



MINUTES OF THE COMMON COUNCIL

**TUESDAY, DECEMBER 4, 2018, 6:00 PM
COUNCIL CHAMBERS
ROOM 203, CITY HALL**

A. ROLL CALL.

Present: Craig Stevens, Veronica Corpus-Dax, Bill Galvin, Mark Steuer, Kathy Lefebvre, Brian Johnson, Chris Wery, Barbara Dorff, Randy Scannell, Andy Nicholson, Jesse Brunette
Excused: John VanderLeest

B. PLEDGE OF ALLEGIANCE.

C. INVOCATION.

D. APPROVAL OF MINUTES.

Moved by Ald. Andy Nicholson, seconded by Ald. Randy Scannell to approve. Motion carried.

I. Approval of the minutes of the November 5, 2018 meeting.

E. APPROVAL OF THE AGENDA.

Moved by Ald. Randy Scannell, seconded by Ald. Barbara Dorff to approve.

Moved by Ald. Andy Nicholson, seconded by Ald. Randy Scannell to move Resolution Y9 up to after public hearings. Motion carried.

Moved by Ald. Randy Scannell, seconded by Ald. Mark Steuer to take M5 after Resolution Y9.
Motion carried.

Moved by Ald. Randy Scannell, seconded by Ald. Barbara Dorff to approve as amended. Motion carried.

F. REPORT BY THE MAYOR.

Mayor Schmitt wished everyone a Merry Christmas.

G. ANNOUNCEMENTS.

The Clerk announced nomination papers need to be turned into the Clerk's Office no later than 5 p.m. on Wednesday, January 2, 2019.

H. APPOINTMENTS.

I. NEW APPOINTMENTS:

Water Commission

Joe Moore, 1009 Day St., Green Bay, WI 54302

Term to expire: October 1, 2020

Green Bay Public Art Commission

Kelli Strickland, 2540 St. Ann Dr., Green Bay, WI 54311

Term to expire: September 1, 2021

Paul Grall (Liaison), 425 S. Monroe Ave., Unit 1J, Green Bay, WI 54301

Moved by Ald. Andy Nicholson, seconded by Ald. Veronica Corpus-Dax to confirm. Motion carried.

2. RE-APPOINTMENTS:

Green Bay Area Room Tax Commission

Wendy Townsend, City Staff

Term to expire: November 1, 2019

Warren Wanezek, 2365 Donarski Ct., Green Bay, WI 54302

Term to expire: November 1, 2019

Moved by Ald. Randy Scannell, seconded by Ald. Andy Nicholson to confirm. Motion carried.

I. PUBLIC HEARINGS.

No one appeared to speak on the resolution.

I. Resolution vacating a portion of Donald Driver Way south of Kellogg Street.

J. ORDINANCES - SECOND READING FOR ADOPTION.

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to suspend the rules to adopt the ordinances with one roll call vote. Motion carried.

I. General Ordinance 27-18

An ordinance amending Section 27.902(2), Green Bay Municipal Code, relating to penalties for marijuana possession.

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to approve. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Brian Johnson, Craig Stevens, Jesse Brunette, Mark Steuer, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre, No- Andy Nicholson, Chris Wery

2. General Ordinance No. 30-18

An ordinance amending Section 29.307, Green Bay Municipal Code, relating to traffic regulations.

Moved by Ald. Randy Scannell, seconded by Ald. Bill Galvin to approve. Motion carried.

Yes- Andy Nicholson, Barbara Dorff, Bill Galvin, Brian Johnson, Chris Wery, Craig Stevens, Jesse Brunette, Mark Steuer, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre

K. REPORT OF THE REDEVELOPMENT AUTHORITY (NOVEMBER 27, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Chris Wery to approve with the exception of item #2. Motion carried.

I. To approve Termination of Amended and Restated Development Agreement for Watermark

(Tax Parcels 12-357, 12-358, 12-359, 12-360, 12-361, and 12-362).

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

2. To authorize staff to conduct all actions necessary to purchase real property at 227 N. Quincy St., 221 N. Quincy St., 624-626 Pine St., 618 Pine St., 616 Pine St., and 605 Cherry St. (Tax Parcels 11-156, 11-157, 11-158, 11-159, 11-160, and 11-191) at a cost not to exceed \$1,200,000.00.

The Authority may convene in closed session pursuant to Sections 19.85(1)(e), Wis. Stats., for purposes of deliberating or negotiating the sale of public properties, investing of public funds or conducting other specified public business as necessary for competitive or bargaining reasons. The Authority may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

Moved by Ald. Randy Scannell, seconded by Ald. Brian Johnson to approve Item #2.

Moved by Ald. Brian Johnson, seconded by Ald. Bill Galvin to go into closed session at 7:08 p.m.

Motion carried.

Yes- Barbara Dorff, Bill Galvin, Brian Johnson, Chris Wery, Craig Stevens, Mark Steuer, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre, No- Andy Nicholson, Jesse Brunette

Ald. Brian Johnson read the closed session language.

Moved by Ald. Randy Scannell, seconded by Ald. Bill Galvin to return to regular session at 7:45 p.m.

Motion carried.

Moved by Ald. Brian Johnson, seconded by Ald. Barbara Dorff to authorize staff to exercise our option with Associated Bank and negotiate in good faith for the purchase of real property at 227 N. Quincy St., 221 N. Quincy St., 624-626 Pine St., 618 Pine St., 616 Pine St., and 605 Cherry St. (Tax Parcels 11-156, 11-157, 11-158, 11-159, 11-160, and 11-191) with terms and conditions to be defined at the time of the bond request, not to exceed \$1,200,000.00, within the 90-day option period. Motion carried.

L. REPORT OF THE IMPROVEMENT & SERVICES COMMITTEE (NOVEMBER 26, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Chris Wery to approve. Motion carried.

1. To approve the request by Pete's Annex, LLC to enter into an agreement for Parking Division to manage and enforce parking in the BMO-Harris Bank Building parking lot located in the block surrounded by Broadway, West Walnut, Hubbard, and Pearl Streets (Lot BW).

2. To deny the Downtown Parking Study Recommendations November 2018 Implementation Plan.

3. To approve the 2019 Sanitary District rates.

4. To approve the 2019 Storm Water Utility rates as follows:

Monthly charge \$7.68/ERU

Yearly charge \$92.12/ERU

5. To approve the request by Department of Public Works for single source purchase of storm water pumps and equipment for Storm Water Basin 110 Lift Station from Xylem in the amount of \$557,720.

6. To approve the request by Department of Public Works for single source purchase of storm water pumps and equipment for Storm Water Basin 106 Lift Station from Xylem in the amount of \$393,500.

7. To approve the report of the Purchasing Manager:

A. To purchase a Trailer Mounted Generator to Wolter Power Systems for \$31,494.

B. To approve a contract for a Parking Citation Management System & Ticket Writing Equipment to Passport Labs, Inc.

C. To approve a contract for hauling stockpiled street sweepings to Peters Concrete for \$55,097.

D. To approve a 3 year contract for Parking Security Services to Securitas Security Services USA for \$319,117, plus 3 one-year renewal options by mutual consent.

E. To purchase a 2019 Vactor Jet/Vacuum Body and Western Star truck chassis from Bruce Municipal for \$428,269.

F. To approve a contract to rebuild the Cummins Engine of Motor Grader Unit #852 to Cummins Sales & Service for \$25,583.

8. To hold and approve the following contracts:

A. To hold the contract RAY NITSCHKE MEMORIAL BRIDGE HYDRAULIC REPAIRS.

B. To approve the award of the contract RAZING BUILDINGS FOR WEBSTER AVE. RECONSTRUCTION - Group #3, to the low, responsive bidder, Badgerland Demolition & Earthwork, Inc., in the amount of \$68,519.

9. To approve the Plat of Right-of-Way for Erie Road from Padi Wood Lane to south City limits and referred to the Plan Commission for review and to the Law Department to file as lis pendens.

10. To approve the request by Wisconsin Public Service Corporation for an electric and a gas easement across City owned parcel I-1841-A (Lambeau Field).

M. REPORT OF THE PROTECTION & POLICY COMMITTEE (NOVEMBER 26, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to approve with the exception to Item #5. Motion carried.

1. To approve a change of agent for Cropsey's on State LLC, with an effective date of January 1, 2019.

2. To approve an application for a "Class A" Liquor license for Monzu Bistro, LLC at 126 S. Broadway, with the approval of the proper authorities.

3. To approve an application for a "Class A" Liquor License by Singhs C Store 2 Inc. at 952 W. Mason St., with the approval of the proper authorities. (Currently has a Class "A" Beverage License).

4. To approve an application for an available "Class B" Combination License by Ricci L Bosley for Pepper at 114 S. Broadway, with a licensed description as "behind the bar, in the dry & locked storage closet by the restroom or in the basement," with the approval of the proper authorities.

5. To approve General Ordinance No. 29-18, an ordinance creating section 33.08(7)(i), Green Bay Municipal Code, relating to on line ordering and curbside pickup of alcohol beverages.

Moved by Ald. Randy Scannell, seconded by Ald. Barbara Dorff to approve Item #5.

Moved by Ald. Randy Scannell, seconded by Ald. Mark Steuer to open the floor for discussion.

Bill Story of Festival Foods, 3650 Copper Oak Circle, spoke in favor.

Tom Dougleman of Brown County Alcohol & Drug Taskforce, W4816 Springhill Drive Sherwood, WI, spoke against.

Christopher Zahn, 235 Jacob Street, spoke against.

Moved by Ald. Randy Scannell, seconded by Ald. Kathy Lefebvre to close the floor. Motion carried.

A vote was then taken on Item #5. Motion carried.

Yes- Andy Nicholson, Barbara Dorff, Brian Johnson, Craig Stevens, Randy Scannell, Veronica Corpus-Dax No-Bill Galvin, Chris Wery, Jesse Brunette, Mark Steuer, Kathy Lefebvre

6. To receive and place on file a request by Ald. Scannell that the Advisory Committee items be placed on the Protection and Policy committee agendas, previously held at the Oct. 22 Protection & Policy meeting.

7. To hold a request by Ald. Wery stating "review with possible action on ordinance 27.203 regulation of noise for the purpose of amending with weekend hours (New daytime :09:00-20:00)."

8. To receive and place on file a request by Ald. Wery for a complete update on rat abatement and rat activity 2018 vs. 2017.

9. To receive and place on file the Liquor Violation Report from the Police Department for November 26, 2018.

N. REPORT OF THE PROTECTION & POLICY COMMITTEE GRANTING OPERATOR LICENSES.

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to approve. Motion carried.

I. Report of the Protection & Policy Committee granting Operator Licenses.

O. REPORT OF THE PLAN COMMISSION (NOVEMBER 26, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Bill Galvin to approve. Motion carried.

I. To approve a drainage easement discontinuance at 1208 Wolverine Court, subject to the following condition:

I. The discontinuance is limited to the easterly 10 ft. and the westerly 20 ft. shall be retained at Drainage Easement.

2. To vacate an unimproved portion of right-of-way north of Deckner Avenue, subject to the following condition:

I. Wisconsin Public Service does not require an easement for the light pole facilities in this area as long as they can have access to the property to maintain/replace the facilities. If the vacation of the street prevents WPS from maintaining or replacing the facilities, they will be removed.

3. To approve a subdivision variance at 1717 Morrow Street for a lot to be created smaller than the allowed square footage, subject to the following condition:

1. The Certified Survey Map submitted to create these lots must reflect the dimensions as proposed in the application.

4. To approve a subdivision variance on Burns Avenue (Parcel 6-153-E-1) for three lots to be created smaller than the allowed street frontage.

P. REPORT OF THE FINANCE COMMITTEE (NOVEMBER 13, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Kathy Lefebvre to approve. Motion carried.

1. To receive and place on file the quarterly purchasing report for purchases between \$10,000 and \$25,000.

To discontinue receiving the quarterly purchasing reports for purchases between \$10,000 and \$25,000.

2. To accept the grant from State of Wisconsin Emergency Management Agency for \$62,034, and approve the purchase of Area Rae Pro Rapid Deployment kit and Dose Rae Pro contingent on State of Wisconsin agreement to reimburse the City.

3. To refer back to staff to look into funding sources, how much to budget, determine how much it would take to get a catastrophic incident taken care of, and any other suggestions on what to allow a fund to build up to regarding the requested amendments to Claims administration Procedure ordinance (GBMC 7.01 et seq).

4. To receive and place on file the Report of the Claims Committee.

The Council may convene in closed session pursuant to Section 19.85(1) (g), Wis. Stats., 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. The Council may thereafter reconvene in open session pursuant to Section 19.85(2), Wis. Stats., to report the results of the closed session and consider the balance of the agenda.

Q. REPORT OF THE PARK COMMITTEE (NOVEMBER 28, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Mark Steuer to approve. Motion carried.

1. To approve the request by the Packerland Pickleball Players to collect \$10,000 in pledges towards the cost of installing dedicated pickleball courts at Edison Park contingent upon Council authorization to bond for the balance of the project in the spring of 2019.

2. To approve accepting a \$200,000 Fox River NRDA grant for the construction of a pier at Bay Beach Amusement Park.

3. To receive and place on file the request by Ald. Stevens on behalf of American Transmission Company to move their vegetation management clearing activities to span Finger Road from Eastview Drive to Pinehurst Avenue and direct staff to coordinate the planting of trees by ATC in other areas to replace the trees that will be removed in Edison Park and Street R.O.W's.

R. REPORT OF THE PERSONNEL COMMITTEE (NOVEMBER 13, 2018 AND NOVEMBER 27, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Kathy Lefebvre to approve. Motion carried.

1. To approve the request to fill the following replacement positions and all subsequent vacancies resulting from internal transfers. (November 13, 2018)

- a. Paralegal - Law
- b. Evidence Technician - Police
- c. Laborer (Street) - Public Works
- d. Laborer (Sanitation) - Public Works
- e. Bridgetender - Public Works
- f. Mechanic - Public Works
- g. Parking Enforcement Officer - Public Works

2. To approve the request to fill Patrol Officer and Fire Fighter vacancies in 2019 that were approved as part of the budget. (November 13, 2018)

3. To approve the request for out of state travel for Fleet Manager and (2) Equipment Operators to travel to EZ-Liner Industries in Orange City, Iowa in late November or early December for pre-delivery inspection of pavement marking machine at no cost to the City for room, board or transportation. (November 13, 2018)

5. Informational Only: The SWAT Team Minimum Call-In grievance is denied. (November 13, 2018)

The Committee may convene in closed session pursuant to § 19.85(1)(a), Wis. Stats., for the purpose of deliberating concerning a case which was the subject of any judicial or quasi-judicial trial or hearing before that governmental body. The Committee may, thereafter, reconvene in open session pursuant to § 19.85(2), Wis. Stats., to report any actions taken during closed session and to consider all other matters on the agenda.

4. To receive and place on file request by Ald. Wery to explore options to restore an assistant to the City Council position. (November 13, 2018)

6. To approve the request to fill the Park Supervisor vacancy and all subsequent vacancies resulting from internal transfers. (November 27, 2018)

7. To approve request for out of state travel for Fleet Manager Wachtendonk for American Public Works Association leadership training in Kansas City, Missouri from January 31 - February 1, 2019 at no cost to the City for room, board or transportation. (November 27, 2018)

8. To approve request from Fire Department to amend table of organization. (November 27, 2018)

9. To receive and place on file request by Ald. Galvin to institute a Grant Writer position to work with all City departments. The new position must bring in more funds than the cost of salary and benefits. (November 27, 2018)

10. Informational only: Approved adoption of findings and fact and conclusions of law on SWAT Team Minimum Call-In grievance. (November 27, 2018)

S. REPORT OF THE ECONOMIC DEVELOPMENT AUTHORITY (NOVEMBER 26, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to approve. Motion carried.

I. Consideration of an Initial Resolution Regarding Industrial Development Revenue Bond Financing for M&M Warehousing, LLC Project. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution.

T. REPORT OF THE PUBLIC ARTS COMMISSION (NOVEMBER 28, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Barbara Dorff to approve. Motion carried.

1. To recommend the following nominees for GBPAC vacancies in 2019 and recommend the creation of a Liaison Arts Consultant position:

Commissioner - Keli Strickland (replacing Commissioner Tiffany Bowles);

Liaison - Paul Grall (replacing Liaison Lee Klemens);

Liaison Arts Consultant - Matt Vanden Boomen.

2. To refer to staff regarding the creation of a tax deductible 501c3 "buddy organization" for fundraising and approval of the updated fundraising material.

U. REPORT OF THE SUSTAINABILITY COMMISSION (NOVEMBER 1, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Bill Galvin to approve. Motion carried.

1. To refer to staff to "Develop a plan for Green Bay to offset its total municipal energy use through the use of renewable energy installations on city property. This should include energy used by city buildings, street lights, transportation and other areas."

2. To create the draft to be submitted to staff for review on recommending the City of Green Bay to join the Green Tier Legacy Community program.

3. To begin collecting a list of stakeholder groups.

4. To receive and place on file presentation from Weston Wegener and Will Erikson on the Green Tier Legacy Community program.

5. To meet the 2nd Wednesday of the month, beginning December.

6. Presentation from Weston Wegener and Will Erikson on the Green Tier Legacy Community program.

**V. REPORT OF THE TRAFFIC, BICYCLE, AND PEDESTRIAN COMMISSION
(NOVEMBER 19, 2018).**

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to approve. Motion carried.

1. Remove the NO PARKING zone on the south side of Mather Street from a point 50 feet west of Gray Street to a point 100 feet east of Gray Street.

2. Remove the NO PARKING zone on the north side of Mather Street from Gray Street to Roy Avenue.

3. Establish and adopt by ordinance a NO PARKING BIKE LANE zone on both sides of Mather Street from Gray Street to Vroman Street.

4. Establish and adopt by ordinance a NO PARKING zone on the south side of Mather Street from a point 50 feet west of Gray St to Gray St.

5. To deny the request to restore the NO PARKING zone removed in 2013 at the inside corner of Frank Street and Rockdale Street due to difficulty backing in and pulling out of a camper.

6. To remove the NO PARKING zone on the west side of Webster Avenue from Irwin Avenue to Day Street.

7. To remove the NO PARKING EXCEPT SUNDAY zone on the west side of Webster Avenue from Day Street to Harvey Street.

8. To remove the NO PARKING zone on the west side of Webster Avenue from Harvey Street to Pine Street.

9. To establish and adopt by ordinance a NO PARKING zone on the west side of Webster Avenue from Pine Street to Irwin Avenue.

10. Remove the metered zone on Cherry Street from Washington Street to its western terminus.

W. REPORT OF THE ETHICS COMMITTEE (NOVEMBER 20, 2018).

Moved by Ald. Randy Scannell, seconded by Ald. Bill Galvin to approve.

Moved by Ald. Chris Wery, seconded by Ald. Bill Galvin to open the floor for discussion. Motion carried.

Yes- Andy Nicholson, Bill Galvin, Brian Johnson, Chris Wery, Jesse Brunette, Mark Steuer, Veronica Corpus-Dax, Kathy Lefebvre, No- Barbara Dorff, Craig Stevens, Randy Scannell, Abstain- None

Moved by Ald. Craig Stevens, seconded by Ald. Mark Steuer to close the floor. Motion carried.

A vote was taken on the motion. Motion carried.

Yes- Barbara Dorff, Bill Galvin, Brian Johnson, Craig Stevens, Jesse Brunette, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre No- Andy Nicholson, Chris Wery, Mark Steuer

I. To dismiss with prejudice for failure of prosecution as stated in the withdrawal.

X. RECEIVE & PLACE ON FILE.

Moved by Ald. Barbara Dorff, seconded by Ald. Andy Nicholson to approve. Motion carried.

I. Municipal Court Report for October 2018.

Y. RESOLUTIONS.

Moved by Ald. Randy Scannell, seconded by Ald. Craig Stevens to suspend the rules to adopt resolutions 1 thru 8 with one roll call vote. Motion carried.

Moved by Ald. Randy Scannell, seconded by Ald. Veronica Corpus-Dax to adopt. Motion carried.
Yes-Andy Nicholson, Barbara Dorff, Bill Galvin, Brian Johnson, Chris Wery, Craig Stevens, Jesse Brunette, Mark Steuer, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre

1. Resolution authorizing release of drainage easement for 1208 Wolverine Court.

2. Resolution regarding vacation of an unimproved portion of (private) right-of-way north of Deckner Avenue.

3. Resolution authorizing a variance from section 14.724, Subdivision and Platting, Green Bay Municipal Code, to allow for a lot to be created smaller than the allowed square footage at 1717 Morrow Street.

4. Resolution authorizing a variance from section 14.727, Subdivision and Platting, Green Bay Municipal Code, to allow for three lots to be created smaller than the allowed street frontage on Burns Avenue.

5. Resolution vacating a portion of Donald Driver Way south of Kellogg Street.

6. Consideration of an Initial Resolution Regarding Industrial Development Revenue Bond Financing for M&M Warehousing, LLC Project. Information with respect to the job impact of the project will be available at the time of consideration of the Initial Resolution.

7. Resolution approving an electric and a gas easement across City owned parcel 1-1841-A (Lambeau Field).

8. Resolution drawing final orders to contractors for November 2018.

9. Resolution of Recognition-Olde Preble Neighborhood Association

Moved by Ald. Andy Nicholson, seconded by Ald. Craig Stevens to adopt. Motion carried.
Yes- Andy Nicholson, Barbara Dorff, Bill Galvin, Brian Johnson, Chris Wery, Craig Stevens, Jesse Brunette, Mark Steuer, Randy Scannell, Veronica Corpus-Dax, Kathy Lefebvre

Z. REFERRAL OF PETITIONS & COMMUNICATIONS.

Moved by Ald. Mark Steuer, seconded by Ald. Bill Galvin to refer the petitions and communications

to the appropriate Committee or Commission. Motion carried.

Request by Alderperson Mark Steuer to the Parks Committee to look at the feasibility of utilizing He-Nis-Ra Park as a fat tire/winter bike destination.

AA. ORDINANCES - FIRST READING.

Moved by Ald. Randy Scannell, seconded by Ald. Andy Nicholson to suspend the rules to advance the ordinances. Motion carried.

Moved by Ald. Randy Scannell, seconded by Ald. Andy Nicholson to advance the ordinances. Motion carried.

1. General Ordinance No. 29-18

An ordinance creating Section 33.08(7)(I), Green Bay Municipal Code, relating to online ordering and curbside pickup of alcohol beverages.

2. General Ordinance No. 31-18

An ordinance amending section 29.208, Green Bay Municipal Code, relating to parking regulations.

BB. ADJOURNMENT.

Moved by Ald. Andy Nicholson, seconded by Ald. Veronica Corpus-Dax to adjourn at 8:34 p.m. Motion carried.

Kris A. Teske
Green Bay City Clerk

These minutes, in their entirety, are available in the City Clerk's Office and on the City website at greenbaywi.gov.

VERBATIM MINUTES

- - If I get the cord, and.

- [Man] Okay.

- Alright.
- [Man] Alright.
- Let's get a motion and a second to return to regular order.
- [Randy Scannell] Motion to return to regular order.
- [Bill Galvin] Second.
- By Alderman Scannell, second Alderman Galvin, all in favor of that motion please signify by saying aye.
- [Attendees In Unison] Aye.
- And those opposed, nay. I will go to Alderman Wery, do you want to say something, or I'll go Alderman Johnson.
- [Chris Wery] Nope.
- Okay. Alderman Johnson.
- I would make a motion to amend the original motion to read as follows: to authorize staff to exercise their option with Associated Bank, and negotiate in good faith for the purchase of real property, at 227 North Quincy Street, 221 North Quincy Street, 624 to 626 Pine Street, 618 Pine Street, 616 Pine Street and 605 Cherry Street, tax parcels 11
- 156, 11-157, 11-158, 11-159, 11-160, and 11-191. With terms and conditions to be defined at the time of the bond request, not to exceed 1.2 million within the 90 day option period.
- [Woman] I'll second.
- Alright, so we have a motion and a second on that. Any discussion here? voice, you wanna voice about this? All in favor, please signify by saying aye.
- [Attendees In Unison] Aye.
- And those opposed?
- [Man] No.
- Alright. Very good, thank you. Clerk, let's continue.
- [Kris Teske] Report of the Improvement and Service Committee November 26, 2018.
- [Randy Scannell] Motion to approve.
- Alright, does the motion of Alderman Scannell
- - [Chris Wery] Second.
- Second Alderman Wery to approve report L, the report of the Improvement and Service Committee. Are there any items in this report you wish to handle separately?

- [Randy Scannell] I don't think so.
- Pardon me? I'm hearing none. Hearing none.
- [Randy Scannell] I got 27 minutes, almost 29, too many to put on
- [Second Man] Drainage report right there.
- [Randy Scannell] Oh, okay, never mind.
- Alright, so seeing no lights, all in favor of that report please signify by saying aye.
- [Attendees In Unison] Aye.
- And all those opposed, nay, ayes have it, that report's been approved.
- [Kris Teske] Report of the Protection and Policy Committee,
- Motion to approve.
- [Kris Teske] November 26, 2018, one through four and six through nine.
- Thanks, we have a motion by Alderman Scannell, seconded by Alderman Stevens, to approve the report of the Protection and Policy Committee, items one through four, and six through nine. Any discussion here? Alright, seeing no lights, all in favor of that report please signify by saying aye.
- [Attendees In Unison] Aye.
- And those opposed, nays, the ayes have it, and that has been approved.
- [Kris Teske] Report of the Protection and Policy Committee granting operator licenses.
- [Randy Scannell] Motion to approve.
- Alright, does the motion of Alderman Scannell, second of Alderman Stevens, to approve the report of the Protection and Policy Committee which grants the operating licenses. Are there any names... Anything, discussion on this report? Okay, seeing no lights all in favor of that report please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nays, the ayes have it, and Report N has been approved.
- [Kris Teske] Report of the Plan Commission,
- Motion to approve.
- [Kris Teske] November 26, 2018.
- Alright, we have a motion by Alderman Scannell, second by Alderman Galvin, to approve the report of the Plan Commission, which is Report O, in your packet. Anything you wanna handle separately here? Hearing none, all in favor of that report please signify by saying aye.

- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, and that report's been approved.
- [Kris Teske] Report of the Finance Committee,
- Motion to approve.
- [Kris Teske] November 13, 2018.
- Alright we have a motion by Alderman Scannell, second by Alderperson Kathy Lefebvre, to approve the report of the Finance Committee, from the November 13th meeting. Are there any items in this report you wish to handle separately? Hearing none, all in favor of that report, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, and that report has been approved.
- [Kris Teske] Report of the Park Committee, November 28th, 2018.
- Motion to approve.
- Alright, we have a motion by Alderman Scannell,
- Second.
- Second by Alderman Steuer, to approve the report of the Park Committee, of November 28th. Any items under this report you wish to handle separately? Hearing none, all in favor of that report, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, Report Q, report of the Park Committee has been approved.
- [Kris Teske] Report of the Personnel Committee, November 13th, 2018.
- Motion to approve.
- [Kris Teske] and November 27, 2018.
- Alright, so there's a motion by Alderman Scannell that was seconded by Alderperson Lefebvre, to approve the report of the Personnel Committee for both meetings, November 13th, as well as November 27. Are there any items in this report you wish to handle separately? Hearing none, all in favor of that report please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, and that report's been approved.
- [Kris Teske] Report of the Economic Development Authority, November 26, 2018.

- [Randy Scannell] Motion to approve.
- Well there's the motion by Alderman Scannell, seconded by Alderman Craig Stevens. Discussion on this item? Alright, seeing no lights, all in favor of that report, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, report's been approved.
- [Kris Teske] Report of the Public Arts Commission, November 28th, 2018.
- Motion to approve.
- Alright, does the motion of Alderman Scannell?
- [Barb Dorff] Second.
- Second by Alderperson Dorff, to approve Report T, the report of the Public Arts Commission. Any items here you wish to handle separately? Hearing none, all in favor of that report, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, that report's been approved.
- [Kris Teske] Report of the Sustainability Commission, November 1st, 2018.
- Motion to approve.
- Alright, we have a motion by Alderman Scannell, second by Alderman Galvin, to approve the report of the Sustainability Commission, for their meeting held on November 1st. Any items under this report you wish to handle separately? Hearing none, all in favor of that report, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nays, ayes have it, that report's been approved.
- [Kris Teske] Report of the Traffic, Bicycle, and Pedestrian Commission, November 19th, 2018.
- Motion to approve.
- Alright, does the motion by Alderman Scannell, now seconded by Alderman Craig Stevens, to approve Report Item V, the report of the Traffic, Bicycle and Pedestrian Commission meeting of November 19th. Are there any items in this report you wish to handle separately? Hearing none, all in favor of that report please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nay, the ayes have it, and that report's been approved.
- [Kris Teske] Report of the Ethics Committee, November 20th, 2018.
- Motion to approve.

- Alright, does the motion of Alderman Scannell, seconded by Alderman Galvin, any discussion here? Yeah, there's another part... Just wanna hit your lights on this. Alderman Wery.

- Thank you, Mr. Mayor. I don't know if we could perhaps hear from our lawyer, or explain exactly how we got to this point, and what this means tonight.

- [Mayor Jim Schmitt] Alright.

- I will defer this to our outside counsel, I believe he is here, Attorney Burns, who was hired to represent the Ethics Board as the City Attorney's Office was conflicted out.

- [Mayor Jim Schmitt] Mr. Burns.

- Thank you, Your Honor. I am here on behalf of my law partner James Kalny, who has primarily been working with the Ethics Board on this matter, which is chaired by Attorney Bill Vande Castle, who is here as well if you have questions in that regard. Basically, this matter has been brought before the Council, by report of the Ethics Board, as a result of the withdrawal of the complaint that was previously filed by Alderperson Dorff. That complaint has been withdrawn. The last meeting of the Ethics Board then reports this matter back to the Council, and the Council has on its agenda to dismiss the proceeding with prejudice for a failure of prosecution, as stated in the withdrawal that was submitted by Alderperson Dorff. Basically, the status of this, at this point, is with a complaint withdrawn, the board has no authority to take any further action, there's no jurisdiction at this time, because there is no complaint pending. And also, in addition, the code is written to apply to elected officials, the subject of the complaint, Mr. Zuma, is not an elected official, currently, so the ultimate remedy that's available to, by way of action of the Board, and potentially, ultimately of the City Council for removal from office is also unavailable because the subject, again, is not an elected official, and the code applies to elected officials. So, under that scenario, under that sequence of events, the matter would properly be ready for dismissal, as stated on the agenda, and there's no further proceeding before the Board pending. Thank you.

- [Chris Wery] Thank you, Attorney. I do have a question, thanks, thank you Mr. Burns. A couple questions. Now, the city council did send this back to Committee, because they felt that the accused should have the ability to have their say, and clear their name. Now, by withdrawing the complaint I guess, doesn't that circumvent what we're trying to do, as a council?

- Well, it's not really possible to have a hearing with only one party, and without a complainant, there wouldn't be the ability to conduct a hearing, and so, as a result, there is not a necessity to proceed with a hearing, and there would be an inability to proceed with a hearing without a complaint, without a complainant. It's similar, I guess, you could draw an analogy to when charges are filed and a district attorney drops the charges, dismisses the case, you don't go ahead and have a criminal trial, because there's no one prosecuting the case at that point, and it'd be similar circumstances here, while the person were.

- [Chris Wery] So I guess it's a clever way, really, once the the damage is done, to pull out of it, and not allow the other side to give their story.

- The procedure requires a complaint.

- [Chris Wery] I know. I understand.

- And a hearing if the Board proceeds, in this case, there's no complaint, the Board isn't empowered to do anything differently.

- [Chris Wery] Mr. Burns, what are your, and your partner's expenses billed to date?
- I can't answer that, Alderperson Wery, I haven't...
- Yeah okay. I'll ask our attorney.
- don't, brought any invoices for that.
- [Chris Wery] Why, is that a secret?
- No, oh no.
- Okay. Alright, I appreciate that, thanks.
- [Mayor Jim Schmitt] That's absolutely not.
- [Man] Not!
- No.
- Absolutely not.
- I'm just asking a question Randy, calm down.
- [Mayor Jim Schmitt] Nope. He sets a right to ask that question.
- [Woman] Right, and that's when you're done.
- [Chris Wery] I just wanna know how much money went for, for something
- Yeah, okay, right. that we've already pulled.
- Okay, hang on. Alderperson, yep.
- Spent a lot of money on nothing.
- [Mayor Jim Schmitt] Alderperson Lefebvre. For the attorney, do you have questions for?
- No.
- [Mayor Jim Schmitt] Okay, I wanna, I wish you to stay, but, thank you.
- Okay. No, my concern is
- - Hey hey.
- Oh, I'm sorry.
- [Man] It was just a question for ya. Just for a question.
- Oh, just for a question. So, I'll wait, okay. I'll wait.

- [Mayor Jim Schmitt] Alderman Galvin, questions?
- Thank you, your honor. Mr. Burns, if Council, if Alder Dorff had not withdrawn her complaint, and this case had gone forward, with the recommendation from your firm, that we no longer had jurisdiction, does that open the city up, I mean to me it seems much like you talk about the DA, charging someone, and if the District Attorney realized after awhile something happens and he does not have jurisdiction, but he chose to go ahead and prosecute that case, would it not open the District Attorney up for liability, possibly legal ramifications?
- [Attorney Burns] I think there would be legal questions that would arise from that kind of a proceeding, I can't really opine at this point, but as you said, the opinion from Mr. Kalny as counsel to the Board, was that once Mr. Zima left office, there was not jurisdiction to proceed any further, and so the Board to proceed further, and to potentially refer the matter onto the Council, and for the Council to act, would, in our opinion, be acting without jurisdiction, because the code is written and intended to apply to elected officials and if someone is not an elected official, the ability to impose sanctions, in our view, wouldn't, would no longer be present.
- Thank you.
- [Mayor Jim Schmitt] Any questions for Mr. Burns, Attorney Burns?
- [Man] Okay, thank you.
- You had the floor.
- Thank you. Now I'll pose my question, what are the current expenses billed to date?
- [Female Attorney] I don't have the bill to date, expenses.
- Or the last one.
- I'm trying to review my notes from a meeting in July, when the city attorney's office was asking for additional funds for contingency, I'm not sure if...
- [Mayor Jim Schmitt] If you could move your mic over, 'cause I think it's important that
- - Oh, sorry, yep, I keep forgetting to do that. I would be guessing at this point, so I don't want to state. I'm not sure if Director Alan Bacher would have access to that, what the legal bills would be at this point, but I do not have that information. Not to date.
- [Chris Wery] Are we over \$10 000?
- Yes. So, based on the notes that I have, so this is from the Council meeting in June, we were asking for additional funds from out of contingency because our legal expenses budget was being depleted, at that point we had costs of \$11 134 in legal fees, and \$725 in court reporter costs. So that was June. Of 2018.
- So about \$11 000 as of June. Okay. That's all I have right now, thanks.
- [Mayor Jim Schmitt] Alright, thank you. Alderperson Lefebvre. So we're discussing item W.
- What I would like to state, I don't know how to write the request up, I'll think about it, and put it in for our next council meeting. I think we need to go through the whole Ethics Committee, how we're handling this, I don't think it was worded right. I feel that if somebody, somebody can be accused of, or have an ethics

complaint, and they know they're innocent or whatever, and it comes up for election, and you lose, that still sits there. It's in the news, the people. Yes it does, it sits in there. Because then, when you're out of office, it's null and void. I mean, there's no recourse, there's nothing so you just dismiss it. Or the person who complains withdraws it. I think a person has a right to defend themselves, because it goes out in public. So, I just think we need to work this out a little bit better, thank you.

- [Mayor Jim Schmitt] Thank you. Alderman Scannell?

- Thank you, Your Honor. Just two things, one, if we could eventually get a report on the total amount we spent, and how much we spent since we took the vote to keep pursuing this. I would like to know the difference between the two. And secondly, we have no jurisdiction. So, the recourse here for both the plaintiffs and the accused, is to go to civil court. We don't have jurisdiction, but there are other courts, if they really feel strongly about it, they can go to civil court. Either one. So, this is just ridiculous, we're out of our jurisdiction, and as far as the ethics go, we should be getting that back, I would think, pretty soon. It's in my committee, we sent it out to get looked over, I don't know, so that should be coming back pretty soon to my committee, and we can discuss that then. Thank you. Thank you.

- [Mayor Jim Schmitt] Alderman Wery.

- Thank you Mr. Mayor, I was just gonna piggyback on Alderman Scannell. We did get the recommendations back from City Ethics, that we requested, and hopefully we can get that back on your committee, maybe in January, Legal can work up some changes, there were a fair amount of changes, I would say. Based on their knowledge. I would make a motion to open the floor for interested parties.

- [Man] Second.

- [Mayor Jim Schmitt] Alright, so we have a motion, a second, to open the floor, to hear from interested parties. All in favor?

- Aye.

- Aye.

- [Man] Aye.

- Opposed?

- No.

- No.

- [Man] No.

- Use the board.

- [Man] open the floor?

- No.

- No.

- [Man] Okay.

- We're gonna take a, I wanna... Ears aren't good.
- [Man]say something when you wanna open the floor.
- Just, alright, c'mon. Just vote, you wanna open the floor, or not. Alright, is your light working Alderperson Dorff? K, how do you wanna vote? Yes or no?
- [Barb Dorff] Okay. No.
- Okay, then, it's gonna pass.
- [Man] That is eight three.
- Okay. So the floor is now open to hear from interested parties, is there anyone here who would like to speak to this specific item, and this is Report W, is to dismiss, with prejudice, for failure of prosecution, as stated in the withdrawal. If you'd use the podium, and state your name and address. Hold your comments to three minutes.
- Good evening. My name is David Bartikofsky. I have been a businessman here in Green Bay for over 20 years now. And I have properties here on Cedar Street, and the Broadway district, and my councilman was Guy Zima at the time. What I've experienced here is not something that I wish to pass on to my children. It is, what I see here is a planned dissection and execution of someone's soul, and career. A lot of stuff, I know Mr. Zima personally, and politically as well. To me, this is the equivalent of putting somebody on a back of a horse, on a rope, and dragging them down the middle of the street. I don't know why, I'm an outsider, I've lived in Los Angeles most of my life, only resided here in Green Bay for 20 years. But I cannot understand why somebody who has given most of his life to, 40 years of his life to the public service, here, can be so slandered, and dragged down that street on a regular basis. I read an article that the Press Gazette wrote, probably 10, 12 years ago, and it was three pages of negative reviews on Mr. Zima. And I scratched my head, I said, how does somebody serve people for 40 years, and continue to be re-voted in, and you could not find anybody in the city of Green Bay to say anything good about him? So I called up the editor, and spoke directly to him, and I said, you couldn't find two, three people in the city of Green Bay to say anything good about Mr. Zima. And he laughed and he says, well, if you wanna say anything good about him, you can write it up and keep it to 250 words. I said, but yet, you just did an article, three pages, on this man, and drug him down the middle of the street. I think you have a duty here to allow him to address some of these issues. I think it's your duty to make sure that happens, that we serve justice here. That we allow him to speak on those things that he was accused of. Now I'm sure most of us sitting in this room today is not proud of things that have done in the past, I can't understand why every time he runs for office, that they bring up this hot dog thing that he did when he was in his 20's. We've all made mistakes in life. I don't think there's anybody here that hasn't. And we're probably not proud of it, including myself. But I have been forgiven, I think you all have been forgiven, and we go on. They don't continue to slander you for 40 years. I don't understand, I know when you're in public office, I get that's part of the, and it seems to be, it seems to be worse and worse every year. And you're in public office, now you're allowed to say anything, or tweet anything, and there's no repercussion from it. We do not respect each other anymore. But tonight I'm asking that you allow this man here to at least publicly defend accusations. That were brought upon him during an election. And it always seems that all of this always, unless we're all in a coma, it seems like every time he does run for office, all this stuff surfaces again, and I don't understand that. That just, it's petty, I think it's, I think it should be against the law to do that. To slander somebody publicly like that. So that's what I'm doing here tonight, and if you have any questions, let me know, but I just, I think this is the wrong thing to do to somebody like that. He has served this city for 40 years. We might not agree, and we don't agree with each other, but that's the beauty of it, we can sit and we can discuss things, and hash it out. This is why we have city council. This is why we have Mayor Schmitt, who's been a great mayor. But we gotta allow this, we have to be able to allow him to speak of behalf of those accusations. Thank you.

- [Mayor Jim Schmitt] Thank you. Dave? Mr, Dave? Could you just answer a question for the Alderman?

- Sure, sure.

- [Man] K, now Randy. May I? Go ahead.

- You brought up a point, and I'm wondering, you do realize that the committee met twice before the election and it could have been resolved before the election, and both times, they put it off, to accommodate Alder Zima, and that he was fine with that, and in fact requested that. That this could have been resolved before the election, did you know that?

- [David] Yeah, I was aware of that.

- Okay, okay, that's all I wanted—

- But, but. But wait a minute, let me—

- Go ahead.

- Don't answer me now, but.

- No, no.

- Yeah, I was aware of this, but why did it happen during his election? Why was any of this brought up during the election? You know, why don't we celebrate your, we don't celebrate enough of our, your sacrifices, and your contributions to the city. But to election time, we start tearing people up, left and right. I can't understand why every time it says he's up for election, this stuff comes out. I don't get it. And what I don't understand is this city should be accommodating him for 40 years of his life, and instead it's being torn down. I'm not saying he's perfect, and none of us are perfect. And sometimes he puts his foot in his mouth, I understand those things, none of us is perfect though. And we say things out of context sometimes. And they're taken wrong, but we don't drag people down the middle of the street. That is wrong.

- [Mayor Jim Schmitt] Thank you. Anyone else wish to speak to this item? - I tell ya, sitting here tonight, I miss being here. I just, all kinds of things I felt like saying, but I congratulate you all on your discussions here tonight. But...

- [Mayor Jim Schmitt] For the record, it is—

- Oh, my name is Guy Zima, I live at 1121 12th Avenue, Green Bay, Wisconsin. It's all just a little too convenient. Make accusations, yes, the hearing was delayed twice. The first time because the committee didn't have a quorum, because two people excused themselves, for conflicts. The second one, which they did a week later, my attorney was out of the country. So I just asked for a delay for a chance to prepare and be represented. Of course, little basic necessities like that I guess don't mean that much to some people, they just wanna keep smearing you. And of course... You know, I don't think you have to accept her withdrawal, of her charge. There's really something inherently wrong with expending the taxpayers' money, to stage these hearings. And of course, this body here twice sent it back and said, hey... Make a judgment about it. But then we're talking about the costs. Oh, there was no problem with the costs of bringing it, but the costs to finalize it is too much. What about if there's a financial responsibility, where's the moral responsibility? Now, do I think you guys can do anything in a code that, to me, that is laid out, of course I've always thought the code was as bogus as could be, I never thought it had any constitutionality to it at all. But, you really couldn't fine me \$500, you can reprimand or something like that. But you could make judgment. And of course, I feel I have a right to judgment. I think if Miss Dorff wants to withdraw, 'cause that's all very convenient, when everything else didn't work, they tried to reconsider it, they tried to end it, and this Council, in their wisdom, said hey, there's a right to clear your name, or to at least have a say so about it. And, you know, whether you can punish me, with anything financial or not is beside the point. The committee, they're not prosecuting me. They're taking information, and sending what they think about it to you, and you people make the judgment later. And I think you have a right, whether you can punish me because I'm not on the Council anymore, is irrelevant. But you can decide, whether you agree with the charges or you disagree with the charges. And then, I either stand judged, or, I'm declared innocent. All anybody asks for, is a chance to hear the charges, and defend the charges. And you people decide, later on, what you think about it. And I tell ya, if somebody wants

to put the expense forward, and even though this Council sent it back and you come with the little convenience that oh well, we'll just withdraw it, because they don't really want to hear this. Then maybe Miss Dorff, Alderman Dorff, maybe should have to pay the expenses that she's created. Because she's the only one withdrawing it. This council didn't withdraw it. I tell ya...

- [Mayor Jim Schmitt] Alright. - The action of filing a complaint creates a great suspicion in the community. And leaving it unadjudicated, or to be withdrawn, is the equivalent of what Mr. Bartikofsky said. Dragging somebody through the street and leaving them for dead, and we just leave it at that.

- [Man] Alright, thank you.

- The council referred this back to the Ethics Board, twice, evidently, the city doesn't wanna try it. But it's not a trial, it's a chance for judgment, positive or negative, and you are the final arbitrators, whether you agree with the charges, or whether you think the person who has been charged is innocent of those charges.

- Alright, you're at

- And the community

- five minutes.

- deserves a larger interest. There's a community interest, and there's a basic right of a person's accused, to have their day in court.

- Alright, thank you.

- And this manipulation, to take away that basic, fundamental fairness that I think all people in the United States of America strive for,

- [Mayor Jim Schmitt] Right.

- Is really being injustice.

- [Mayor Jim Schmitt] Alright, thank you. Alright.

- I think you can reject the withdrawal and can go forward. Or let her pay the balance.

- Alright. Well, anyone else?

- [Man] Yep.

- [Mayor Jim Schmitt] Yeah.

- Thank you Mr. Mayor and Council members. My name is Bill Vande Castle, I'm the Chair of the Ethics Board. Wanted to address a couple of points here that I think are significant in this consideration. The November 20th meeting of the Ethics Board was specifically to consider the withdrawal by Alder Dorff of her complaint from earlier this year. That was the only purpose of the meeting, it was the only substantive issue on the agenda. Mr. Zima was present, Alder Dorff notified us prior to the meeting that she wouldn't be there, because she had withdrawn her complaint, and essentially was done at that point. Mr. Zima did address the board, he was given an opportunity at length to discuss with the Board why he was there, and what his concerns were. During the course of that, and he repeated many of the things that he said here tonight, but we asked him, he was on the council when this ethics code was approved, and adopted, if he could point us to any provision in the City's ethics code, code of conduct for elected officials, that gave the Ethics Board the authority to compel someone to prosecute a complaint that was once filed. He could not. And I understand, because I couldn't either, I couldn't find it, Mr. Kalny couldn't find it, there's simply no authority in the Code of Conduct for us to compel somebody to bring a case if they've decided to drop it. You know, there are many reasons discussed here for why it was dropped, but, it was dropped. The Ethics Board, in the course of this process, has had eight meetings to deal with this. At no time, in any one of those meetings, has anybody ever been sworn in, no one's ever testified, no one's ever offered any evidence, so there is no evidence in the record of anything other than the complaint. That's all that was filed in here, so there's never been a hearing, there's never been anything that's taken place to present evidence on which we could act. So, it's not like one side was given the chance to present their case and then it was dropped so that the other side couldn't respond. Nobody put any case on. So, all those hearings were all procedural. We spent, I don't know how many hours on this, dealing with procedural issues over the last year. So there is no evidence in the record for us to act upon. Lastly, I wanna explain why it's taken us so long to get to this point. We took on your task that you referred us, referred back to us, to conduct a hearing. We were in the process of that doing that. But, the Council acted on this initially back in June, and then again I think in July or early August. And, again, this wasn't scheduled until November 20th. The reason for that, the reason for that delay was, that we didn't have a quorum. At 1st of May, several of the prior members of the Ethics Board, their appointments expired, and

there was no, they weren't reappointed. I think one of them withdrew, and indicated he did not want to serve on that board anymore. And so, from the end of August, or the middle of August, until I believe the early part of October or late September, there was not enough members on that board to constitute a quorum. You did approve the appointment of a new member, and once that was confirmed and she was seated, we were in the process of scheduling the hearing that you requested, when Alder Dorff filed her motion, or her letter of petition to withdraw. So, we were in the process of carrying out your directives, but without a prosecuting party, we were left with no action that could be taken, 'cause there was no evidence presented. We couldn't act on anything. And if nobody's gonna present any evidence, I'm simply at a loss as to what we could have done, if anything. So, we are here today because of that. Unfortunately we didn't have our minutes approved yet, to present to you tonight, but that's essentially what happened, Ms. Dorff was not at the hearing, or at the meeting, Mr. Zima was, he was provided an opportunity to speak, and he did so. But, again, without any, without a complaint, without any evidence in the record, there was nothing for us to do.

- [Mayor Jim Schmitt] Alright. - Which brings us to this point. Thank you

- [Mayor Jim Schmitt] Alright. Alderman Galvin, do you have a question for Bill?

- [Bill Galvin] No

- [Mayor Jim Schmitt] Okay. Questions? Alright, thank you.

- [Chris Wery] I have one question.

- [Mayor Jim Schmitt] Oh, go ahead.

- [Chris Wery] Thank you, Mr. Vande Castle. The meeting was November 20th, and it's December 4th. So, two weeks, but we don't have the minutes in? I mean, when do you think they'll be?

- [Bill Vande Castle] Well, the minutes are ready, we have to, we're trying to schedule a meeting with the Commission, or the board to get that. - So they're available publicly, I think.

- [Bill Vande Castle] I believe so.

- [Woman] They're public.

- Alright, that's what I wanted to make sure, okay. No, that's all I have, thanks.

- [Mayor Jim Schmitt] Anybody else wish to speak to this? Anybody else, anybody else. Alright, motion to return to regular order by Craig Stevens? Second by Alderman Mark Steuer. All in favor of that motion, please signify by saying aye.

- [Attendees in Unison] Aye.

- And those opposed, nays, ayes have it, we're back to regular order, Alderman Wery I think you have the floor.

- Thank you Mr. Mayor. I guess I would, I would like to ask our city attorney, or the acting representative, whomever, must we accept the withdrawal?

- [Woman] That would be a question for, that would be - Mr. Burns.

- [Woman] a question for Attorney Burns, correct. - [Mayor Jim Schmitt] Alright, we don't have to open the floor for—

- [Woman] No.

- [Mayor Jim Schmitt] So, but... Attorney Burns, the Alderman is asking, you can ask him.

- [Chris Wery] Do we have to accept the withdrawal? Could we say, you know, the council feels it's in the best interest that this be sent all the way through, and then we don't accept the withdrawal. - Alderperson Wery, I think the difficulty with that is I think Attorney Vande Castle and I would both respond, we don't know how to do that, it doesn't seem as if there is any procedural mechanism available for the Ethics Board to conduct some proceeding without a complaint. The entire process is designed to follow through on complaints that are filed, either by citizens or city officials, and without a complaint, there is no vehicle to move forward. - [Mayor Jim Schmitt] But isn't there truth in, but you're not gonna hear a case of a citizen. What about that it's not an elected official? - Well, that's the other point I mentioned earlier, Mr. Mayor, is—

- [Man] You're canceling his question. His question—

- [Chris Wery] No, go ahead.

- [Mayor Jim Schmitt] Sorry. I think you're saying... Let's, I just wanna think through what you're saying, if you say look, we don't accept the complaint, they don't have authority anyway. Anyway, go ahead. I am sorry.

- [Chris Wery] Well, I think when we put this in place, we knew there a lot of unanswered questions. -

[Mayor Jim Schmitt] Right.

- [Chris Wery] A lot of what ifs, so. I don't think it's that we can't do it, it's maybe we didn't spell it out. So there's a way, if we want. - Yep.

- [Chris Wery] It's possible, anything's possible. We didn't spell it out, we shouldn't leave people hanging. Figure of speech. - Maybe when you, when you revisit your code, you may want to consider some sort of window when complaints can't be filed, prior to an election, or something like that. But, that's not something the Ethics Board has any control over. From the Ethics Board perspective, that board can't operate without a complaint. And secondarily, as the mayor said and as our prior opinion said to the board, even if there was a complaint, we're of the opinion the board doesn't have jurisdiction if the subject of that complaint is not an elected official, because the code applies only to elected officials.

- [Chris Wery] And I can see where you're coming from that, you know, the reading of the text, defines what you can and cannot do, but you can probably also, as a human, see the other side. That you have no chance to defend yourself, when it's been a public, so very public, in the paper and in the news, and people going on. - There's a precedent.

- [Chris Wery] I'm, I'm...

- [Man] Sorry.

- [Chris Wery] I don't go crazy when you talk, Randy.

- What about severe, okay, go ahead, Alderman, I'm sorry.

- My apologies.

- Yeah, yeah, okay.

- [Chris Wery] You can see where maybe we should change it to allow closure.

- Well, I appreciate that the question acknowledges that lawyers can be humans. That's probably the... - Well...

- [Mayor Jim Schmitt] He didn't say that.

- [Chris Wery] I take it back.

- Alright. That, in a seriousness though, Alderperson Wery, that issue is outside the Board's scope of authority, or ability, it really comes down I think to the issues of the ability to move forward, without a complaint doesn't exist, and we also believe the jurisdiction doesn't exist, if the subject isn't an elected official, and, from the Board's perspective, that's all we can really say.

- [Chris Wery] I appreciate your time, thank you Mr. Burns.

- Thank you.

- [Bill Galvin] I have a question.

- [Mayor Jim Schmitt] Okay, Bob, for, go ahead, Alderman Galvin.

- Thank you, Your Honor. Mr. Burns. Given the fact that legally, and I don't know why some people on this Council want us to violate the law, but legally we have no jurisdiction, okay, we have no complaint, does not Mr. Zima have other legal avenues open to him, if he wants to clear his name, if he wants to pursue this?

- Well, I can't advise Mr. Zima, obviously.

- I understand.

- But, I don't have any, so I don't have any recommendation or suggestion there, but that would totally be up to him, to pursue, and to review, and have his counsel research. And, whether there is or isn't I'm not in a position to opine on that. Because I can't advise Mr. Zima, my obligation is to advise the Ethics Board.

- [Bill Galvin] Okay. I guess if we were to take Mr. Zima out of this, and I'm not asking for a legal opinion, but there are other courts that in something similar to this, someone could potentially pursue it, could they not?

- I can't really, again, opine on what other remedies are available to someone, hypothetically, but that, there is no... nothing that would prevent Mr. Zima from consulting his legal counsel and pursuing whatever action they decided was appropriate,

- Okay. - If any.

- [Bill Galvin] Alright, thank you.

- [Mayor Jim Schmitt] Anyone else, for Bob? Alright. Thank you. You still have the floor. Hang on, go ahead.

- [Chris Wery] Thank you. You know, I... I'm not certain there's anything that we can do, at this point. There should be, there should be. And that probably was our over, you know, our miss at the beginning, and I'm hoping when it comes back to committee we can look at that, 'cause it's a very, it's a sad spot we're in, it's a very faulty ordinance and policy right now, I think we all would admit that. The review, and I saw a draft of it from the person who reviewed it, there's a lot of corrections, and deletions, and surprises, there were

surprise things that were in there, so. This has to be a learning point, and I hope we can correct this, because you shouldn't be able to be, as Mr. Bartikofsky said, drug through the streets, and not have your chance to defend yourself, so. Thank you.

- [Mayor Jim Schmitt] Alright, thank you. Alright, so there's a motion, a second to, motion by Alderman Scannell, second by Alderman Galvin, to approve Report W, all in favor of that motion, please signify by saying aye.

- [Man] Mayor, wait. We are approving what?

- Dismissing, it's item one, it's to dismiss with prejudice for failure of prosecution as stated. So we're, it's going away, it's gone. Well, it's the same thing as receiving placed on file.

- [Man] Only the clerk-- - Alright, sorry. Alright, so, the motion and second, Report W, all in favor, please signify by saying aye.

- [Several Attendees] Aye. - Alright, use the board. My vote dismisses it. Alright, and that motion passes, vote eight to three

- [Mayor Jim Schmitt] Okay, clerk.

- [Kris Teske] Received and placed on file, Municipal Court report for October 2018.

- Motion.

- Motion by Alderperson Dorff, second by Alderman Nicholson, to receive and place on file, Municipal Court, October 18th, any discussion here? All in favor please signify by saying aye.

- [Attendees in Unison] Aye. - And those opposed, nays, ayes have it. Report X has been approved.

- [Kris Teske] We're on to resolutions, you may, under suspension of the rules, adopt resolutions one through eight together with one roll call vote.

- [Randy Scannell] Vote to suspend.

- Alright, does the motion of Alderman Scannell?

- [Craig Stevens] I second. - Seconded by Alderman Craig Stevens, to suspend the rules for that purpose, all in favor of the suspension, please signify by saying aye.

- [Attendees in Unison] Aye.

- And those opposed nays, ayes have it. Motion to adopt one through eight?

- [Randy Scannell] Motion to adopt. Items one through eight?

- [Veronica Corpus] I second that.

- Alright, the motion was by Alderman Scannell, and was seconded by Alderperson Corpus-Dax, please use the board on this, this is Report Y, resolutions one through eight. We already did nine. Okay, I'll do that now. Alright, so, that passes unanimously. The resolution recognizing the neighborhood association, which we did earlier, needs to be recorded. So if you could please use the board on this. This is resolution nine, which again was the recognition of the Old Preble Neighborhood Association. Always keeps going out. It's a good system you guys got. Okay, how'd it go, let's pass it. Alright, thank you, that passes unanimously. Oh, Bill, the minutes you-

- Okay, Alderman Nicholson, I just didn't get your vote, this is the Preble Neighborhood Association.

- [Andy Nicholson] Oh, okay.

- Yes, I'm sensing that. C'mon man, we're almost done. Okay, that passed unanimously, thanks for that.

- [Kris Teske] We're on to Referral of Petitions and Communications.

- Alright, we're on to Referral of Petitions and Communications. Anything you guys wanna put in here? I don't see any lights, okay.

- I got one, I got one.

- Motion to adjourn.

- Okay, Alderman Steuer—

- [Man] Hey, turn it down

- [Mayor Jim Schmitt] Alderman Steuer.

- Alright, thank you your honor. This one's the parks, it's to look at the feasibility of utilizing Hi-Nis-Ra park as a fat tire winter bike destination. Thank you.

- Okay. Thank you.

- [Andy Nicholson] Motion to adjourn.

- [Mayor Jim Schmitt] Just wait, hang on Andy, we got first reads we gotta do. We have the first readings, I can do this in a voice vote.
- [Woman]communication, right?
- [Mayor Jim Schmitt] No. We suspend the rules.
- [Randy Scannell] Motion to suspend the rules.
- [Andy Nicholson] Second. - Alright, does the motion by Alderman Scannell, seconded by Alderman Nicholson to suspend the rules to take the first reading ordinances under one roll call vote, all in favor of that motion, please signify by saying aye.
- [Attendees in Unison] Aye. - And those opposed nays, entertain a motion to advance to the second and final
- Motion to advance. - reading by Alderman
- Second.
- Scannell, seconded by Alderman Nicholson. All in favor of advancement, please signify by saying aye.
- [Attendees in Unison] Aye.
- And those opposed nays.
- [Andy Nicholson] Motion to adjourn.
- The happy new year one, okay. By Alderman Nicholson, by Alder Corpus-Dax, motion to second to adjourn, all in favor of adjournment, please signify by saying aye.
- [Attendees in Unison] Aye!
- Alright, and those opposed nays, ayes have it. Happy New Year, you guys, we'll see you on January 15th.
- January 15th
- . - [Man] I wanna get out of the meeting here, okay, thank you ma'am.
- Yep, thank you.
- [Man] Can't you go back to the original meeting and get out?