

MINUTES
ADVISORY COMMITTEE
Tuesday, December 11, 2007
City Hall, Room 604
7:30 p.m.

MEMBERS PRESENT: Council President Chad Fradette, Council Vice-President Chris Wery, Ald. John VanderLeest, Ald. Tom Weber, Ald. Celestine Jeffreys

MEMBERS EXCUSED: Ald. Jerry Wiezbiskie

OTHERS PRESENT: Mayor Jim Schmitt, Allison Swanson, Ald. Guy Zima, Ald. Tony Theisen, Ald. Steven Deneys, John Vetter and staff, members of the media, other interested parties

1. Call to order.

The meeting was called to order at 7:30 p.m. by Chairman, Ald. Chad Fradette. All members were present with the exception of Ald. Jerry Wiezbiskie, who was excused.

2. Approval of the agenda.

Motion made by Ald. Jeffreys, second by Ald. Wery to approve the agenda and to move item #6 up before item #4. Motion carried.

3. Approval of the minutes of the September 17, 2007 Advisory Committee meeting.

Motion made by Ald. Vanderleest, second by Ald. Jeffreys to approve the minutes of the September 17, 2007 Advisory Committee meeting, as submitted. Motion carried.

6. Request by Ald. Fradette for permission to place the Nativity Scene on public premises, along with symbols of other religious faiths.

Ald. Fradette said he brought this item forward because the City of Peshtigo had placed a Nativity scene in a public park and the Freedom From Religion Foundation came from Madison and “kicked the Mayor and city around a little bit”. He indicated that he wanted to show support for Peshtigo and is asking for approval from this committee to place a Nativity scene on the overhang at the Northwest corner of city hall, and to invite anyone of any religion to put up a symbol of their religion. He stated that Rabbi Shanna Bacharach said it is not the time of year for the Jewish community to celebrate with symbols, but other times of the year, such as Martin Luther King Day, they may wish to do this. Ald. Fradette that it is a constitutional right to express religious beliefs.

Ald. Weber concurred that it is the right of citizens to express their religious beliefs and suggested having a small segment of a park dedicated for people to place symbols at various times of the year. He stated that the people of Green Bay own City Hall, not the Common Council. He said that he supports Ald. Fradette's efforts and would support a designated area for placing religious symbols. He stated that some people who may object to this are the same people that support despicable art and marches.

Ald. Vanderleest stated that he supports what Ald. Fradette is trying to do and suggested referring to the City Attorney to draft an ordinance or language to allow this type of process to occur. He agrees with having a designated area with guidelines, for placing religious items. Ald. Vanderleest said this would need to be approved by the full Council next Tuesday before placing the scene up. Ald. Fradette said, with the approval of the Advisory Committee, he would like to place the scene up tonight, adding that we do not need an ordinance, since this is guaranteed by the Constitution, and would only need that the display be safe. Ald. Weber agreed that some type of policy or guidelines is necessary.

Ald. Wery stated that he has no objection to Ald. Fradette's request and said the vast majority of people in Green Bay would not have a problem with it. He said when other people wish to place a display there would need to be a check off to be sure it's safe. Mayor Schmitt said we definitely do need guidelines and said he has concerns about what this may lead to, adding that we need regulations for displaying faith based symbols. He stated that he doesn't want anything distasteful or something that could lead to litigation.

Ald. Zima stated that he believes a Nativity Scene was placed on the Court House square many years ago, adding that times have changed. He said this should have been done without any fanfare, adding that the majority of the people in Green Bay would not object to it, but there will be some who do. He stated that you're mixing religion with government and placing it on the agenda is not the way to go. He added that he supports Ald. Fradette's effort, since Christmas means Mass for Christ.

Ald. Jeffreys asked for Atty. Swanson to speak to the issue. Atty. Swanson stated that it doesn't need to be in ordinance form, adding that some type of guidelines would be difficult to do. She said the reasonableness and regulation is what she has concern with relative to who can judge if a religion is valid or not. She said it could be done in places other than city hall and could be included with other things stating that it is not for a secular purpose, but said in this case, it is meant to be the religious symbol that it is. Atty. Swanson said there are groups out there who are ready to litigate and said this is a gray area, not easily defined. She summed up by saying that the Committee could give approval for Ald. Fradette to do this and could open it up to other religions, but said she could not draw up guidelines and said there will be people who will not be happy with what

is placed there. Ald. Jeffrey said some religions do not have symbols, do not have God picturalized. She said religious exemptions have to be declared and said it would be difficult for the group as a body to say what is a religion and what is not. She stated that she would support a designated area by the city that would be open to everyone to express themselves in a spirit of unity. She stated that there are problems with this issue.

Ald. Fradette responded that he is in favor of what the Constitution allows and is not in favor of restricting what can be displayed, as long as it is safe. He would be alright with limiting it to one park or area in the future, but said he is requesting to place the display inside or outside of City Hall tonight and said they can look at alternative sights in the future. He said he brought this issue forward to make a stand and take a stand and stop the Freedom from Religion Group in what they are doing. Ald. Weber said sometimes just do it and find out what the consequences are later. He said we could tape off an area and it should not be limited to just Christmas, and said a task force could be set up to establish a policy or guidelines. He applauds going forward with this issue. He stated that recognized religions must file Federal papers as a charitable organization, which would alleviate the problem of who decides what is a religion. Ald. Vanderleest expressed concern about securing the Nativity scene so it would not be stolen or defaced if it was placed outside, and said all groups would need to be treated the same. He is in favor of establishing guidelines. Ald. Fradette responded that one option is on the 11 foot high overhang of city hall, or in the welcome center inside city hall.

Discussion about how to extend the invitation to other religious groups? Ald. Fradette responded that through the media, phone calls, neighborhood association newsletters, word of mouth, and the city website would all be a means of getting the word out. Ald. Jeffrey asked why we would want many, many symbols on the overhang rather than at their place of worship, or in their own homes, asking how does this serve the public good? Ald. Fradette said this acknowledges that the founders of our country gave the right to exercise religious beliefs. He stated that it is part of the duty of the Council to uphold the Constitution, adding that by doing this act, it tells the public that it's o.k. to be religious and it's o.k. not to be religious. Ald. Jeffrey referred to the Constitution having two hundred years of Supreme Court cases to interpret it, with Ald. Fradette responding that the Supreme Court has been wrong on many occasions. He summed up by stating that some members of the committee may have reasons other than his to approve his request and said this country was founded on religious freedom.

After further discussion, motion was made by Ald. Weber to allow the religious display on public property on the area designated as the overhang on the northwest corner of the city hall property, and to first get approval to gain access, and to have this committee designate two or more members to form an informal

task force to draw up a policy and guidelines to address this issue. Motion seconded by Ald. Vanderleest.

Ald. Zima said he believes to do something in defiance without authority is probably not the way to go, adding that Council will need to give their approval next Tuesday. He said we should encourage churches to put up such displays on their property and again said to do this without fanfare would have been the better thing to do. He cautioned the committee not to overstep their authority and give approval tonight. Atty. Swanson said in the past, they have waited until the full Council approved the request. Ald. Fradette responded that he checked with the Attorney's office yesterday and was not given approval, so he took the item to the Advisory Committee. He asked the other members of the committee if this was within his constitutional right or not? Ald. Weber said we have gone from complacency to apathy and asked what are we afraid of? He again suggested to just do it. Ald. Jeffreys said Ald. Fradette is not a religious leader and expressed concern about what kind of precedence they would be setting. Ald. Fradette again referred to the Constitution stating that it's a citizen's right to display symbols of their religious beliefs on publicly owned property, as long as it's not publicly funded and that the property also is made available for displays of other religions.

Ald. Weber amended his motion to state that the symbol has to be generally recognized as a religion.

Mayor Schmitt stated that Council members are elected to control the assets of the city and said the role of this committee tonight is if they want to designate an area, then they should do this. He said he has some concerns with this and agrees with Ald. Zima that they stirred things up more than they needed to be with this issue, and said they may be getting out of their role of authority. Ald. Vanderleest that there is protocol to follow, action from Advisory will be going to the full Council. Ald. Weber asked if there is an ordinance prohibiting placing something on the overhang of City Hall, if not then said let's do it. Ald. Wery asked the Mayor if he could give the approval for the display to be put up tonight? Mayor Schmitt responded that he likes the policies and protocol that we have in place and said it would be going up early without final approval, cautioning Ald. Fradette that if he puts it up tonight, it's his risk if it gets voted down at Council. He said if the committee approves it and they want to get started with it tonight, he's not going to not allow them to put up a ladder, adding that he prefers that he wait until Tuesday night when Council will take it up.

A vote was taken on the motion by Ald. Weber. Motion carried with a 4-1 vote, with Ald. Jeffreys dissenting.

4. Request by Ald. Zima for an update and action on the long expired agreement and default by Vetter Denk as to the development of the Flatley Park site.

Ald. Weber updated the Committee on action taken by the Redevelopment Authority at their meeting held earlier in the day. He indicated that John Vetter gave an update to the RDA on the Astor Place project and the River Center project. He stated that the Development Agreement on the Astor Place project had expired on November 1st and the RDA gave an extension on the Development Agreement until June 1, 2008.

Mr. Vetter addressed the committee stating that at the RDA meeting, they talked about understanding the correlation between the two projects and said the success of the Astor Place project depends on a clear understanding from the community of the River Center project. He gave a power point presentation update on the Astor Place project highlighting six different categories: Leasing, Design, Construction, Legal, Finance and Sales. He indicated that they are looking at a groundbreaking in March and the project should take 18 months.

Mr. Vetter said the River Center project demolition started in May and will be finished in the next two weeks. He said Washington Street is now open again and returned to the street grid, connecting the whole area to the water front. He also reviewed the schedule/timeline for the project, stating that 2008 will be a year of construction, and in March, 2009 the River Center project would be complete.

Jim Schields of HGA Architects shared a power point of developments his firm has done in Milwaukee and showed renderings of Astor Place. Ald. Theisen inquired about the Admiral Flatley monument, with Mayor Schmitt responding that the monument was relocated in a park behind the Chamber of Commerce, with the approval of the United Patriotic Society. Mr. Shields showed a parking ramp which will be closed from the front, with the backside being left open for venting.

Ald. Zima inquired of Mr. Vetter about sales to date for the River Center, residential, with Mr. Vetter stating that this will be 64 apartments in this component and they are not starting the presale campaign until February for the loft condos. Ald. Zima said that the Development Agreement stated that the closing date for the Development would be September 2006. Atty. Swanson said Ald. Zima was questioning two different things, adding that the date the property for Astor Place was sold to the developer was in July or August of 2006 and the Development Agreement expired on November 1, 2006. Ald. Fradette stated that the RDA extended the agreement to June, 2008 and cautioned Ald. Zima that only the Astor Place project is on the agenda.

Ald. Zima inquired that $\frac{3}{4}$ of the retail space is consumed for an organic grocery store, organic café and fitness & spa with a juice bar? Mr. Vetter confirmed this

as correct. Ald. Zima asked about the sale of the condos, to which Mr. Vetter responded that \$9.2 million in unit sales represents the sale of over 40 out of 95 condos, which is 70% of the finance packaging goals. Mr. Vetter said they hired a consultant with national contacts to assist with the financing goal. Mr. Vetter said they are trying to presale or get commitments for half of the \$36 million project, which would be \$17 million and would be one half of the units. He again said they look at 70% of the building being sold, volume wise.

Ald. Vanderleest inquired if the Council could receive updates every six months from Mr. Vetter. Ald. Weber suggested sending a communication to Rob Strong, and Atty. Swanson said Mr. Vetter attends the RDA meetings more often than every six months. Mr. Vetter said he would be happy to give updates, adding that there will be things happening on the projects weekly and monthly and said it's good public relations to keep the Council updated.

Motion made by Ald. Vanderleest, second by Ald. Jeffreys to receive and place on file Ald. Zima's request for an update and action on the expired agreement and default by Vetter Denk as to the development of the Flatley Park site.

Ald. Zima opened discussion on the city's expenditures for the project. Atty. Swanson said the city borrowed \$1 million and have spent about \$600,000 of that money, adding that the money was spent for street construction and utilities. She said the city allocated about \$1million for relocation of utilities and street construction, and another \$2 million was allocated for the CityDeck. She stated that the \$2 million was not borrowed and they have not borrowed any money for the developer. She stated that \$6.5 million is the total for the Astor Place project and \$33.2 million is the city's guaranteed minimum for the project. Atty. Swanson said that the developer owns the property and is paying taxes on it. If the property taxes are not sufficient to cover the debt that the city has incurred, the developer will be invoiced for the difference in the debt service amount each year. She said the city will not be borrowing any more money until the construction is started. Ald. Zima said the total of the Astor Place project is \$6.7 million, not \$6.5.

A vote was taken on the motion to receive and place on file. Motion carried.

5. Petition by area residents requesting that there be only one Native American Center within the City of Green Bay.

Ald. Vanderleest asked how the Committee can restrict organizations from being created. Atty. Swanson said the city has no control over it and said it would be discriminatory and she would not recommend acting on this petition. Ald. Jeffreys said this request was made by the Executive Director of the United Amerindian Center and explained that another similar organization opened across the street that does similar work. She believes it's two non-profits duking it out.

Motion by Ald. Vanderleest, second by Ald. Jeffreys to receive and place on file.

Ald. Fradette suggested making a motion to deny the request rather than receiving and placing on file.

Ald. Vanderleest amended his motion to state that the committee takes no position with respect to the petition. Motion seconded by Ald. Jeffreys. Motion carried.

Motion made by Ald. Vanderleest, seconded by Ald. Jeffreys to adjourn the meeting. Motion carried.

Respectfully submitted,

Mary Haupt, Recording Secretary