

The Meeting of the Common Council was called to order at 7:00 p.m. on Tuesday, May 10, 2005. It was noted that the meeting had been announced and a notice posted at City Hall.

Roll call was taken, with the following members present: Mayor Jim Bialecki, Ald. Mike Giese, Ald. Diane Oldani Wulf, Ald. Gary Gonczy, Ald. Jim Olson, Ald. Kim Smith and Ald. Bill Leathen. Also present were City Clerk Cari Burmaster, Land Use & Development Director Jason Gilman, Financial Services Director Fred Buehler, and City Engineer Ron Lund.

Item 2 - Pledge of Allegiance

The Pledge of Allegiance was declared.

Item 3 – Amend and Approval of minutes from previous meeting.

Mayor Bialecki noted that Line 130 should read “Resolution 24-2005”. Motion by Ald. Gonczy, second by Bill Leathen, to approve the minutes from the previous meeting as amended, printed and on file in the City Clerk’s Office. On voice vote, motion carried.

Mayor Bialecki suggested addressing Agenda Item 5F first. There was no objection.

Item 5 – REPORT FROM THE MAYOR:

F - Proclamation for Peace Officers’ Memorial Day – May 15, 2005 and National Police Week, May 15 – 21, 2005.

PROCLAMATION

Peace Officers' Memorial Day - May 15, 2005

and

National Police Week - May15 – 21, 2005

WHEREAS, The Congress and President of the United States have designated May 15 as Peace Officers' Memorial Day, and the week in which May 15 falls as National Police Week; and

WHEREAS, the members of the law enforcement agency of the City of Onalaska play an essential role in safeguarding the rights and freedoms of the City of Onalaska; and

WHEREAS, it is important that all citizens know and understand the duties, responsibilities, hazards, and sacrifices of their law enforcement agency, and that members of our law' enforcement agency recognize their duty to serve the people by safeguarding life and property, by protecting them against violence and disorder, and by protecting the innocent against deception

and the weak against oppression; and

WHEREAS, the men and women of the law enforcement agency of the City of Onalaska unceasingly provide a vital public service;

NOW THEREFORE, I, James S. Bialecki, Mayor of the City of Onalaska, Wisconsin, call upon all citizens of the City of Onalaska and upon all patriotic, civic and educational organizations to observe the week of May 15 - 21, 2005 as Police Week with appropriate ceremonies and observances in which all of our people may join in commemorating law enforcement officers, past and present, who, by their faithful and loyal devotion to their responsibilities, have rendered a dedicated service to their communities and, in so doing, have established for themselves an enviable and enduring reputation for preserving the rights and security of all citizens.

I further call upon all citizens of the City of Onalaska to observe Sunday, May 15, 2005, as **Peace Officers' Memorial Day** in honor of those law enforcement officers who, through their courageous deeds, have made the ultimate sacrifice in service to their community or have become disabled in the performance of duty, and let us recognize and pay respect to the survivors of our fallen heroes.

In witness thereof, I have hereunto set my hand and caused the Seal of the City of Onalaska to be affixed.

James S. Bialecki, Mayor
City of Onalaska

Seal:
Attest:

Cari Burmaster, City Clerk

Item 4 - PUBLIC INPUT: (limited to 3 minutes/individual)

Mayor Bialecki recommended that following public input, Agenda Item 27 B should be addressed. There was no objection.

Mayor Bialecki turned the agenda item over to anyone wishing to provide input.

James Kinsman, W8327 Northshore Drive, Onalaska addressed the Common Council. Mr. Kinsman said, "First I'd like to say thank you for holding this. It's important for at least the people of Onalaska get to hear from their representatives on this.

"And, secondly, I'd like to tell you that I think it's an unfortunate situation that we find ourselves in here today, where the cities and the local municipalities have to hear these things, due to the simple fact that are the lack of decent leadership in Madison. We're looking at a position right

now where people are beginning to play gubernatorial politics a little too early; a little too premature in my eyes.

“And, now what we’re faced with is instead of this issue being addressed at the State level – where it ought to be – it’s being forced into your lap, because there are people out there who are seeking relief from a minimum wage that is by far substandard. And, if they’re not going to get heard – their voices heard – in Madison, because Madison is swimming in gubernatorial politics right now, they have to come here in this body.

“I think it’s important – and I have to apologize because I’m really not, honestly, prepared to speak tonight – but I have to be honest that \$5.15 per hour is horrible. And I know that there’s some folks to say that we’re only talking about 63,000 people; only 63,000 working families. ‘Only’ before that phrase is ignorance in my eyes.

“But, a bigger number – if you want to look at numbers – an even bigger number, close to 220,000 Wisconsin residents, working families, are making less than \$6.50. Now if you take into account that the minimum wage hasn’t increased since 1997, and yet the cost of just existing in this area has gone up – just look at the gas pump, that’s a prime example. The average cost for rent in 1997 was just a little over \$350 in this area back in 1997. Today, for the first time, it’s over \$500. And the wages are staying down here.

“The problem that we’re also facing now is with the closing of plants and the closing of good-paying jobs within La Crosse and the surrounding area, we see for the first time in a long time that now we are faced with wage earners – family wage earners – having to compete with high school and college kids for these jobs. The rubber mill, Iseola, now Trane. I know that those are companies that are in La Crosse, but your constituents work there. They work in La Crosse, they live here, they pay taxes to this body. And now they’re faced with the problem of how do I simply exist. Now they’re going out and competing with these people for these entry-level jobs.

“I guess it’s just common sense. Common sense goes a long ways. And, to sit there and put gubernatorial politics ahead of the people on the most bottom rung of the financial ladder; after all, I just saw a report today, our economy is booming, according to our President, and according to some people. Our economy is beginning to boom. It’s flowering.

“Why should these people who’ve been stuck at this pay level for that amount of time – I tell you what, if my employer told me we’re not going to give you a pay raise for almost eight years, there would be a fist fight. And we’re not talking about a pay raise. We’re talking about a cost of living adjustment. We have to be able to do that. And it’s unfortunate. And I do sympathize with this body because I will agree with these people that say that this needs to be put in the arena of the State. But unfortunately, I call them cowards because they would rather put their political interests ahead of those of the people that need it the most. Thank you”.

Mayor Bialecki called again for anyone wishing to address the Common Council.

Dr. Robert Freedland, of Franciscan Skemp Healthcare, addressed the Common Council. Dr. Freedland said, “I’m proud to let you know that I’ll be one of the doctors who will be working up

at that Theater Road development, at least part-time. So, I'll be able to participate more in Onalaska. Besides just spending my money, I'll be making my money here too.

"I wanted to talk a little bit about the minimum wage, because I tend to get passionate about things; passionate about caring about people that are ill, people that are disadvantaged, people that don't have an adequate opportunity in life. I'm concerned about people talking about raising the minimum wage, because I don't think this is about raising anything, because the dollars in 1997 – the same dollars that we pay people – are not worth the same today. If you read, you know that the Euro is up and the dollar is down and there's inflation and the Fed is raising rates because there's inflation. Well, inflation has eroded the buying power in America.

"So, it's not about – people could say, 'Why don't we just raise the minimum wage to \$100 an hour and everybody will be rich?' Right? You could take that to absurdity. It's just a question of basic standards. We have standards in healthcare. We have building codes. We have environmental standards. And we have working standards in America. And, all we need to think about is not about raising the minimum wage, lowering the minimum wage, but just adjusting it for inflation. I don't think that's too much to ask of anybody.

"Now, people would say, 'Wouldn't it be better that we do this State wide? How are we going to do this patchwork? Onalaska is here. La Crosse is here. Milwaukee is doing this. Racine is doing this'. You know what? I agree. I agree that it should be done statewide, but we don't seem to have the power to move our legislators in Madison to do the right thing. But, we have the power here to do it.

"I was there in La Crosse, at the City Council when they moved to use the minimum wage – I'm using the same term that I don't want to do – but adjust the minimum wage. And people worried about being an island. Well, I really would like to invite Onalaska to join with La Crosse, to be with a larger island; an island of decency, an island of caring, an island of respect.

"And, I want you to just think about money that don't have money to do things; people that don't have money to buy their medication, people that don't have money to go to the doctor, people that don't have money to take care of their children. We're doing this – we talk about family values and 'family values' is really thrown around a lot. Well, taking care of people on the bottom rung of the ladder is about family values. Okay?

"And you can hear, 'Well, if we adjust the minimum wage, it's going to be bad for economics. People are going to move away'. And I ask you, is our economy so weak that we have to base it on the backs of the lowest wage earners? That we have to keep those wage earners earning less and less each year, so that can – in a capitalistic sense – be successful and have more money for our businesses?

"So, all I ask of you is that you just consider fairness, equity, decency, and yes, family values, to take care of the families at the bottom rung. Thank you very much".

Mayor Bialecki called again for anyone wishing to address the Common Council.

Dick Granchalek, of the La Crosse Area Chamber of Commerce, 712 Main Street, La Crosse,

addressed the Common Council. Mr. Granchalek stated that he is representing businesses from La Crosse, Onalaska, Holmen, West Salem, and other areas. Mr. Granchalek said, “The true issue is – I’m here, probably, alone tonight – speaking in opposition to the ordinance, because as I’ve found employers, and talked to people, I haven’t found anybody that pays the minimum wage. It just doesn’t exist. I called a car rental company and said, ‘I would really appreciate your voice in this matter’, and they said, ‘That’s not an issue for us. We pay eight bucks an hour. That’s what it takes for us to get reasonable employees, that we can count on, that we can bring back day after day that represent our company to the fullest’.

“So, the issue is, this should be set by the State of Wisconsin. The legislature does need to act. At our cracker barrel breakfast yesterday morning, we were told by our legislators that they are moving towards a settlement on this issue and will be moving forward in the near future.

“We talked to people. Nobody is paying the minimum wage. It’s really a non-issue. And we believe the proposal before you creates individual rules for individual communities and is a challenge for employers and is an unnecessary stop. So, we would encourage you not to support this ordinance and ask that your efforts be applied to constructive legislative discussions taking place in Madison. Thank you”.

Mayor Bialecki called again for anyone wishing to address the Common Council.

Maureen Freedland, an attorney working as a volunteer for Legal Action of Wisconsin. Ms. Freedland said, “As such, I am familiar with many, many poor people in this County. Our area does cover all of the County, including Onalaska.

“I merely want to say to refute what was just said, some facts that were sent to you earlier. I sent a packet to each of you before. And there were facts in it such as the following: More than 200,000 families across the State would benefit from an increase in the minimum wage to \$6.50 an hour. 57% of these are adults – not teenagers. In the City of La Crosse, 10% of workers earn less than \$6.64 per hour. There are some other facts. 130,000 Wisconsin workers earn \$5.15 an hour. There are indeed many, many people who would be affected by an adjustment of the minimum wage, and I ask you to keep those in mind.

“When I entered this discussion several months ago, I was really quite surprised, because I learned quite quickly that both Republicans and Democrats are in favor of the wage increase – or the adjustment, as my husband would say. Business and labor are both in favor of this largely. The bipartisan task force that was appointed by the governor to study the issue had business, labor, a variety of different people. There is indeed broad-based support for this. The hang up seems to be in Madison – I’m not sure why, I was listening to the radio today – and I heard that there was a new bill that was proposed that would prohibit the legislators from giving themselves a raise until the minimum wage issue was settled. I thought that was rather ironic.

“The issue will go forward, but it will take a while. It’s taken eight years already. It could take a year, it could take two years. I ask you to think about the people now who need this wage increase, and don’t make them wait any longer; that’s not fair. When the new legislation comes

through in Madison, then whatever is passed here will be affected by that that's true. There will be come effect and you can judge at that time what will happen here. But now we have an important issue that needs to go forward, and I ask your support for this. Thank you very much".

Mayor Bialecki called twice more for anyone wishing to address the Common Council.

John Sarnowski, 313 15th Avenue North, Onalaska, addressed the Common Council. Mr. Sarnowski said, "Gentleman and ladies of the Council, tonight I'm just going to ask you to not be fair, just be smart. This City has a much bigger heart than you give it a chance for. And I think that this is a no-brainer. If you believe that there's nobody on minimum wage, then passing it won't change anything. If you believe that the State is going to pass it this Friday, it won't make any difference. So, if it's not going to make any difference, take your heart out, take your wallet out, pass it and make Onalaska, along with the City of Milwaukee, the City of Madison, the City of La Crosse, and tonight, possibly, the City of Eau Claire, to stand up for those among us who need help. Thank you".

Mayor Bialecki called twice more for anyone wishing to address the Common Council. Hearing none, Mayor Bialecki moved on to Agenda Item 27B.

Item 27 – REPORT FROM THE ALDERPERSONS:

B - Minimum Wage for the City of Onalaska – Ald. Giese and Ald. Leathen.

Mayor Bialecki reported that this Agenda Item was requested by Ald. Giese and Ald. Leathen. Mayor Bialecki opened up the item for discussion.

Ald. Giese said, "Thank you Your Honor. I would like to make some very brief background comments and then get into specifics after I make a motion.

"I thank the citizens who have already provided some background. I think it suffices to say that the minimum wage now stands at \$5.15 an hour. It was last increased in 1997. There are a number of states in the nation – and that's also the Federal minimum wage, by the way. There are 13 states in the nation - last time I checked, but it probably changed today, there were some votes taking place – that have a minimum wage that's beyond the Federal minimum wage.

"There seems to be consensus across the board that the minimum wage at \$5.15 is not adequate. The value of that \$5.15 minimum wage in 1997, when it was put into place, is now \$4.23. So, it's significantly less than what it was intended to do when it was introduced.

"About 18 months ago, the Governor created a Minimum Wage Council, where he appointed 17 members from business, labor, UW systems, reps from both parties and from both houses of the State legislature, and they voted – with only two voting in the negative – to increase the minimum wage in step-rise increments from the \$5.15, to \$5.75, and then about a year later, to

\$6.50. That would take effect by administrative rule. However, I believe it's in the assembly, Speaker Gard had bottled that up, so it can't take effect.

“The irony that we have here right now is that we have the disagreeable in Madison agreeing. It's unanimous; it should be a statewide solution. It's wrong to do it in islands. It doesn't provide for the best financial environment and the job environment for our City. Everybody agrees that it should be done in Madison. I agree and I suggest most people on this Council do. That's not the issue. The question then is it's not happening in Madison. So, what I propose is a political act. It's a statement publicly saying that our representatives in Madison, please get the job done. And the best way I can send that message as a councilperson on the Onalaska Common Council, in my opinion, is to introduce an ordinance that says, ‘If you don't get it done, then we'll take it over’. And that's what this ordinance will do.

“La Crosse Common Council passed the minimum wage ordinance and it was signed by the Mayor a month and a half ago. This creates an at-risk environment. The economic community is not La Crosse, it's not Onalaska. The economic community is an MSA – it's a Market Service Area. It's a broader area than either one of these municipalities. However, the vast majority of jobs in this economic area are Onalaska and La Crosse. But, there's a significant number of jobs in Onalaska that will not be subject to the minimum wage ordinance in the City of La Crosse. And what that does is creates an environment where certain employers can choose to be bottom feeders. And they can hire labor at a disadvantage to the labor and an advantage to themselves, relative to La Crosse. I think that should be corrected.

“To bring it close to home, Onalaska school has 2,782 in it with 551 qualifying for free/reduced meals. That's 19%. Ald. Wulf will be talking to this Council later in the meeting about the food pantry. There is no doubt that we have poor in our midst. We also have people that live outside of our community that come and find jobs here. There is a need within this community to be concerned about the living wage – or floor wage”.

Ald. Giese noted that in the members' packets, which were distributed on Friday, May 6, 2005, there are copies of a draft ordinance. The draft ordinance is modeled as closely as possible to the City of La Crosse ordinance. The ordinance matches a proposed State – and past City of La Crosse – rates of \$5.70 an hour and increasing to \$6.50 at the end of one year. The ordinance lists exemptions from the minimum wage including: caddies, newspaper delivery persons, nursing home employees and all other exemptions listed in the Federal law. Ald. Giese stated that the ordinance is compatible with what is present in Federal legislation, what was present in past State legislation.

Ald. Giese said, “It will not create undue burdens upon our business community”.

Ald. Giese noted that there is a difference in committee structures in the City of La Crosse and the City of Onalaska. The City of La Crosse has an Equal Opportunity Commission. For enforcement, the City of La Crosse allows complaints to go to the Equal Opportunity

Commission. The draft of the ordinance for the City of Onalaska provides for complaints to be filed with the Judiciary Committee, with referral – after finding by the Judiciary Committee – to the City Attorney. The City Attorney may, at his or her discretion, pursue municipal action.

Ald. Giese said, “Most important in this ordinance is that political statement. This ordinance’s effective date is December 1st, 2005. So, this ordinance, if passed by the Council, would not take effect until December 1st of 2005. And I think that’s more than enough time for our legislature in Madison to solve the problem of island of minimum wage”.

Motion by Ald. Giese, second by Ald. Wulf, to refer the draft of the ordinance to create a section of the City of Onalaska Code of Ordinances to establish a minimum wage in the City of Onalaska.

Under discussion, Ald. Gonczy asked Ald. Giese if the intent of the motion is to approve the ordinance or to refer the ordinance to the Administrative & Judiciary Committee. Ald. Giese responded, “At this time, my motion is to refer. This is something that I’ve taken the initiative on. I think that it really needs the input of the rest of the Council. I don’t have the legal expertise or the resources really to cross every ‘I’ and dot every ‘T’. So, it’s for referral, it’s not for approval... I would hope that A & J would dispose of it in the monthly cycle and get it back to us in July”.

Mayor Bialecki noted that he is aware of an exemption for healthcare employees in long-term care facilities. Mayor Bialecki said, “Granted, there’s issues with Medicaid and Medicare, but I don’t think that should disqualify them from getting a living wage”.

In response to a question from Ald. Wulf, Ald. Giese confirmed that the effective dates for the proposed Onalaska ordinance would coincide with the effective dates for the City of La Crosse ordinance. The City of La Crosse ordinance calls for the minimum wage to go to \$5.70 on December 1, 2005.

Ald. Wulf said, “I too concur with Mike, with what he has here. Recently there was something in the La Crosse Tribune, Wednesday, May 4, 2005, that talked about minimum wage. At the current time there are 25 states in the United States out of 50 that do match the Federal minimum wage of \$5.15 an hour... As of the 4th, there are 14 that... exceed the minimum \$5.15 Federal wage...”

“One thing that concerned me greatly, that I will say really got me going, was a few days ago – I think it was in the Sunday paper, and I pulled this off of the Internet this afternoon – lawmaker pay increase on legislature’s agenda. If there’s one thing that really can tick me off is when people in Madison will go ahead and stymie the process and not look at the possibility of raising the minimum wage adjustment”.

Ald. Wulf read an excerpt from the article, “Committee headed by key Republicans who have blocked an effort to raise the State’s minimum wage are set to consider raising the pay of lawmakers this week. The Joint Committee on Employment Relations, made up of six Republicans and two Democrats will debate a proposal to raise the pay of the Governor elected next year by \$5,324 and to raise the pay of lawmakers elected next fall by about 2% in each of the next two years”.

Ald. Wulf said, “I have grave concerns, and this I find very alarming that State legislators putting before a committee to go ahead and possibly increase – to even consider – raising their own wages by 2% a year for each of the next two years. But they will not even consider, or they will stymie the process. And I have to agree – and maybe I shouldn’t say this, but I was just recently reelected and, like I said, maybe I shouldn’t say this, but I’ll speak just for myself – but I have real concerns with Mr. Mike Huebsch said within a couple of years ago that municipalities in Wisconsin were big spenders. I took that real personal when he said that we were big spenders. I have no problem calling the people in Madison cowards. And I concur with Mr. Kinsman. I consider them cowards when they go forward and they will not even consider this minimum wage increase adjustment. They are hurting the working poor.

“When the Gundersen ramp came before us in the last year or two and there was some questions about local employers and such and I went on record – and I went on record then and said I had no problem with corporations and businesses making lots of money. I have no problem with that. And I think anyone who knows me and knows me well – and for those who don’t – I have no problem with people making lots of money. But, I have a problem when people make lots of money on the backs of the working poor. That’s the issue that I have. And I think people need to make living wages.

“And, I do run the Onalaska Schools Food Pantry, as Ald. Mike Giese referred to earlier. It was given to me when the School District when the School District founded it along with a gentleman about two and a half years ago and I’ve been working it with about four other mom-volunteers for the last two, almost two and a half, years. And our number of families have increased – have doubled. And, for those people who say that the economy is booming and things are wonderful, I see the effects of the economy on the faces of my families every single month.

“And for those naysayers who say that Onalaska – we don’t pay minimum wage – that is not the issue. I don’t feel that that is the issue. It will help raise the floor of other wages for those people who are making close to the minimum wage.

“I feel that when those in Madison are not doing their job – and I agree this is not a municipality issue, it should be at a State issue – but I feel that we as Common Council members, we need to send to a message to Madison that we will demand that our people who work in the City of Onalaska deserve better, therefore we will demand more for our workers. And I will wholeheartedly support this. And I feel that we will be able to send a message – along with Madison and Milwaukee and La Crosse – and hopefully tonight Eau Claire will go forward. And

I think there are times when we have to band together with other surrounding municipalities and send a message to Madison that we will not stand for this any longer, and if they won't do their job, sometimes maybe the municipalities will have to do the job for them.

“So, I will be wholeheartedly supporting this and I hope that my fellow Common Council members will look inside and will have a heart this evening and they will vote yes and support this wholeheartedly. Thank you Your Honor”.

Ald. Gonczy said, “I'd just like to explain the reason I'm going to vote opposed to this. It's not that I don't have a heart. Okay? It's just a matter of what's the right process that we should follow. And, when you look at it and you have problems with the way Madison runs, then we have a vehicle to do that. We have people that are elected that can be voted out. Okay? And that's one of the processes. We have other ways to send a message to Madison, which I think are probably more appropriate: a resolution, which we do on many issues that we pass and support. “I just don't think it's our position to be drafting an ordinance related to wages. I support that we should look at raising wages. And, as everyone here is agreeing, that's a State issue. But, it should be dealt with, enforced, and have the State deal with it. You may not get enough support where they even listen.

“So, I would rather see us work on a resolution that we send as a unanimous vote of this Council, then a possible – maybe five-one, maybe four-two, I don't know what it's going to be – on this. And it's not a matter of – and we can go emotional on it – but it's nothing to do with I don't understand the needs of people. That's not the point, it's the process that we should take.

“And I just think there's a better way to approach these politicians in Madison. And I'll agree, I get frustrated with them, but I get frustrated with them on a lot of things. That's why we need to right to those people. We need to go after them when it's time that they're running for office we bring these issues up.

“It's more than just what people are paid that is causing the problem. Cost escalations are huge. If you want to know what's costing employers, it isn't the rate of pay we pay them, it's healthcare costs. We should have an issue dealing with that. We should have an issue dealing with property tax escalation that is happening on the people that have fixed incomes – State issues. And those are what we have to get our politicians to start focusing on.

“So, if we start doing all these things in these different areas, then we're going to keep expanding. We need to force the politicians in Madison to do the job. And if they don't do the job, elect them out. And, for people that are passionate about these things to run for office. And, I appreciate when people come in, but I also think that there's a process and I give consideration to run to a different level.

“But, to do it this way I just don't think is the proper way. I'd rather send a message – unanimous – six votes for a resolution to do it. And if you don't do it by this date, then we're going to consider it...

“I just wanted to explain why I'm going to vote against it. It's not that I don't have a heart. I have a big heart. And I think you can ask a lot of people that I work with – a Special Olympic athlete.

But I think there's a better way to do it than this. So, that's the only reason I'm going to vote against it".

Ald. Wulf requested a roll call vote. On roll call: Ald. Gonczy – no; Ald. Olson – no; Ald. Smith – aye; Ald. Leathen – aye; Ald. Wulf – aye; Ald. Giese – aye. Motion carried four to two.

Mayor Bialecki called again for anyone wishing to address the Common Council. Hearing none, Mayor Bialecki continued on with the printed agenda.

Item 5 - REPORT FROM THE MAYOR.

A. Recognition of Paul Gulsvig and the Onalaska Show Choir for placing first in the Fame National Competition in Branson, Missouri and for being goodwill ambassadors.

Mayor Bialecki reported that a certificate had been prepared in recognition of Paul Gulsvig. Mr. Gulsvig was unable to attend this meeting of the Common Council. Mayor Bialecki stated that he would make sure that Mr. Gulsvig receives the certificate.

B. Onalaska Sunfish Days, May 26 – 29, 2005.

Mayor Bialecki reported that the Onalaska Sunfish Days parade will be held on Saturday, May 28, 2005, beginning at noon. Parade line-up will be on Quincy Street beginning at 11:00 a.m. Mayor Bialecki requested that those Common Council members intending to ride in the parade inform the Mayor's office so that appropriate transportation may be arranged.

C. Appointment to the Parks & Recreation Board – Angela Beckles, 669 Rolling Oaks Drive – to replace Dori Block.

Mayor Bialecki reported that Dori Block has resigned her seat on the Parks & Recreation Board as Dori will be relocating out of the area.

Motion by Ald. Gonczy, second by Ald. Smith, to accept the Mayor's recommendation to appoint Angela Beckles, 669 Rolling Oaks Drive, to the Onalaska Parks & Recreation Board. On voice vote, motion carried five to zero with Ald. Wulf being absent at the time of the vote.

D. **Resolution 25-2005 – to create an intermunicipal agreement steering committee between the City of Onalaska and the Town of Onalaska.**

RESOLUTION 25-2005

A RESOLUTION TO CREATE AN INTERMUNICIPAL AGREEMENT STEERING COMMITTEE BETWEEN THE CITY OF ONALASKA AND THE TOWN OF ONALASKA.

WHEREAS, The City of Onalaska has adopted the 2005 Comprehensive Land Use Plan which includes the objective of enacting boundary and intergovernmental agreements with neighboring jurisdictions and;

WHEREAS, The Town of Onalaska is currently drafting a Comprehensive Land Use Plan which includes the objective of enacting boundary and intergovernmental agreements with neighboring jurisdictions and;

WHEREAS, both municipalities realize the benefits of cooperative planning and growth policies and;

WHEREAS, Chapter 66 of the Wisconsin State Statutes provides for the enactment of cooperative agreements between municipalities;

NOW THEREFORE, BE IT FURTHER RESOLVED, the City of Onalaska and the Town of Onalaska will respectively appoint two individuals to a Intergovernmental Agreement Steering Committee for the purposes of developing objectives and recommendations related to growth policies, boundary agreements, joint services and other cooperative initiatives for consideration by each municipality.

Dated this _____ day of May, 2005.

City of Onalaska

Town of Onalaska

By: _____

By: _____

James S. Bialecki, Mayor

Dave Paudler, Chairman

Caroline Burmaster, City Clerk

Sue Schultz, Clerk

Motion by Ald. Gonczy, second by Ald. Giese, to approve **Resolution 25-2005**.

Under discussion, Mayor Bialecki stated that the new committee would place a strong emphasis on boundary issues and shared services.

On roll call vote: Ald. Smith – aye; Ald. Gonczy – aye; Ald. Leathen – aye; Ald. Olson – aye;

Ald. Giese – aye; Ald. Wulf – abstains. Motion passes five to zero with one abstention.

E. Authorization to appoint members to the Intergovernmental Agreement Project – Jason Gilman, Land Use & Development Director, and Gary Lass, Long Range Planning Committee member.

Motion by Ald. Gonczy, second by Ald. Giese, to accept the Mayor's recommendation to appoint Land Use & Development Director Jason Gilman and Long-range Planning Committee member Gary Lass, to the Intergovernmental Agreement Project. On voice vote, motion carried.

RECOMMENDATIONS FOR APPROVAL AND/OR POSSIBLE ACTION FROM THE FOLLOWING COMMITTEES/COMMISSIONS/BOARDS:

Item 6 - Finance & Personnel Committee

FINANCE

A. Vouchers.

Motion by Ald. Smith, second by Ald. Olson, to approve Voucher No. 914 through No. 1170, expended since the last Common Council meeting of April 12, 2005 in the amount of \$1,296,587.40. On voice vote, motion carried.

B. Wisconsin Justice Information Sharing (WIJIS) grant.

Motion by Ald. Smith, second by Ald. Leathen, to execute a Memorandum of Understanding regarding the Wisconsin Justice Information Sharing grant. On voice vote, motion carried.

C. Memorandum of Understanding with La Crosse Technology for Technology Grant – Traffic and Criminal Software (TraCS).

Motion by Ald. Smith, second by Ald. Leathen, to execute a Memorandum of Understanding with La Crosse Technology for a Technology Grant – Traffic and Criminal Software (TraCS). On voice vote, motion carried.

D. Bike Rack for City Hall – Ald. Wulf.

Motion by Ald. Smith, second by Ald. Giese, to approve the purchase and installation of a bicycle rack for City Hall, in an amount not to exceed \$296. On voice vote, motion carried.

E. Authorize City Attorney to trademark City logo.

Motion by Ald. Smith, second by Ald. Olson, to authorize the City Attorney to proceed with the trademarking of the City logo in an amount not to exceed \$1,000.

Under discussion, Ald. Giese said, “I voted for this at the Finance Committee, although it did raise questions in my mind at that time. I thought about it a little bit more and did a little bit of digging. In past business experience, the usual procedure would be to copyright something like this and the cost for a copyright is less. I also wonder about the advantages. I assume that this authorization is to go for a Federal registration of the logo, rather than simple allowing for common law in protecting the logo through that channel”.

Mayor Bialecki asked for opinion from City Attorney Gerald O’Flaherty. Gerry said, “I believe that the proposal is for Federal Trademark Registration. The filing fee is substantial. I think it’s \$335 now. They keep increasing it. You are correct, a copyright is very inexpensive – say \$25. There’s a significant difference between the level of enforcement that’s available for violations of either a copyright registration or a trademark registration. And, it’s my opinion that in order to have protection for the City seal – and that’s what I believe is proposed for registration, the seal that the City uses – the proper way, in my opinion to gain protection for a design of that type is to trademark it. A copyright is something that’s used typically by an author, or an artist, to protect the expression of their idea. In this case, whoever was the artist that drew – prepared – the City seal, they could have copyrighted that artistic expression, and then licenses the use of it to the City of Onalaska. But the City of Onalaska now, as I understand, is the owner of this seal – or this expression; was not the author or the artist that created it. And, what it’s trying to do is to protect the goodwill that goes along with that seal and make sure that other people don’t trade off of the goodwill that’s associated with the City of Onalaska; some implication that the City of Onalaska is sponsoring a certain event or supporting or sponsoring a certain individual that might put the seal on communications that it circulates around the community, or outside of the community. So, it is our recommendation that if you want meaningful protection, that we do proceed with a Federal trademark registration. A copyright is simple, cheap, and virtually meaningless in this case”.

Ald. Giese requested discussion regarding the advantage of Federal protection, as opposed to the common law protection found within the State of Wisconsin.

Gerry responded, “There is what’s known as State Law Common Law Protection, but it doesn’t have any teeth to it. Just like when you talk about a trade name – there is a State Trade Name Registration for ten bucks – and again, it’s worth about ten bucks. There’s no mechanism to enforce it. There’s no mechanism to obtain – in a reasonable fashion – damages for violation of the trademark. The usual argument is, it doesn’t put the public and everyone on notice that it

exists, where the presumption is, once you're filed federally with the U.S. Patent and Trademark Office, that that is notice to the world – it's constructive notice – that this is protected. And, people who use symbols, or logos, or designs of other persons, they are presumed to have knowledge of that. Whereas, if you file at the State of Wisconsin, or don't file and just want to rely upon your common law rights, the problem is the constructive notice and issue – and getting a court if necessary – to issue an injunction or a Cease and Desist Order”.

Ald. Giese said, “I have other concerns about the actions required for protecting patent rights and whether it's in federal court or federal protection or state protection. But I'm sensing that I'm not going to be able to carry this anyway, so I don't think it's worth any further discussion”.

On voice vote, motion carried five to one with Ald. Giese voting no.

F. Sale of City Park Vehicle (1990 Chevy 4X4 pickup).

Motion by Ald. Smith, second by Ald. Giese, to approve the sale of the City Park Vehicle, more particularly a 1990 Chevy 4X4 pickup. On voice vote, motion carried.

G. Sale of City Property Auction date of Monday, May 23, 2005 at 4:00 p.m.

Motion by Ald. Smith, second by Ald. Wulf, to proceed with the sale of City property at auction on Monday, May 23, 2005 at 4:00 p.m.

Under discussion, Ald. Gonczy asked why the date and time had been selected, versus a time that might be more convenient for the public to attend.

Fred reported that he had discussed the scheduling with Auctioneer John Schuster. Fred reported that Mr. Schuster informed Fred that in Mr. Schuster's experience, “he has found that to be the key time. That is why he selected that time”.

On voice vote, motion carried.

Item 7 - PERSONNEL

A. Out-of-state Travel Requests.

1. Chief of Police Randy Williams to attend International Chiefs of Police Conference in Miami, FL on September 24 – 28, 2005.

Motion by Ald. Smith, second by Ald. Olson, to approve the out-of-state travel request for Police

Chief Randy Williams to attend the International Chiefs of Police conference in Miami, Florida on September 24 through September 28, 2005, at a cost not to exceed \$1,405. On voice vote, motion carried.

B. Job Descriptions:

1. City Clerk.

Motion by Ald. Smith, second by Ald. Olson, to approve the job description for City Clerk. On voice vote, motion carried.

C. Pay adjustment for City Clerk Cari Burmaster.

Motion by Ald. Smith, second by Ald. Leathen, to adjust the wage for City Clerk Cari Burmaster to \$39,199.91. On voice vote, motion carried.

D. Post and Advertise:

1. Assistant Municipal Court Clerk.

Motion by Ald. Smith, second by Ald. Leathen, to authorize the posting and advertising for the position of Assistant Municipal Court Clerk. On voice vote, motion carried.

E. Letter of Understanding with Local 150 on Working Foreman Wage.

Ald. Smith reported that the Finance & Personnel Committee took no action on this item, but rather recommended forwarding it to the Common Council for discussion.

Human Resources Specialist Liz Green reported that a request had been made by Local 150 for a Letter of Understanding, making the wages of Working Foreman in the Street Department equivalent to the wages of the Utility Crew Leaders in the Utility Department.

Liz referred the members to agenda attachments, which are copies of salary schedules from the contract, as well as the opinion from Attorney Dawn Harris.

In response to a question from Ald. Leathen, Liz reported that if the request were approved, it would increase the Working Foreman wage \$20.59.

Motion by Ald. Olson, second by Ald. Gonczy, to deny the request from Local 150 to draft a Letter of Understanding regarding the Working Foreman Wage, based upon legal opinion from

the City Attorney.

Under discussion, Ald. Smith recommended reading into the record the letter dated May 6, 2005 from City Attorney Dawn Harris. Ald. Smith read from a memo dated May 6, 2005, from Liz Green, to the Common Council, referring to Agenda Item 7D:

“As requested at the Finance & Personnel Committee meeting on May 4th, this is Attorney Dawn Harris’ opinion of the proposed letter of understanding with Local 150:

‘My opinion after further reviewing this issue, which include a thorough review of the current contract, the old arbitration decision relevant to this matter, and the prior final offers of the union at issue, that were adopted by the arbitrator, is that we are abiding by the prior orders of this forum, which only dealt with the Crew Leader positions. Since the Street Foreman position existed at this same time of this prior arbitration decision and the union clearly was not making arguments relevant to that position, it is not encompassed within that decision. Further, we have had other contract negotiations since then that have also not raised this issue. The collective bargaining unit is certainly able to raise the issue in the next round of negotiations, but we are in compliance at this point and thus it is my recommendation to table this issue until we have to bargain for the next round of contract negotiations’.”

In response to a question from Ald. Giese, Liz confirmed that the current contract expires at the end of the year and that the negotiations likely would begin on or about September.

On voice vote, motion carried.

Ald. Wulf noted that Lois Marsh Schindler was in attendance with an interest in Agenda Item 14B. Ald. Wulf suggested addressing that item next. There was no objection.

Item 14 – PARKS & RECREATION BOARD:

B - Request from Lois Marsh Schindler to have a pig roast at the Community Center for their wedding reception on May 14, 2005.

Motion by Ald. Smith, second by Ald. Wulf, to authorize the request from Lois Marsh Schindler to have a pig roast at the Community Center for a wedding reception on May 14, 2005. On voice vote, motion carried five to zero with Ald. Olson being absent for the vote.

Item 8 - ADMINISTRATIVE COMMITTEE:

A. Approval of Operator’s Licenses

<u>Name</u>	<u>Location</u>	<u>Type of Application</u>
Miranda A. Ahlers	Olive Garden	New/Provisional
Karla M. Bialek	Olive Garden	New/Provisional
Shelley A. Hall	The Wharf	New/Provisional
Amy L. Heintz	Olive Garden	New/Provisional
Tammy I. Levy	Kwik Trip	New/Provisional
Brandon D. Mikkelson	Woodman's	New/Provisional
Kathleen A. Salling	Olive Garden	New/Provisional
Nicole R. Sheppard	Aldi's	New
Jessica L. Spencer	Hillside Inn	New/Provisional

Motion by Ald. Gonczy, second by Ald. Wulf, to approve the Operators Licenses per the memo dated April 28, 2005. On voice vote, motion carried five to zero.

B. Onalaska Veterans' Memorial.

1. Possible expansion of memorial (Exhibit A).

Ald. Gonczy noted that the Common Council members are familiar with the situation at the Memorial, including the benches and the sale of benches. The benches that have been installed extend beyond the area originally agreed upon.

Ald. Gonczy referred to Exhibit A. Ald. Gonczy noted that the benches extend beyond the green dotted line, which delineates the originally agreed-upon boundary. The American Legion is requesting that the boundary of the Memorial be extended to the area delineated by the solid red line. This would include 37 additional gravesites, or a total of 88 gravesites.

Ald. Gonczy reported that it is the recommendation of the Administrative Committee to approve the new boundary, as outlined in Exhibit A with a solid red line, with the clear understanding that there be no further sale of benches that would cause the Memorial space to extend beyond the new boundary.

Motion by Ald. Gonczy, second by Ald. Leathen, to approve the revised boundary for the Onalaska Veterans' Memorial, as delineated on Exhibit A by a solid red line, with the clear understanding that there shall be no further sale of benches, whose installation would cause the Memorial space to extend beyond this boundary.

Under discussion, Ald. Wulf stated that at the last meeting of the Administrative & Judiciary Committee, she had voted yes, "Simply to get it to this evening's Council meeting as I was looking forward to open discussion at Council, and I was looking forward to hearing what my

fellow Common Council members had to say and looking forward to hearing what the open discussion would be on this”.

Ald. Wulf said, “There were a few things said at that meeting that bothered me and so I followed up on it. It was intimated by someone at that meeting of the possibility that the City of Onalaska may not have done their job. That they may not have been following up and may not have staked it as had been requested.

“So, I did follow up with Danny McDonald, who is upstairs in Engineering at the City of Onalaska and confirmed the information with Jarrod Holter, who is also upstairs in Engineering. And they have confirmed with me that a bare minimum of four times – not once, not twice, not three time, but four times have they staked that Memorial.

“So, I’m going on record now, just letting people know that if anyone thinks that the City of Onalaska has not been responsive to the veterans when they have asked it to be staked – I don’t know what is happening to the stakes, if they’re disappearing, if someone out in the community – if kids at night are taking them – wherever they have been going. All I know is that I have been assured that at a bare minimum that the City of Onalaska has staked it a minimum of four times. So I just want that to be perfectly clear, because I was a little bit alarmed at the insinuation that we have not been doing our job”.

Ald. Giese reported that he had been on the Administrative & Judiciary Committee when the item first was presented. Ald. Giese referred to that area of the site that lies to the immediate south of the Memorial that is scribed in red and green. Ald. Giese asked if it were correct that that area would involve additional gravesites and asked if that area could be deleted from the map of the site to reduce the number of lots used by the Memorial.

Ald. Leathen noted that he had raised that question at the Administrative & Judiciary Committee meeting. Ald. Leathen reported that it is his understanding, per a conversation with Ron Lund, that that outline would not affect more than the 88 gravesites agreed upon.

Ron reported that the 88 gravesites are included in the outer boundary, which is delineated by the solid red line. Ron reported that following the Administrative & Judiciary Committee meeting, staff reduced the width of the site on the west, involving the pedestrian path, and also reduced the north boundary by 14 feet. Ron reported that it is his understanding that the southern boundary line is needed for the Memorial.

Mayor Bialecki asked if the boundaries depicted in Exhibit A were consistent with what was presented to the Administrative & Judiciary Committee. Ron asked if it were correct that no recommendation had been made by the Administrative & Judiciary Committee regarding the north and south boundaries.

Ald. Leathen responded, “I brought it up and you guys said that my concerns about the north and the south side were not valid. But then you did move the north line”.

Ron stated that is correct. Ron said, “We did talk with the American Legion and they didn’t have a problem with the north side, but they did want the south side”.

Ald. Gonczy stated that it appears that the southern boundary would include six additional gravesites. Fred clarified that it would include 12 additional gravesites.

Motion by Ald. Giese, second by Ald. Leathen, to amend the original motion, to delete from the site the portion to the south of the Memorial, which on Exhibit A lies between the solid red and dashed green lines that run east-west. On voice vote, motion carried to amend.

Mayor Bialecki called for discussion on the motion as amended.

Under discussion, Ald. Smith said, “I have been in favor of this project as the whole thing as proceeded. Unfortunately, it seems like we’ve had a turn of events where we seem to have lost control of the boundary of this Memorial. And, it very much disturbs me to hear Ron Lund say that after on 2/8 of ’05, the Common Council said what boundary we wanted it to be and yet staff and the Legion are out negotiating the boundary. And I guess I’d like some clarification, maybe from Ron, if that’s what he intended to say”.

Ron responded, “I haven’t been a lot of the J & A Committees - I did attend the last one – so I don’t know what’s been going on back and forth. But it seems to be when a decision is made, the American Legion representative is not present and then they come back after the meetings and say, ‘No, this is wrong. We need this because of X, Y, and Z’. So it just keeps going around and around and I wish he was here tonight... That’s my impression of what’s going on; that everybody isn’t together at one time that can make a decision”.

Mayor Bialecki asked if the lines had changed outside of the Administrative & Judiciary Committee.

Ron responded, “I don’t know as they’ve ever changed. We have the original agreement, which is dashed. Then there was an amended line, which is green. And then the third line, which is red, which was technically talked about at the J & A Committee, but was reduced on the north side”.

Ald. Wulf asked if Ron had met with American Legion representatives on Thursday, May 5, 2005 – subsequent to the last Administrative & Judiciary Committee meeting of Wednesday, May 4, 2005.

Ron responded, “Yes. I think at the A & J meeting there was discussion with what they have done, does it fit within this outer boundary. So then we went out and restaked it again and made sure that what was there fit in the outer boundary. And it did, and we were able to shrink that east boundary then down to the red line. Because at one time they had gone out another seven foot to the east”.

Ald. Smith said, “I would also like to comment, since we have already set the boundary once, and the Legion has exceeded it, and now apparently we’re about to set the boundary again, what assurance we have – or what action we plan to take in the future if this boundary is exceeded again”.

Mayor Bialecki said, “I’m suggesting this, if this agreement is approved tonight, as amended with the recommendations, that’s it. These are the borderlines. And we need to keep an eye on that too because we’re not going to tolerate, ‘We’re going to go take some more land and then ask for it later’. Once is an error, but that’s not going to happen a second time. And so, if in fact this passes, then we’ll leave that to your department in Inspections to follow through to make sure that doesn’t happen. Because we’re done with this tonight. I’m hopeful it’s going to get approved and signed in 30 days or less. And then it’s the City’s facility and onward”.

Ald. Gonczy recommended writing into the agreement that any further additions must be approved by staff. Ald. Gonczy said, “I think what really happened is the Legion went out, just put the benches wherever they thought they were supposed to be. We had staked it out. For some reason the stakes were gone. They thought they were within the boundaries. That’s the way the story goes. I think when we get into the agreement it might be worth it to add that any additional benches that aren’t listed on here now – before they can be placed – staff has to agree and that this boundary is clearly defined... and if they put them in the wrong spot then they made the error, they’ll take them out. I know that was part of the discussion at A & J, ‘If we take them out, it’s going to cost us \$150’. And it’s kind of making us look like the bad guys. Where in reality we’re actually ending up being good guys. If we wanted to be the bad guys we could say, ‘Listen, you violated it. Take them out’. And then these people that bought these benches would be all upset at us. I think we can even find some way that we can get some of this money back that we’re losing in revenue”.

Ald. Wulf reported that at the April meeting of the Administrative & Judiciary Committee she had asked Jim Nelson of the American Legion if it were correct that the Legion does not intend to sell any more benches. Ald. Wulf added that she had followed up on that question at the May meeting of the Administrative & Judiciary Committee. Mr. Nelson had informed Ald. Wulf that the one sale was in process and that no additional benches had been sold. Ald. Wulf reported that Mr. Nelson had stated that the American Legion does not intend to sell any more benches.

Ald. Wulf recommended that no benches should be installed prior to Common Council approval. Ald. Smith recommended that no benches should be sold or installed prior to Common Council approval. Ald. Gonczy recommended making that an amendment to the Agreement.

Ald. Giese said, "Speaking for the motion, in fact we may be making a change from what the understanding was with the Legion and some of us. However, the action apparently was taken last Thursday night, which does not bind the Council. It's advisory to this Council. And so for that reason I will be voting for the motion because I think this is in the best interest of the City and it doesn't preclude the opportunities for either the City or the Legion".

Ald. Leathen reported that there is a third row of benches in place at the site. Ald. Leathen said, "And I suspect – I don't know for certain – that this green line that you just X'ed out, has already been encroached upon, and that's why we have the red line the way it is around this block"

Ron said, "I cannot say with certainty right now that there are no benches within that south area. It was never discussed at the J & A Committee as an area to look at, so we did not look at that. Now, if there are benches there, we could do something similar to what the J & A Committee did, which said we'd like the line to go here, but if the benches are there, then the line gets moved over to here. Unless you just want them to move the benches if they're there".

Mayor Bialecki stated that no longer is an issue as the members have reviewed the drawing.

There being no further discussion, Mayor Bialecki called for the vote on the motion as amended. On voice vote, motion carried.

2. Agreement between the City of Onalaska & American Legion.

Ald. Gonczy referred the members to a revised agreement between the City of Onalaska and the American Legion, noting that the revision date is May 5, 2005.

Motion by Ald. Gonczy, second by Ald. Wulf, to approved the revised agreement between the City of Onalaska and American Legion Post 336.

Motion by Ald. Gonczy, to amend the original motion add language to the agreement to state that any benches that may be sold in the future must have City staff approval before installation.

Gerry wished to clarify that staff would have the authority to approve the installation of benches beyond the lines approved under Agenda Item 8B(1). Ald. Gonczy stated that is not correct, that the benches would have to remain within the boundaries.

Gerry asked for clarification on the purpose of the amendment if the installation of benches occurs within the agreed upon boundary.

Ald. Gonczy responded, "I guess I don't trust they're going to stay within the boundary because that's why this already happened two times. That's what I have concern with because for some reason there's been a violation of two boundary lines we've already set. And what's to say it doesn't happen again because they go out and sell 30 more benches".

Ald. Smith said, "Maybe because of this problem that we seem to be having in our clarification, to not only include benches but any other item that they might want to sell and place in this area".

Ald. Giese said, "I would suggest possibly that we make this more encompassing and also facilitate cooperation and communication by placing a requirement that the City sign off on any modifications to structures or any and all improvements made to the site, so that there has to be a sign off on the part of the City before any change is made out there".

Ron reported that staff has proposed placing at each corner of the boundary, an immovable obstacle.

Ald. Gonczy said, "We're going to take control of this land and I think we should have control of what's put in there. So I'd like all of the additional things and if the City Attorney can add all those, I think it just says this is our property. Before you put more on our property, you just need to let us give you permission and we make sure you're staying within the area we want. To me that's kind of common sense, but for some reason it didn't seem to follow. And that's why we're here and people are looking at us – why are we spending 35 minutes on something that was pretty clear eight months ago".

Ald. Wulf reported that Mr. Nelson had made mention at either the April or May, 2005 Administrative & Judiciary Committee meeting of landscaping.

Mayor Bialecki recommended attaching a copy of the Perpetual Care Agreement to the Agreement.

Ald. Gonczy called for the question on his amendment, which states that anything that is placed in the Memorial site must be approved by City staff to make sure that the boundaries are being observed.

Ald. Smith seconded the motion to amend. On voice vote, motion carried.

Ald. Smith asked for clarification on the Perpetual Care Fund.

Ald. Giese reported that in initial discussions with the American Legion regarding the Memorial, the American Legion had brought forward the concept of using net proceeds from the sale of memorials for a Perpetual Care Fund. The American Legion proposed that it would hold the Perpetual Care Fund.

Ald. Giese noted that the current agreement removes many of the maintenance responsibilities from the American Legion and places those responsibilities on the City; including electricity use, liability, etc. Ald. Giese recommended adding to the agreement a requirement for the American Legion to pay to the City a sum of, for example, \$800 per year – or a percentage of the Perpetual Care Fund balance – for the purpose of offsetting the costs of maintaining the Memorial.

Ald. Giese said, “In my opinion, I want this memorial to grow. I’d like to see it to be bigger, if we can recover a reasonable return to the taxpayer; that the taxpayer doesn’t pay \$88,000 of the next memorial that’s going in there. But, if we’ve got other people in our community that want to have memorials to veterans, I’m all for it and I think they should have that opportunity. So, if we have the \$800, or 2%, or 1%, or whatever it is, or greater – then we’d be able for this agreement to continue into the future.

“The other argument for this is I would like to have some ongoing activity between the City and the Legion, so that this doesn’t sit on the shelf for the next five years and then we have a problem come up. I think this is a joint venture and there really is a joint responsibility that we should stay involved”.

Mayor Bialecki suggested adding to the amendment a requirement for the American Legion to provide an annual statement, from the American Legion’s accountant, of the Perpetual Care Fund balance.

Motion by Ald. Giese, second by Ald. Gonczy, to amend the original motion to include a clause to create an obligation to the American Legion to make a payment to the City of Onalaska of \$800 annually, to be used to offset the costs incurred by the City for the maintenance of the Veterans Memorial, and that an accounting of the Perpetual Care Fund that has been established by the American Legion be reported to the City of Onalaska on an annual basis, and a payment of 1.5% of the balance of that Fund be paid if the payment of the interest fee would be more than \$800 per year.

Under discussion, Mayor Bialecki stated that he believes Ald. Giese amendment is a good idea. Mayor Bialecki noted that a written agreement would be useful in the future when the current members of the Common Council no longer are on the Common Council.

Ald. Gonczy noted that the gravesites given over for the Veterans Memorial equate to

approximately \$88,000 in lost future revenue to the City. Ald. Gonczy added that the City would incur increased costs for the maintenance of the Veterans Memorial.

On voice vote, motion carried to amend.

Motion by Ald. Gonczy, second by Ald. Smith, to amend the original motion to state that the amended Agreement shall be drafted, forwarded to the American Legion, signed by the Mayor, and that the American Legion shall have 30 days to return the Agreement with appropriate signatures. On voice vote, motion carried to amend.

Mayor Bialecki called for further discussion on the original motion as amended three times.

Ald. Wulf asked if there were any issues that would preclude the American Legion from hosting the Memorial Day services scheduled for May 30, 2005 at the Veterans Memorial.

Mayor Bialecki responded, "To my knowledge, everything should be all set to go. I think in the past we've had a site that they've used without any formal agreement. I don't think that they would walk away from a veterans' ceremony, and neither would we. I think we're good with that".

Ald. Wulf wished to clarify that the Memorial Day services would not be dependent upon the City having received the signed Agreement. Mayor Bialecki stated that is correct.

There being no further discussion, Mayor Bialecki called for the vote on the motion as amended. On voice vote, motion carried.

C. Parade Permit for American Legion for Memorial Day Parade, Monday, May 30, 2005 – 9:30 a.m.

Motion by Ald. Gonczy, second by Ald. Leathen to approve the Parade Permit for the American Legion for the Memorial Day Parade to be held on Monday, May 30, 2005 at 9:30 a.m. On voice vote, motion carried.

D. Class "B" Picnic License for Onalaska Festivals for Sunfish Days, May 26 – 29, 2005.

Motion by Ald. Gonczy, second by Ald. Leathen, to approve the Class "B" Picnic License for Onalaska Festivals for Sunfish Days to be held from May 26 to May 29, 2005. On voice vote, motion carried.

E. Parade Permit for Onalaska Festivals for Sunfish Days Parade, May 28, 2005, 12 noon.

Motion by Ald. Gonczy, second by Ald. Leathen, to approve the Parade Permit for Onalaska Festivals for the Sunfish Days Parade to be held on Saturday, May 29, 2005 at 12 noon. On voice vote, motion carried.

F. Carnival Permit for A&P Enterprise Shows for Sunfish Days, May 26 – 29, 2005.

Motion by Ald. Gonczy, second by Ald. Leathen, to approve the Carnival Permit for A&P Enterprise Shows for Sunfish Days to be held from May 26 to May 29, 2005. On voice vote, motion carried.

G. Fireworks Permit for Cornellier Fireworks Company – June 23 – July 5, 2005.

1. Festival Foods parking lot.
2. East Towne Plaza parking lot.

Motion by Ald. Gonczy, second by Ald. Wulf, to approve the Fireworks Permit for Cornellier Fireworks Company for the period of June 23, 2005 to July 5, 2005 at the locations of the Festival Foods parking lot and the East Towne Plaza parking lot. On voice vote, motion carried.

Item 9 - BOARD OF PUBLIC WORKS:

A. Highway 35 project.

1. Second Avenue Southwest design.

Ald. Gonczy noted that he had requested information regarding the changes to the Second Avenue Southwest design. Ald. Gonczy reported that the changes were made in response to concerns expressed by businesses on 2nd Avenue.

Motion by Ald. Gonczy, second by Ald. Smith, to approve the revised designed to Second Avenue Southwest, as described in the memo dated May 5, 2005 from Public Works Director Ron Lund, in reference to the Second Avenue Southwest design at Highway 35. On voice vote, motion carried.

B. Tractor/backhoe bids for water, sanitary sewer, Street Department, and cemetery.

Motion by Ald. Leathen, second by Ald. Gonczy, to authorize the purchase of a Case Model 580 SM Series II backhoe tractor from St. Louis Equipment with the optional strobe system, in the amount not to exceed \$59,846. On voice vote, motion carried.

C. Front-mounted mower with broom/blower for water and sanitary sewer.

Motion by Ald. Leathen, second by Ald. Gonczy, accept the bid by Horizon Equipment for a mower, blower, broom, in the amount of \$21,840. On voice vote, motion carried.

D. 2005 Chip Seal Program with La Crosse County.

Ald. Leathen reported that the Board of Public Works recommends proceeding with the 2005 Chip Seal Program with La Crosse County. The amount budgeted is \$160,000. The estimated expenditure is \$138,264. The balance of the fund will be used fill cracks.

Motion by Ald. Leathen, second by Ald. Gonczy, to proceed with the 2005 Chip Seal Program with La Crosse County. On voice vote, motion carried.

E. Authorize Engineering Department to bid out the following:

1. 2005 Sidewalk Project.

Motion by Ald. Leathen, second by Ald. Gonczy, to authorize the Engineering Department to bid out the 2005 Sidewalk Project at an anticipated cost of approximately \$60,000. On voice vote, motion carried.

2. Oak Forest Drive intersection appraisal and right-of-way acquisition services.

Motion by Ald. Leathen, second by Ald. Gonczy, to authorize the Engineering Department to request proposals for appraisals and right-of-way acquisition relating to the Oak Forest Drive intersection project, in which the State Department of Transportation will cost share for 75%.

Under discussion, Ald. Giese recalled that there had been discussion at the Board of Public Works meeting regarding whether the City could charge back to the State expenses relating to staff time. Ald. Giese asked if that had been investigated. Ron stated that he has asked for clarification from Ann Walters of the Department of Transportation but has not yet received an answer.

Ald. Gonczy said, "The understanding coming out of the Board of Public Works was that we were going to charge it back and let them reject that. I think the discussion was we weren't going to ask, we were just going to charge them and if they paid it they paid it. If you ask them, they're going to say no, probably... sometimes it's easier to ask for forgiveness than permission"

On voice vote, motion carried.

F. Request from Bethany St. Joseph Corporation to acquire right-of-way on 17th Avenue North.

Motion by Ald. Leathen, second by Ald. Gonczy, to approve the request from Bethany St. Joseph Corporation to acquire the right-of-way on 17th Avenue North, and to require Bethany St. Joseph Corporation to contract for a Certified Survey Map with all utility easements shown at no cost to the City and to require that the street right-of-way shall be 66 feet wide. On voice vote, motion carried.

G. Property Acquisition at 1855 East Main Street.

Motion by Ald. Leathen, second by Ald. Gonczy, to authorize Ron Lund to proceed with the acquisition of a sliver of land at 1855 East Main Street at no cost to the City with the understanding that during construction work the City will close the southernmost driveway of that piece of property, for the purpose of relocating the sidewalk to resolve a job in the sidewalk.

Under discussion, Mayor Bialecki wished to clarify that this action would allow the City to move forward with the project to widen the two bends on East Main Street, allowing for two lanes of traffic in each direction.

On voice vote, motion carried.

H. Plan strategy for Transportation Assessment District.

Mayor Bialecki reported that Ayres & Associates have proposed a study regarding the signalization of Greens Coulee Road in the amount of \$72,000. The La Crosse Area Planning Commission has approved a \$19,000 to apply toward such a study. Mayor Bialecki added that the City also wishes to gain information regarding the Theater Road/Midwest Security Drive intersection.

Mayor Bialecki said, “What we were told is that this entity would do that – put \$150,000 signal lamp on this intersection and the other one, but to do the service was going to cost \$150,000. We were rather baffled at that and want to know why. It’s too expensive”.

Motion by Ald. Leathen, second by Ald. Gonczy, to authorize Jason Gilman to request a presentation from Ayres & Associates, to the Board of Public Works, and to authorize Jason to contact the Wisconsin League of Municipalities for referrals to other traffic consultants and to request proposals from any such consultants.

Under discussion, in response to a question from Ald. Giese, Mayor Bialecki clarified that this action would not involve any cost to the City at this time.

Ald. Gonczy noted that two traffic studies have been done and paid for. Ald. Gonczy wished to thank Jason for providing Ald. Gonczy with copies of those studies. Ald. Gonczy encouraged his fellow Common Council members to read the studies if they have not already.

Ald. Gonczy noted that under consideration is a mechanism to recoup some of the costs associated with signalization. Ald. Gonczy said, "What I'm looking for is there a way to get it – not with future development – but actually go back and assess the establishments there. And we may not be able to do that".

On voice vote, motion carried.

The Common Council took a brief recess.

I. Driveway proposal/costs of Mason Street to Service LB White.

Ald. Leathen noted that this item has not appeared on the last Board of Public Works agenda. Ald. Leathen reported that this item relates to discussions regarding moving Mason Street. An agreement had been reached regarding this issue and language to that effect was included in the documents that have been signed by all the parties.

Ald. Leathen reported that LB White has requested that the street be moved approximately 100 feet. Doing so would cost the City approximately \$16,800.

Mayor Bialecki asked what is the purpose of this request.

Ron responded, "We have agreed to grade a driveway in for LB White, pending estimate approval by the City and pending location. The last couple of days, Davy Engineering has worked with LB White – Tony Wilson – to try to find a driveway suitable that he would like. In the one location there were some issues with trees. The present location right now needs about 9,600 cubic yards worth of fill".

Ron reported that on May 10, 2005, at approximately 2:00 p.m., City staff met on site with St. Joseph Construction. St. Joseph Construction is the contractor working on the project and has approximately two to three days worth of work remaining. The purpose of the meeting was to get a price quote for the work relating to the driveway. St. Joseph Construction has quoted a price of \$16,800 if fill must be brought in to the site. If there is enough fill on site, St. Joseph

Construction can do the work for \$14,600.

Ron reported that he has had discussions with Mr. Wilson regarding a different location that might not require as much fill. Ron has not yet received a price quote for work at that location. Ron explained that at the potential location, the cut and the fill would closely balance one another. Ron added that there are issues with that area with regard to trees. Ron requested direction.

Mayor Bialecki recommended that the proposed changes should be documented before the City takes official action.

Ron responded, "Everything is at this point verbal. Everything happened so fast today. There's been a time rush since last Thursday".

Ald. Smith noted that one of the concerns with this issue regarding time has to do with the fact that the contractor currently is on site but will not be for long. Ron stated that is correct.

Ron said, "If we do not mutually agree upon a location and a price, we're probably going to miss a window of opportunity where the contractor will have to come back in. And at that point it could cost us more. The only other window we have is that when we let the sewer and water contractor, we could put some items in that. But that contractor will not have the availability to move thousands of yards of material that St. Joe does.

"If Mr. Wilson is very firm on this location and we're in concurrence with doing it, we're not going to get a better price than this. Then again, if the driveway can be relocated someplace where cut and fill is not needed, then it's probably an issue that is irrelevant now".

Ald. Olson said, "Why, when we have a signed document from Mr. Wilson, why are we running into this at the last minute? It seems to me to be bad business practice to be changing things like this when we already have an agreement".

Ron responded, "I think the agreement was struck without the driveway location being exact. They've been working on it this past week. The contractor hasn't been moving dirt up there that long, and it's just all coming to a head real fast. I know there's times when Mr. Wilson is busy and the engineer can't out there and stake it for him. And they've been going back and forth on this for a week and a half, two weeks. They're finally getting down to the crunch time now where they're making some decisions. Unfortunately, it's at the 11th hour".

Ald. Olson asked if the City had "neglected to have that driveway solidly put into this contract?"

Ron responded, "In looking at the scope of the driveway initially, we did not feel we were talking

this kind of monies. We have a contingency clause with about \$15,000 in the kitty. And, in all reality we were thinking that between City forces doing some of the work and what we could farm out, it would probably be closer to a \$5,000 job. But, the scope of this has gotten bigger than what we had anticipated at this time”.

Gerry said, “When the contract was done, obviously none of the construction had taken place yet. But, the contract is fairly definite with respect to this extra road for LB White. And it says, ‘The LB White access road shall be mutually agreed upon (by the City and Wilson) and substantially as shown in Exhibit C’.

“Exhibit C to the agreement is a drawing by Davy Engineering that does appear to be a detailed drawing to scale and it does show drawn in a new access road”.

Gerry stated that he has not visited the site, but it is his understanding that Mr. Wilson proposes moving the driveway approximately 100 feet to the east. Ron stated that is correct.

Gerry said, “It’s very clearly outside of the scope as being ‘substantially as shown in Exhibit C’. And it calls again for the ‘mutual agreement’. So, the road location isn’t a unilateral decision as Mr. Wilson.

“Furthermore, the agreement uses language that state, ‘Pending approval of estimated costs the City shall install’. So, the City has the opportunity to decide and approve what the costs will be for the road”.

Gerry asked if it were correct that the estimates had been made in the \$10,000 range. Ron responded, “There’s been a lot of estimates at this point in time”.

Ald. Giese asked what is the difference between the cost stated in the agreement and the cost for the new proposal.

Ron responded, “There was never an estimate done on this. We had thought we could get it done for \$5,000 or less... There was never a location that was pinpointed or surveyed or graded out”.

Ron stated that it appears, per the map, as if an attempt has been made to line up the LB White entrance across from the YMCA entrance.

Ald. Smith asked if “the only reason you’re (the City is) wanting to move it because Mr. Wilson would like to move it?”

Ron responded, “We really didn’t have a preference. Initially we had told Mr. Wilson either the road had to be lined up across from the YMCA driveway or at least 100 feet away. And when he looked at lining it up across from the YMCA driveway there is a wooded area and a lot of large

trees that aesthetically he wanted to save. And so then he asked could he move it to the east and we said, 'pending plans and costs we'd take a look at it'."

Ald. Smith said, "I would agree to spending whatever it would cost to put the driveway as proposed. And if he wants the driveway somewhere else, then he could pay the difference – in my opinion, from what I'm hearing".

In response to a question from Ald. Smith, Ron stated that an estimate has not yet been prepared on the cost of the driveway as now proposed.

Ald. Gonczy suggested that staff should make the necessary calculations and submit that information to the Mayor and that the Mayor should be given the authority to make the final decision on the driveway, at a cost not to exceed \$16,000.

Mayor Bialecki said, "I'm right where Kim is right now. This is the design proposed. They're supposed to align with each other. Tony has recommended to move that road – and that's fine – because of some trees. I don't have a problem with that. But here I'm looking at a \$16,000 tab, which I'm not sure we have all the money for".

Motion by Ald. Gonczy, to refer the item to City staff, and that staff shall make costs estimates for both driveway designs and report back with recommendation to the Mayor and that the Mayor shall be authorized to make a final decision regarding the driveway.

Mayor Bialecki said, "That does not mean we're going to sit down every two or three days and have lengthy negotiation sessions. We're done with that".

Ald. Giese seconded the motion.

Ald. Gonczy stated that at this time there is not enough information to make an informed decision. Ald. Gonczy said, "Unless we just say, 'Go by the contract, it's done'."

Motion by Ald. Leathen, to amend the original motion to state that any additional costs for the proposed design, as compared to the agreed-upon design, shall be borne by LB White.

In response to a question from Mayor Bialecki, Ron reported that an estimate has not yet been prepared for the cost of the driveway as shown in the agreement. Ron stated that the cost of the driveway as shown in the agreement likely would be between \$5,000 and \$10,000.

Ald. Wulf stated that she would support honoring the contract.

Mayor Bialecki said, “That’s where I’m at too. And, to be honest with you – you’re motion might pass, and not a bad one either – but I’m not going to alter my course for the rest of this week to hurry up and get this done. That I’m not going to do. I don’t do business that way.

“Typically, if these changes are going to be made, we should have this all laid out in black & white; amended drawings, costs figures and all that too and start that at the committee level.

“And, I think this is a bad precedence to jump this and run this through the committee now”.

Ald. Leathen wished to restate his motion to amend: “The City will evaluate the cost of the road as proposed in the drawing and if the road is moved at the request of LB White, then any additional costs be borne by LB White”.

Ald. Olson seconded the motion to amend.

Under discussion, Mayor Bialecki stated that if the motion passes, then Fred would be directed to verify the figures and the difference between the two designs.

Ald. Gonczy suggested that the work should be done while the contractors are on site, rather than having to come back to do the work on the driveway.

Ald. Smith reported that the contractors only plan to be on site through the end of the week.

Mayor Bialecki said, “You’d better get your homework done because I’m not taking this stuff at 4 o’clock on Friday, whenever you whistle for me. I don’t work that way”.

Mayor Bialecki called for the vote on the motion to amend. On voice vote, motion to amend carried five aye and one abstention from Ald. Smith.

Mayor Bialecki called for the vote on the motion as amended. On voice vote, motion carried.

Item 10 - PLAN COMMISSION:

A. Regarding a Rezoning request application filed by Barbara Althoff and John Damm, Jr., 11568 Arroyo Oaks Drive, Los Altos, CA 94024-6527, for the property located at 206 Marcou Road, Onalaska from R-1 to R-2-3 (Tax ID# 18-3621-1 and 18-3621-2).

1. Rezoning Fee of \$150.00.
2. Park Fee of \$1,120.00 per unit.

3. Topo Fee of \$10.00 per acre x 2.46 = \$24.60.
4. Owner to be aware of future Marcou Road improvements.
5. Owner to be aware that multiple drive access points are discouraged on Marcou Road. At the time these lots are developed, the City reserves the right to restrict drive access to a single point on Marcou Road.
6. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
7. Owner/developer must notify the City prior to any utility connection to public utilities.
8. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
9. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.
10. Sidewalks to be installed at the time of duplex construction or reconstruction of Marcou Road, whichever comes first.
11. Garage encroaching on public right-of-way must be removed at the time duplex is developed or Marcou Road reconstructed, whichever comes first.

Motion by Ald. Giese, second by Ald. Gonczy, to table the item. On voice vote, motion carried.

B. Regarding a Conditional Use Permit application filed by Bryan Novy, agent for Kwik Trip, for the property located at 9421 STH 16 for the purpose of expanding the current gas station and diesel operations (Tax ID# 18-3654-2).

1. CUP Fee of \$150.00.
2. Owner shall show traffic circulation patterns around new structure.

3. All landscaping affected by construction shall be replaced.
4. All lighting shall be shielded down.
5. All signage requires permits.
6. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
7. Owner/developer must notify the City prior to any utility connection to public utilities.
8. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
9. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.
10. Owner/developer must install guardrail and maintain proper frontage road to the east to the owner's extent of responsibility.

Motion by Ald. Giese, second by Ald. Leathen, to approve with ten conditions the Conditional Use Permit filed by Bryan Novy, agent for Kwik Trip, for the property located at 9421 State Highway 16, for the purpose of expanding the current as and diesel operations. On voice vote, motion carried five ayes and one abstention from Ald. Gonczy.

C. Regarding a Conditional Use Permit application filed by John Towner, Deer Creek Development, LLC, 817 Olympic Drive, Onalaska, for the property located on French Road between Hanson Place and Harter Drive for the purpose of condominium development (Tax ID# 18-4452-1).

1. Owner shall abide by all former conditions of approval as listed:
 - a. CUP fee of \$150.00.

- b. Storm Sewer Fee of \$3,769.00 per acre x 5.36 = \$20,201.84. Storm Sewer Fee may be waived in lieu of developer installing storm sewer if costs exceed fee. If cost is less than fee, developer shall pay difference.
- c. Park Fee of \$1,073.00 per unit x 26 = \$27,898.00 – or land dedication required per Park Board approval.
- d. Topo Fee of \$10.00 per acre x 5.26 = \$53.60.
- e. STH 16 Sanitary Sewer Fee of \$634.00 per acre x 5.36 = \$3,398.24.
- f. Owner/developer to be aware of County Shoreline Ordinance restrictions for minimum setbacks to creek.
- g. Chapter 30 permit required for cutting or filling in flood plain area.
- h. Owner/developer to submit detailed layout plan as part of site plan permit submitted with detailed landscape, drainage and erosion control plan.
- i. Private drive to be 32' minimum width or as approved by Plan Commission.
- j. Owner/developer to submit a typical building elevation for Plan Commission review.
- k. Owner/developer to submit all improvement plans to City Engineer for review and approval. Plans must include detailed utility plans, grading and drainage plans, and street reconstruction plans.
- l. Sidewalk required on French Road.
- m. Streetlights required on French Road.
- n. Master drainage and erosion control plans to be submitted to City Engineer and placed on file in Inspection Department.
- o. Owner/developer to submit condominium association covenants, with include common ownership and maintenance agreements, water and sewer service provisions, general restrictions and owner occupancy restrictions.

- p. Condominiums to abide by State Statute requirements.
- q. Private drive must be signed “no parking” to permit adequate ingress and egress by emergency vehicles.
- r. Fire hydrants required per approval of City Fire Department.
- s. Private and public street lighting plan to be submitted for approval by City.
- t. All improvements to be installed prior to occupancy of first available unit.
- u. Utility easements required by City to be approved and recorded.
- v. Utility Inspector shall be on site at all times when connection and work of public utilities is underway.
- w. Owner/developer to submit information regarding temporary sales office if present.
- x. Owner/developer to submit green space calculations and be aware that 3-season rooms and porches are considered part of structures and are governed by applicable setback requirements.
- y. Right-of-way dedication required on French Road for 66’ total width – 33’ from centerline required on east side.
- z. 20’ drainage easement required from creed centerline matching Lot 2 to the south.
- aa. French Road reconstruction required for improvements. Street design requires 18” of breaker rock, 4” crushed aggregate, 3” bituminous asphalt, 30” curb and gutter, 37’ back-of-curb to back-of-curb, and no parking on east side.
- bb. Waive excavation permit I lieu of CUP approval.
- cc. Inspection required on all utility work furnished by City, paid for by developer.

- dd. Three (3) year guarantee required on all improvements equal to 25% of improvement cost with additional two (2) years of \$100.00 per manhole and catch basin – letter of credit required.
- ee. Owner/developer to be aware of City Floodplain Ordinance restricting all construction below regional flood elevation and requiring finished floor elevation two (2) feet above regional flood elevation. Owner/developer to submit information regarding regional flood elevations adjacent to development (Note: FEMA maps are not available for this area).
- ff. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
- gg. Owner/developer must notify the City prior to any utility connection to public utilities.
- hh. Owner/developer shall be responsible for the redevelopment and reconstruction of French Road as stated in Condition aa, unless the owner petitions the City for the vacation of French Road, submits documentation and details for the realignment of French Road, and receives approval from the City Plan Commission and Board of Public Works for the vacation and realignment of French Road. All costs associated with the realignment and vacation shall be identified in a detailed proposal to the City. All property owners having interest or frontage in the French Road realignment and vacation must be contacted and in concurrence with the proposed plan.
- ii. Owner/developer shall be responsible for all utility costs associated with utility extensions to the site as stated in Condition k. Owner/developer may submit alternate alignments for utilities if they become available as a result of neighboring developments with the approval of the City Utility Committee and Public Works Director.
- jj. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.

kk. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.

Motion by Ald. Giese, second by Ald. Leathen, to approve with one condition and 43 sub-conditions, the Conditional Use Permit filed by John Towner, Deer Creek Development, LLC, for the property located on French Road between Hanson Place and Harter Drive for the purpose of a condominium development. On voice vote, motion carried.

D. Regarding a Rezoning application filed by Bill Soper, YMCA Executive Director, 1140 Main Street, La Crosse, WI 54601, for the property located at Mason Street and East Avenue North from interim R-1 to M-1 Light Industrial (Tax ID# 18-4514-25).

1. Rezoning Fee of \$150.00.
2. All fees/assessments shall be paid prior to agreement with City.
3. Site Plan Permit required.
4. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
5. Owner/developer must notify the City prior to any utility connection to public utilities.
6. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
7. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.

Motion by Ald. Giese, second by Ald. Gonczy, to approve with seven conditions the Rezoning Application filed by Bill Soper, YMCA Executive Director, for the property located at Mason Street and East Avenue North from interim R-1 to M-1 Light Industrial. On voice vote, motion

carried.

E. Regarding an application filed by Bill Treanor, N8640 Garfield Road, Holmen, for rezoning from R-1 Residential to M-1 Light Industrial District for the purpose of operating a nursery located at 2218 Germann Court (Parcel #18-3570-53).

1. Rezoning Fee of \$150.00.
2. Green Fee of \$246.00 + \$33.00 per acre x 2.5 = \$328.50.
3. Topo Fee of \$10.00 per acre x 2.5 = \$25.00.
4. Storm Sewer Fee of \$3,933.00 per acre x 2.5 = \$9,832.50.
5. Sanitary Sewer Fee of \$255.00 per acre x 2.5 = \$637.50.
6. Owner shall be aware of utility easements and 50-foot setback from 1-90 right of way.
7. Owner must coordinate all proposed development with Public Works Dept. storm water management.
8. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
9. Owner/developer must notify the City prior to any utility connection to public utilities.
10. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
11. Any omissions of any conditions not listed in Plan Commission Minutes shall

not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.

Ald. Giese reported that Jason has received a verbal request to withdraw the application.

Motion by Ald. Giese, second by Ald. Wulf, to refer the item back to the Plan Commission.

Under discussion, Cari reported that the applicant was to have submitted a written request to withdraw the application. Cari has not yet received that request. Cari asked Jason if he had received the written request.

Jason reported that he had not received the written request for withdrawal. Jason noted that he had requested the request for withdrawal from both the applicant and the property owner.

On voice vote, motion carried.

F. Regarding an Annexation Petition filed by Arlan and Virginia Wekseth, W5922 CTH OS, Onalaska, WI for the property located at W5922 CTH OS, containing .91 acres (Tax ID# 9-79-0).

1. Top Fee of \$10.00 per acre x .91 = \$9.10.
2. Park Fee of \$1,120.00.
3. Storm Sewer Fee of \$3,148.00.
4. Sanitary Sewer Fee of \$255.00 per acre x .91 = \$232.05.
5. ACT 317 Fees required.
6. Interim Zoning of R-1.
7. Owner shall coordinate utility connections with Public Works Department.
8. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
9. Owner/developer must notify the City prior to any utility connection to

public utilities.

10. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.

11. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.

12. Deferred assessments for water service due.

Motion by Ald. Giese, second by Ald. Leathen, to approve with twelve conditions the Annexation Petition filed by Arlan and Virginia Wekseth, for the property located at W5922 CTH OS. On voice vote, motion carried.

G. Regarding Subdivision Review application by Mark Chafoulias, 1293 PH for the property located at 1293 PH, Onalaska, containing 110,000 sf, for multiple land division and property reconfiguration (Tax ID#s 18-4016-3, 18-3583-0, 18-3580-2, 18-4016-2, 18-4017-0).

1. CSM Fee of \$40.00 + \$10.00 per lot x 1 = \$50.00.

2. Green Fee of \$246.00 + \$33.00 per acre x 2.52 = \$329.16.

3. Storm Sewer Fee of \$5,506.00 per acre x 2.52 = \$13,875.12.

4. All land remnants shall be added to adjacent lots meeting minimum zoning standards.

5. Owner shall coordinate utility connections with Public Works Department.

6. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.

7. Owner/developer must notify the City prior to any utility connection to public utilities.

8. All conditions run with the land and are binding upon the original developer and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.
9. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.
10. Developer must furnish City Engineer with storm water calculations for the proposed development for review and approval by City. On site storage is required for storm water.

Motion by Ald. Giese, second by Ald. Leathen, to approve the Subdivision Review application filed by Mark Chafoulias for the property located at 1293 PH, containing 110,000 square feet, for multiple land division and property reconfiguration. On voice vote, motion carried.

H. Regarding a Subdivision Review application filed by John Sopher, 201 Building LLC., Onalaska, for the property located at 201 Marcou Road (Tax ID# 18-3625-0).

1. Owner shall abide by all original conditions of approval for 201 Marcou Road.
2. Site Plan Permit required for improvements.
3. All remnants shall be added to adjacent parcels meeting minimum zoning requirements.
4. Owner shall coordinate utility connections with Public Works Department.
5. Owner/developer must pay all fees and have all plans reviewed and approved by the City prior to obtaining a building permit. Owner/developer must have all conditions satisfied and improvements installed per approved plans prior to the issuance of occupancy permit.
6. Owner/developer must notify the City prior to any utility connection to public utilities.
7. All conditions run with the land and are binding upon the original developer

and all heirs, successors, and assigns. The sale or transfer of all or any portion of the property does not relieve the original developer from payment of any fees imposed or from meeting any other conditions.

8. Any omissions of any conditions not listed in the Plan Commission Minutes shall not release the developer/property owner from abiding by the City's Subdivision Ordinance and Zoning Code requirements.

Motion by Ald. Giese, second by Ald. Gonczy, to approve the Subdivision Review request filed by John Sopher for the property located at 201 Marcou Road. On voice vote, motion carried.

I. Consideration of a request filed by David and Tammy Freehill, 310 2nd Ave. So., Onalaska, to review the Conditional Use Permit for Precision Automotive, 316 2nd Ave., So., per Section 13-1-71 of the City Zoning Code.

Motion by Ald. Giese, second by Ald. Smith, to refer the item for 30 days to allow time for the Inspection Department to make a report to be presented the Plan Commission at its next meeting.

Under discussion, Ald. Gonczy reported that he had followed the proceedings of the last Plan Commission at which this item was discussed. Ald. Gonczy noted that there had been a "heated debate". Ald. Gonczy asked what studies would the City perform (i.e. carbon monoxide levels and decibel levels).

Ald. Gonczy said, "I did go down and I think if you haven't been down, I think both sides have some legitimate concerns, but you do need to sit there and understand there's a lot of noise there that's not created by the business. And maybe I hit a day there where there wasn't, but I didn't catch too many odors".

Jason responded to Ald. Gonczy's questions, "We've decided to look at a couple of different things. We've contacted a couple of companies that deal with air and exhaust type of issues with automobile shops. We've also talked with people that deal with lighting. And we will be looking at carbon monoxide and noise metering on site. I'm meeting with Mr. McCarty later this week to do just that.

"And then we've also looked at all the other auto repair shops around town to evaluate whether or not they have double-loaded bays and keep the doors down, or don't even have access to the doors on the back side. We'll have a clear recommendation for the Plan Commission".

On voice vote, motion carried.

J. Unified Development Code.

Jason reported that the Unified Development Code is the rewrite of the City's Subdivision and Zoning Code. Staff currently is in the process of rewriting the Special Districts section. This section will deal with Planned Unit Developments, Traditional Neighborhood Developments, and a new Conservation Cluster Residential Zone. Jason will present a report on this section at the next meeting of the Plan Commission.

K. Twin Cities trip presentation.

Jason reported that in March, he, three Plan Commissioners, and two members of the building community took a tour of unique neighborhoods in the Twin Cities. Four neighborhoods were visited and photographs were taken.

Jason said, "We went through the slides and decided that there was actually some things that had some merit with regard to flexibility of standards in design, but that a lot of these neighborhoods have very high-priced housing because they become somewhat of a novelty and have a certain market niche".

M. Update on Heritage Hills Annexation.

Jason reported he and Mayor Bialecki had met with a spokesperson of the Heritage Hills neighborhood. That spokesperson indicated that other alternatives for the neighborhood are being considered with regard to correcting the water issue.

Jason reported that the Heritage Hills subdivision has submitted a proposal to the Town of Onalaska to take over the Heritage Hills well. The City of Onalaska is waiting to hear from the Town of Onalaska. The Town of Onalaska held a board meeting on May 9, 2005. The Town must speak with the Department of Natural Resources representative to get clarification on a number of items before the Town decides definitively if it will move forward with the proposal.

Jason anticipated that the City likely would be informed within 30 days of the decision.

Ald. Giese noted that he had inadvertently skipped Agenda Item 10L. That item was addressed next.

L. American Planning Association National Conference presentation.

Jason reported that this item has been deferred for 30 days because of the lengthy agenda.

Item 11 - JUDICIARY COMMITTEE:

A. Ordinance No. 1223-2005 - adopting a Comprehensive Plan (Third and Final Reading).

Motion by Ald. Wulf, second by Ald. Smith, to give **Ordinance No. 1223-2005** its Third and Final Reading. On voice vote, motion carried.

B. Ordinance No. 1224-2005 – to amend certain sections of the Code of Ordinances of the City of Onalaska relating to licensing of dogs and cats and regulation of animals in the City of Onalaska (Third and Final Reading).

Motion by Ald. Wulf, second by Ald. Giese, to give **Ordinance No. 1224-2005** its Third and Final Reading. On voice vote, motion carried.

C. Ordinance No. 1225-2005 – to amend Section 6-2-3(f)(2) of the Code of Ordinances of the City of Onalaska relating to the permit fee for a street opening in the City of Onalaska. (First and Second Reading).

Motion by Ald. Wulf, second by Ald. Leathen, to give **Ordinance No. 1225-2005** its First and Second Reading. On voice vote, motion carried.

D. Ordinance No. 1226-2005 – to amend Section 10-1-27 of the Code of Ordinances of the City of Onalaska relating to parking (First and Second Reading).

Motion by Ald. Wulf, second by Ald. Leathen, to give **Ordinance No. 1226-2005** its First and Second Reading. On voice vote, motion carried.

E. Ordinance No. 1227-2005 – to annex lands in the northeast ¼ of the northwest ¼ of Section 10, Township 16 North of Range 7 West from the Town of Medary to the City of Onalaska (First and Second Reading).

Motion by Ald. Wulf, second by Ald. Leathen, to suspend the rules to give **Ordinance No. 1227-2005** its First, Second and Third Reading. On voice vote, motion carried.

Motion by Ald. Wulf, second by Ald. Leathen, to give **Ordinance No. 1227-2005** its First, Second, and Third Reading.

Under discussion, in response to a question from Ald. Gonczy, it was confirmed that the annexation is “okay with the State”.

On voice vote, motion carried.

F. Ordinance No. 1228-2005 – to rezone property located in Section 15, Township 16 North of Range 7 West in the City of Onalaska, La Crosse County, Wisconsin, from R-1 Single-Family Residential to R-2-3 Single Family/Duplex Residential District (First and Second Reading).

Motion by Ald. Wulf, second by Ald. Leathen, to give **Ordinance No. 1228-2005** its First and Second Reading. On voice vote, motion carried.

G. Ordinance No. 1229-2005 – to rezone property located in Section 2, Township 16 North of Range 7 of the City of Onalaska, La Crosse County, Wisconsin from A-1 Agriculture District to R-1 Single-Family Residential District (First and Second Reading).

Motion by Ald. Wulf, second by Ald. Leathen, to give **Ordinance No. 1229-2005** its First and Second Reading. On voice vote, motion carried.

Item 12 - LONG RANGE PLANNING COMMITTEE:

No meeting this month.

Item 13 - UTILITIES COMMITTEE / MASS TRANSIT:

UTILITIES

No report.

MASS TRANSIT

A. Onalaska/Holmen Public Transit.

1. Financials for March 2005.

Ald. Giese reported:

- Ridership for March 2005 was 2,520 “continuing the increase in ridership that we’ve seen for probably approaching 28 months now”.
- Total revenue for the period was \$23,511
- Total expenses for the period was \$18,424
- Total excess of income for the period was \$5,087
- The financials are on budget.

Motion by Ald. Giese, second by Ald. Olson, to receive and place on file the Onalaska/Holmen

Public Transit financials for March 2005. On voice vote, motion carried.

Ald. Giese pointed out that the 819 gallons of gas were used in March 2005. The average mpg for the vehicles is 16.72. Ald. Giese noted that the MTU, with its larger vehicles, is realizing a much greater negative impact from current fuel prices.

2. Set public hearing date/time for Program of Projects for 2005 for June 8, 2005 at 7:00 p.m.

Motion by Ald. Giese, second by Ald. Olson, to set the public hearing for the Program of Projects for 2005 for June 8, 2005 at 7:00 p.m. during the Utility Committee meeting. On voice vote, motion carried.

Item 14 - PARKS & RECREATION BOARD:

- A. Request from Peggi Kennedy for a band to perform at her son's graduation party at Rowe Park Shelter #2 on May 28, 2005 from 3 – 4 p.m.

Ald. Smith noted that since the last meeting of the Parks & Recreation Board, the location of the event has been moved from Rowe Park Shelter #2 to Rowe Park Shelter #1.

Motion by Ald. Smith, second by Ald. Gonczy, to approve the request from Peggi Kennedy for a band to perform at her son's graduation party at Rowe Park Shelter #1 on May 28, 2005 from 3 – 4 p.m. On voice vote, motion carried.

C - Request from UW-La Crosse to use our benches for the WIAA (Wisconsin Interscholastic Athletics Association) State Track Meet.

Motion by Ald. Smith, second by Ald. Gonczy, to approve the request from UW-La Crosse to use City benches for the WIAA (Wisconsin Interscholastic Athletics Association) State Track Meet with the understanding that UW-La Crosse will provide to the City a certificate of insurance and that UW-La Crosse will transport the benches to and from the event. On voice vote, motion carried.

D - Swimming lessons schedule for 2005 summer.

Motion by Ald. Smith, second by Ald. Wulf, to cancel the first session of swimming lessons due to the tentative construction completion date. On voice vote, motion carried.

Item 15 – SWIMMING POOL BUILDING COMMITTEE:

A. Project Contingencies and Timeline.

Ald. Wulf reported that on May 10, 2005 she had spoken with Aquatic Center architect Bill Rollins. Concrete is being poured. Ald. Wulf reported that Fred Buehler had informed Ald. Wulf that some of the concrete might have to be ripped out.

Ald. Wulf reported that Bill Rollins informed her that the scheduled date to fill the pool with water tentatively has been moved from May 20, 2005 to May 25, 2005.

Item 16 - TOURISM COMMISSION

A. Room Occupancy.

Ald. Olson reported:

- In March 2005 there were 17,045 rooms available.
- In March 2005 there were 8,337 room occupied.
- In March 2005 the room occupancy was 48.91%, which is down 18.2% from the same time last year. Ald. Olson pointed out that the figures are skewed because of the additional rooms available from Stoney Creek Inn. Ald. Olson said, "So, we're actually way ahead of the game".

B. Promotional Grants.

Item 17 - JOINT COOPERATIVE COMMISSION:

No meeting this month.

Item 18 - SENIORS COALITION:

No report.

Item 19 - ONALASKA/HOLMEN LONG RANGE COMPREHENSIVE PLAN COMMITTEE:

Item 20 - REPORT FROM LIBRARY COMMISSION:

No meeting this month.

Item 21 - REPORT FROM TECHNOLOGY COMMITTEE:

A. City Employee Survey/Cover Sheet Approval for Department Head Meeting Presentation.

Motion by Ald. Wulf, second by Ald. Gonczy, to authorize Ald. Wulf and Chris Muller to make a presentation at the May 2005 Department Head meeting regarding the employee survey and cover sheet. On voice vote, motion carried.

Item 22 - REPORT FROM COMMUNITY DEVELOPMENT AUTHORITY:

A. Report on Events.

Ald. Leathen reported on events since the last report: Technology Expo, the Tri-State Gun Show, Miss Onalaska Post Pageant Party, Wellness Expo and the Bike Rodeo.

On May 10, 2005 the Parks & Recreation Department will hold its mass registration at the OmniCenter.

Upcoming events include:

- Concert on May 21, 2005 featuring “1964: The Tribute” – by a group rated as the “Number 1 Beatles Show in the World”. Ald. Leathen said, “This is a must-see event for those who enjoy the music of the Beatles”. Reserved and General Admission tickets are available at the OmniCenter.
- Sunfish Days May 26 – 29, 2005
- Anniversary Party
- Two retail sales
- Neo-natal picnic
- Parks & Recreation activity.
- Kindermusik Adventure on June 14, 2005.
- Rookie, Junior and Senior basketball.
- Open hitting.
- Kickball
- Inline Hockey
- Boater Safety classes
- Dance classes
- Fireworks are slated for June 26, 2005. The site will be permanently relocated to the high school soccer fields located at the east end of the OmniCenter due to the development of the land that was used in the past. The symphony will play prior to the 10 p.m. Salute to the 4th Fireworks show. Parking will be limited due to the elimination of the high school parking lot area.

Item 23 - REPORT FROM POLICE AND FIRE DEPARTMENT LIAISON:

No report.

Item 24 - REPORT FROM THE SHOP RELOCATION COMMITTEE:

A. Review of Project Scope.

Ald. Leathen reported that the Shop Relocation Committee met on May 3, 2005. The committee discussed project scope, schedule and the architect fee. The architect fee will remain at 7.5% of the project.

Mayor Bialecki directed Ron to have firm numbers in place for the Capital Improvements Projects budget process, with the intent of starting the relocation project in 2006.

Ald. Leathen reported that the Shop Relocation Committee now is meeting monthly.

Item 25 – SAFETY COMMITTEE:

No report.

Item 26 - REPORT FROM LAND USE AND DEVELOPMENT DIRECTOR:

A. Consideration of the updated appraisal for the 53-acre waterfront property owned by Tod Edwards and formal submittal to the owner of said property.

Jason referred the members to a memo from Attorney Brent Smith regarding the updated appraisal from Midwest Professional Appraisal.

Jason explained that the purpose of the appraisal was to estimate the amount of compensation due the owner for property or rights to be acquired under the provisions of the Wisconsin Statutes as provided in Section 32.09.

Jason reported that he and Brent Smith recommend moving into the next step of the process as outlined based on 32.06 submitted by Janet Jenkins. The next steps in the outline are #9 and #10, which is to provide the property owner with a full copy of the narrative appraisal and any other appraisals done on the property and to inform the property owner in writing of their right to obtain an appraiser at the City's cost.

Motion by Ald. Gonczy, second by Ald. Olson, to proceed with the next steps in the process

regarding the waterfront property. On voice vote, motion carried.

Item 27 - REPORT FROM THE ALDERPERSONS:

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A. Onalaska Schools Food Pantry – June 3 – Ald. Wulf.

Ald. Wulf reported that the next Onalaska Schools Food Pantry is scheduled for Friday, June 3, 2005 at Onalaska Middle School. Ald. Wulf stated that she is hopeful that the Food Pantry would relocate to Irving Pertzsch Elementary School for the summer months (July and August). The Food Pantry intends to resume distribution from the Middle School in September 2005.

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Item 28 - REPORT FROM THE FINANCIAL SERVICES DIRECTOR:

Item 29 - REPORT FROM THE CITY CLERK:

Item 30 - REPORT FROM THE CITY ATTORNEY:

Item 31 – Any other business that may come up subsequent to this notice.

Item 32 - Closed Session

To consider a motion to convene in Closed Session under Section 19.85 (1) (c) of the Wisconsin Statutes for the purpose of considering compensation/negotiations of any public employee over which the governmental body has jurisdiction or exercises responsibility (International Association of Firefighters – IAFF), and under section 19.85 (1) (e) of the Wisconsin Statutes for the purpose of deliberating or negotiating the purchase or acquisition of property (Waterfront property) and under Section 19.85 (1) (g) of the Wisconsin Statutes 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 (claim against the City relating to chipped cemetery monument, Waterfront property). If any action is required in Open Session, as the result of the Closed Session, the Committee will convene in Open Session to take the necessary action and/or continue on with the printed agenda.

Motion by Ald. Olson, second by Ald. Wulf, to convene in Closed Session as is stated in the agenda. On roll call vote: Ald. Smith – aye; Ald. Gonczy – aye; Ald. Leathen – aye; Ald. Olson – aye; Ald. Giese – aye; Ald. Wulf – aye. Motion carried to convene in Closed Session.

Recorded by:

Holly Traffas