	YES
10	Abitz, Sherry	YES
11	Smith, Dennis	YES

CLOSED SESSION:

07/12/2016 9:47:27 PM

Motion by Neal, second by Gehin to move into CLOSED SESSION pursuant to Section 19.85(1)(e) of the Wisconsin Statutes for the purpose of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session, regarding Wausau Center Mall redevelopment strategy.

Yes Votes: 11 No Votes: 0 Abstain: 0 Not Voting: 0 Result: PASS

<u>District</u>	<u>Aldersperson</u>	<u>Vote</u>
1	Peckham, Patrick	YES
2	Wagner, Romey	YES
3	Nutting, David E.	YES
4	Neal, Tom	YES
5	Gisselman, Gary	YES
6	McElhaney, Becky	YES
7	Rasmussen, Lisa	YES

8	Kellbach, Karen	YES
9	Gehin, Joe	YES
10	Abitz, Sherry	YES
11	Smith, Dennis	YES

Reconvened back into Open Session to take action on Closed Session items.

16-0515

07/12/2016 11:14:30 PM

Motion by Rasmussen, second by to adopt a Resolution of the Common Council approving agreement for settlement of lawsuit between City of Wausau and CVS Pharmacy, Inc. for tax year 2015 (Case No. 15CV452) and related budget modification.

Yes Votes: 11 No Votes: 0 Result: PASS

16-0413

07/12/2016 11:14:59 PM

Motion by Rasmussen, second by Neal to adopt an Ordinance of the Common Council Approving Settlement Agreement and General Release of All Claims by Keene T. Winters.

Yes Votes: 11 No Votes: 0 Result: PASS

Adjournment

07/12/2016 11:15: 30 PM

Mayor Mielke adjourned the meeting at 11:15 pm

Robert B. Mielke, Mayor
Toni Rayala, City Clerk