

AUGUST 10, 2010

Common Council Minutes
Fire Station Training Room

Mayor Donna Olson presided at a Regular Meeting of the Common Council of the City of Stoughton, Dane County, Wisconsin, held in the Fire Station Training Room, on Tuesday, August 10, 2010 convening at 7:00 p.m.

Deputy Clerk Hougan called the roll and the following Alderpersons were present: Carter, Chenoweth, Christianson, Hohol, Jenson, Lawrence, McKichan, Olstad, Swangstu, Tone and Weiss. Absent and excused: Alderperson Scovotti.

Communications: Mayor Olson wished City Clerk Alme a speedy recovery after her surgery. Mayor Olson introduced and welcomed new Police Chief Greg Leck to the City of Stoughton. Mayor Olson extended congratulations to Chuck, Paulette & Elise Carter for holding lemonade stand which raised close to \$700.00. All proceeds from the stand will be donated to support pediatric cancer research. Alderperson Carter reminded everyone about the Coffee Break festival and dog daze this Saturday, August 14. The Opera House has some great shows this season, the tickets are selling extremely fast, be sure to purchase your tickets soon for any upcoming shows. Alderperson McKichan reminded citizens to walk in the crosswalks. The City along with the Police Department is holding a Pedestrian Safety initiative, they will start with educating citizens, and then they will give out warnings, followed by issuing tickets for anyone in violation. Alderperson Hohol commented on what a great event the Safety Camp was, and thanked the Stoughton Police department and everyone who donated toward this event.

Public Comment Period: Gennifer Mott, 816 Park Street, spoke in favor of the Ordinance to allow chickens in the City of Stoughton. David Erdman, 436 Seamonson Street, spoke in favor of the Utilities governance keeping citizen members on the Utilities Committee. Kathy Baker, 108 Isham Street, spoke in favor of the Ordinance to allow chickens in the City of Stoughton. Richard Bjelde, 304 S Water Street, spoke in favor of the Ordinance to allow chickens in the City of Stoughton.

Moved by Lawrence, seconded by Olstad, to approve the following consent agenda items as presented: The minutes of the Regular Meeting of July 27, 2010; the following reports: Police & Fire Commission(2), Personnel Committee, Finance Committee(3), Library Board and Public Safety Committee; confirmation of the Mayor's appointment of David Sharpe to the Cable Commission; the Public Safety Committee's recommendation to grant an operator's license to Jessica Lunde; the Public Safety Committee's recommendation to grant an operator's license to Kate Collins; the Public Safety Committee's recommendation to grant a Class "B" Beer and Class "C" Wine License to T&J of Fitchburg LLC, Ming J. Zhang, agent, dba Ming's Garden, located at 1512 Hwy 51/138; and the Public Safety Committee's recommendation to grant a picnic

license to St. Ann's Fall Festival on September 18, 2010. Motion carried unanimously by acclamation.

Moved by Hohol, seconded by Weiss to adopt the following ordinance amendments regarding the keeping of backyard chickens, as presented: Amend sections 78-105(2)(a)3a; 78-105(2)(b)3a; 78-105(2)(c)3a; 78-105(2)(e)4a and 78-206(8)(y) land uses permitted; section 6-2 keeping of animals and fowl, bees prohibited; section 14-461 license fees; and annual license application to keep chickens. Motion carried 7 to 4 on roll with Alderpersons Christianson, McKichan, Olstad, and Swangstu voting noe.

Moved by Hohol, seconded by Christianson to adopt an ordinance to amend sections 78-206(4) (h); 78-105(4) (b) 2b; and 78-105(4) (c) 2b regarding indoor and outdoor commercial entertainment, as presented. Motion carried unanimously on roll call.

Moved by Hohol, seconded by Jensen to adopt an ordinance to create section 10-15 of chapter 10 regarding buildings and building regulations regarding outdoor solid fuel-fired heating furnaces, as presented.

Moved by Jensen, seconded by Olstad to amend the original motion and add a 3 year sunset clause on the ordinance. Motion to amend failed 5 to 6 on roll call with Alderpersons Christianson, Hohol, Lawrence, McKichan, Swangstu, and Tone voting noe.

Moved by Hohol, seconded by Christianson, to adopt an ordinance to create section 10-15 of chapter 10 regarding buildings and building regulations regarding outdoor solid fuel-fired heating furnaces, as presented. Motion failed 2-9 with Carter, Christianson, Jensen, Lawrence, McKichan, Olstad, Swangstu, Tone, and Weiss voting noe.

Moved by McKichan, seconded by Olstad, to direct the Planning Department to place a moratorium on the issuance of any permits for the installation of new outdoor furnace installations for one year from date of passage. Motion carried unanimously by roll call.

Moved by Chenoweth, seconded by Christiansen, to adopt an ordinance to amend sections 2-526, 2-527, 2-528, 2-529, 2-530, 74-3 and 74-4 providing for committee management of the Electric, Water and Wastewater Utilities, as presented by the Utilities Committee (the "Committee Management Ordinance") (the Main Motion).

Moved by McKichan, seconded by Tone to amend the Main Motion by substituting, in place of the Committee Management Ordinance, an ordinance to amend sections 2-526, 2-527, 2-528, 2-529, 2-530, 74-3 and 74-4 providing for management of the Electric, Water and Wastewater Utilities by the Common Council (the "Substitute Ordinance"), as presented by City Attorney Matt Dregne

Aldersperson Chenoweth requested a 5 minute recess at 8:10 p.m.

Mayor Olson called the meeting back to order at 8:15 p.m.

Moved by McKichan, seconded by Tone to amend the Substitute Ordinance as follows: *Sections 2-536 to 2-530 are repealed, and Section 2-66(c)(7) is created as follows: (7) Utilities committee.* The utilities committee shall serve in an advisory capacity to the common council on matters related to public electric, water and wastewater utilities and such matters relating thereto as are requested by the common council. Motion to amend the Substitute Ordinance failed unanimously on roll call.

Vote on motion to amend the Main Motion by substituting, in place of the Committee Management Ordinance, an ordinance to amend sections 2-526, 2-527, 2-528, 2-529, 2-530, 74-3 and 74-4 providing for management of the Electric, Water and Wastewater Utilities by the Common Council (the "Substitute Ordinance"). Motion carried unanimously.

Vote on Main Motion as amended to adopt an ordinance to amend sections 2-526, 2-527, 2-528, 2-529, 2-530, 74-3 and 74-4 providing for management of the Electric, Water and Wastewater Utilities by the Common Council (the "Substitute Ordinance"). Motion carried unanimously.

Aldersperson Carter presented an ordinance to amend section 70-176-parking prohibited at all times, placing a no parking sign on East Jefferson Street at South Forrest Street, on the south side of the street, from the east edge of the driveway access of Uniroyal, and east 72 feet, for a first reading.

Aldersperson Carter presented an ordinance to amend section 14-40 - operation by licensee under Class A or B license; additional city regulations and corresponding revisions to the outdoor alcohol consumption permit application, for a first reading.

Aldersperson Hohol presented an ordinance to rezone the property at 623 Eight Street from HI-Heavy Industrial to PD-GDP-Planned development-General Development Plan, for a first reading. Moved by Hohol, seconded by Chenoweth to request that the Council suspend the rules, waive the second reading and adopt an ordinance to rezone the property at 623 Eighth Street from HI-Heavy Industrial to PD-GDP-Planned Development-General Development Plan. Motion carried 9-2 on roll call with Alderspersons McKichan and Tone voting noe.

Motion by Hohol, seconded by Chenoweth to amend an ordinance to rezone the property at 623 Eight Street from HI-Heavy Industrial to PD-GDP-Planned development-General Development Plan as presented. Motion carried unanimously on roll call.

Attorney Elisabeth Howard presented the legal standard for denying CMR's request to withdraw its bid for the Senior Center parking deck repair: If (1) the mistake

was not caused by excusable neglect; (2) the bidder did not act in complete good faith; or (3) the city is prejudiced by the error. Howard gave the basis for finding that the error was not caused by excusable neglect (because the excluded cost represented the cost of a major part of the contract) and that the city was prejudiced by the error (because the city is now prevented from taking advantage of the low bid; even if it rebid the project it would be unlikely to be competitive; and the project will be delayed). Moved by Tone, seconded by Lawrence, to deny a request by CMR to withdraw its bid for the Senior Center parking deck repair, and to award the contract, Alternate #1 to CMR, in the amount of \$74,712, because there was no excusable neglect and the City is prejudiced by their mistake for the reasons stated on the record by the City's legal counsel. Motion carried 7-4 on roll call with Alderpersons Chenoweth, Jenson, McKichan, and Weiss voting noe.

Moved by Tone, seconded by Carter, that, in the event CMR does not perform the repair work on the Senior Center parking deck as bid, to require forfeiture of their bid bond and to award the contract of the Senior Center parking deck repair, Alternate #1, to Tri-North in the amount of \$124,800, and authorize up to \$19,000 from the city's contingency fund. Motion carried 9-2 on roll call with Alderpersons Chenoweth and McKichan voting noe.

Moved by Tone, seconded by Carter, to deny a claim submitted by Gary and Holly Hustad for personal property damage in the amount of \$189.36. Motion carried unanimously on roll call.

Moved by Olstad , seconded by Carter, to confirm the first regular council meeting in September as September 8, 2010 due to the Fall Primary Election on September 14, 2010. Motion carried unanimously by acclamation.

Moved by Lawrence, seconded by Carter, to adjourn the meeting at 9:30 p.m. Motion carried unanimously by acclamation.

Respectfully submitted,
Maria P. Hougan
Deputy City Clerk