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**COMMON COUNCIL MEETING**  
**February, 7, 2005**  
**CITY OF ELKHORN**  
**9 S. BROAD ST., ELKHORN, WI 53121**

Mayor Michael Roberts called the Common Council to order at 7:00 p.m. in the Council Chambers followed by the Pledge of Allegiance.

**ROLL CALL**

Present: Mayor Michael Roberts; Aldermen John Karcher, William Hoffmann, Scott McClory, Howie Reynolds, Julie Taylor, Charles Van Dyke.

Also present: City Administrator Sam Tapson, City Clerk Nancy Jacobson, Police Chief Joel Christensen, City Attorney Representative Randy Leece, Fire Chief Rod Smith

Others present: James Adams, Jarad Video; Lukas Lauderbach, Elkhorn Independent; Larry and Debbie Larson, 16 N. Church St.; Wendy Klemp, N7543 Cardinal Drive; Ted Johnson, Godfrey Law Office, Elkhorn; Cynthia K. Balestrieri; N7542 Cardinal Drive; Grant W. Wiswell, N5920 Connaughton Lane; Diane Firlinger, W5111 Strawberry Hill; Gail Termaat, 718 Faryl #5, Delavan; Dennis Faltis, W5433 Lost Nation Rd.; Bryce Knorr, 511 W. Walworth St.; Thomas Neshek, 16 Elm St.

**CONSENT AGENDA**

Motion (Van Dyke/McClory) to approve the Consent Agenda for the following items: Minutes of the January 10 and January 17, 2005, Common Council meeting; and, Bartender Operator's licenses for Amy E. Marten, Julia A. Moor, Karen A. Spangenberger, Timothy J. Schafer to expire June 30, 2005. Motion carried by the majority present.

**ORDINANCES AND RESOLUTIONS**

***Ordinance No. 05-01: Rezone of Sievert Property***

Motion (Reynolds/Hoffmann) to adopt Ordinance No. 05-01 rezoning a portion of the Sievert Property, Tax Key Parcel YA369400001, from M-2 (General Manufacturing District) to M-1 (Light Manufacturing District for the rear of lot 1 of CSM No. 3694. Motion carried by the majority present.

***Ordinance No. 05-05: Establishing Salary Schedule for Elected Officials***

Motion (Reynolds/Hoffmann) to waive the first reading of Ordinance No. 05-05 establishing the salary schedule for elected officials to become effective May 1, 2005. Motion carried by the majority present. In discussion, the salaries of the Council and Mayor did not change. A \$400 increase was approved for the Municipal Judge.

Motion (Reynolds/Taylor) to adopt Ordinance No. 05-05 establishing the salary schedule for elected officials. Roll Call vote: Aldermen Hoffmann, yes; Karcher, yes; McClory, yes; Reynolds, yes; Taylor, yes; Van Dyke, yes. Motion carried.

***First Reading: Ordinance No. 05-03: Architectural Review Design Standards***

Alderman Reynolds told Council that Ordinance No. 05-03 concerning Architectural Review Design Standards would amend Chapter 14 of the Municipal Code and streamline the zoning and planning requirements of approval by the Architectural Review Board.

***First Reading: Ordinance No. 05-04: Regarding Primary and Secondary Environmental Corridors***

Alderman Reynolds told Council that Ordinance No. 05-04 further defines the environmental overlay districts including permitted and prohibited uses of primary and secondary districts.

## **ACTION TAKEN**

### ***Final Plat/Neshek Subdivision***

Motion (Reynolds/Hoffmann) to approve the Final Plat of Neshek Subdivision for the installation of six (6) zero lot line duplexes as part of a larger subdivision located near Patricia Street. Motion carried by the majority present.

### ***City Engineer Contract Rate Adjustment***

Motion (Karcher/Hoffmann) to approve the City Engineer Contract. Karcher and Hoffmann withdrew their motions. Motion (Karcher/Hoffmann) to approve the increase in the regular rate of the City Engineer to \$80 per hour and the scheduled rates as presented. Motion carried by the majority present.

In discussion, the Council forwarded the City Engineer contract to Finance and Judicial for review and recommendation. City Administrator Tapson said that the contract was redrafted to remove the retainer and pay by the hour.

### ***Engineering Services: Storm Water Management***

Council postponed action on the Engineering Services for Storm water Management because the City Administrator is waiting for the review by the City Attorney.

### ***Onyx Waste Services Request***

The request for a Letter of Credit in lieu of a Performance Bond from Onyx Waste Services was presented to Council. Action will be taken when the City Administrator receives the Letter of Credit.

### ***Meeting Day and Time for Common Council***

Council was asked by Alderman Taylor, Chairman of Legislative and Regulatory Committee, to provide their recommendation for a possible change in the day of the Council meetings, at the request of Alderman McClory. Taylor would like the information by the next Legislative and Regulatory Committee meeting.

### ***Conditional Use Permit: Larson Daycare***

Mayor Roberts announced that the agenda item was not a public hearing and recognized those present in support of the Larson Daycare. Mayor Roberts asked that Alderman Taylor step down from the District 6 seat because the Larson Conditional Use Permit was a personal issue. Alderman Taylor stepped down.

Motion (Karcher/Reynolds) to rescind the denial of the Conditional Use Permit Resolution No. 04-13 to allow Larry Larson the operation of a daycare center at 16 N. Church Street, Tax Key YOP00137 at the December 20, 2004, on the grounds that certain information was submitted to Council members privately and did not become part of the record at the December 20<sup>th</sup> meeting. Roll Call vote: Aldermen Hoffmann, yes; Karcher, yes; McClory, yes; Reynolds, yes; Taylor, yes; Van Dyke, yes. Motion carried.

All information was officially presented to Council and allowed Larry and Debbie Larson to address the issues. Larson said that the plans to put a daycare at the 16 N. Church Street location were approved by the State Dept. of Commerce. Plan Commission has approved the corrections and made a recommendation to Council for approval. SLD and Dr. Seegers approve of the changes. There will be no traffic from N. Church to the SLD parking lot. The information submitted concerning the biting of a child was addressed by the Larsons.

Julie Taylor expressed her concerns over the safety of the location. Her concerns included vehicles coming in her driveway by mistake and trying to turn around which is near the proposed playground.

Bryce Knorr, Plan Commission member, said that the Plan Commission considered that all the objections were handled. He said as far as the biting incident, the City was not the proper agency to talk about it.

Attorney Johnson, representative of Larson, said the Council must focus on the application for a Conditional Use Permit. Does it meet the standards after significant modifications were approved by the Plan Commission.

Alderman Karcher asked if any conditions have not been addressed. The daycare will not have school age children so that there will be no school buses dropping off children.

Alderman Hoffmann said that the letter and pictures concerning the biting incident was not the factor in his objection to the Conditional Use Permit. He concern is the safety of the location.

Motion (Karcher/Reynolds) to approve the Conditional Use Permit Resolution No. 05-02 to allow the operation of a Day Care Center at 16 N. Church Street, Tax Key No. YOP00137 with the following conditions:

1. The fire access to the rear of the building incorporate a width of 15 feet.
2. The Day Care Center shall be limited to infant, toddler and pre-school children.
3. The Day Care Center shall be limited to 20 children in the main or front portion of the building. Any expansion of the Day Care Center into the rear part of the building shall be subject to Conditional Use Permit Amendment procedures before the Plan Commission.
4. Means of egress for the building shall be in compliance with Chapter 10 of the Wisconsin Commercial Building Code.
5. The dwelling units above the Day Care Center shall be limited to one family per unit.

Roll Call vote: Aldermen Hoffmann, no; Karcher, yes; McClory, yes; Reynolds, yes; Taylor, abstained; Van Dyke, no. Motion carried.

Alderman Taylor returned to her place on the Council.

#### ***Fourth of July Fireworks***

Motion (Hoffmann/Karcher) to approve \$4,000 to be paid to Bartolotta for the Fourth of July Fireworks by February 15, 2005. In discussion, the City Clerk said that the fireworks have been sponsored by Clear Channel Communications (Alpine Valley). The City was reimbursed for the cost of the fireworks. The reason for paying Bartolotta at this time is that the company will give the City 10% more product with an early payment. Motion carried by the majority present.

#### ***Impact Fee Ordinance***

The City Attorney is reviewing the ordinance. It will be available for viewing at City Hall prior to action taken.

#### ***TID 2 Analysis & Recommendation***

Motion (Reynolds/Van Dyke) to authorize the City Administrator to direct Ehlers and Assoc. to initiate the amendment to TID 2 and to hold a Public Hearing on March 3. Motion carried by the majority present.

#### **ADJOURNMENT**

Motion (Van Dyke/McClory) to adjourn at 9:05 p.m. Motion carried by the majority present.

Nancy B. Jacobson  
City Clerk

