

MINUTES
CITY OF PORT WASHINGTON
CITY COUNCIL MEETING
June 26, 2007

A duly convened meeting of the Common Council was called to order at 7:30 p.m. by Mayor Huebner in the Council Chambers. Council members present: Aldermen Al Haacke, Paul Neumyer, Jim Vollmar, Tom Hudson, Pete Jushka and Chris Ross. Absent & excused was Alderman Burt Babcock. Also present: City Administrator Mark Grams, City Attorney Eric Eberhardt, City Planner Randy Tetzlaff and City Engineer Rob Vanden Noven. The Pledge of Allegiance to the flag was recited.

CONSENT AGENDA

- A. Approve Minutes of the Previous Meetings – June 5th and June 19th, 2007
- B. Consider Original Operator's License Applications-Thomas A. Michaels, Dean E. Bowling, Adam P. Allen, Stephanie N. Gamm, Cheryl L. Philipps, Jacob N. Williamson, Jamie A. Krueger, Rosalva Escobedo, Kelly L. Robinson, Matthew J. Paul, Rachel R. Zuck and Stephanie A. Wadkins
- C. Consider Renewal of Operator's License Applications-See attached list
- D. Consider Original Combination "Class B" Retail (Tavern) License Application-Sir James Pub, LLC (Herbert D. James) 316 N. Franklin St.
- E. Consider Renewal of Combination "Class B" Retail (Tavern) License Applications-Gopher One, Inc. (Donna R. Ferraino) 605 W. Grand Ave., Van Ells-Schanen American Legion Post #82 (RayWendt) 435 N. Lake St., Lakeview Conference Center, LLC (Chandrakany M. Patel) 350 E. Seven Hills Rd., Windrose, LLC (Kenneth W. Naujock) 308-312 N. Franklin St., Pasquale C. Montalto/Sundance/551 N. Wisconsin St., Harbor Hills, Inc. (Robert C. Nisleit) 101 Freeman Dr., Port Washington Hotel, LLC (Cathy A. Wilger) Holiday Inn Harborview/135 E. Grand Ave., JAZ Enterprises, Inc. (Joseph A. Zankl) 101 E. Main St., 200 Grand Restaurant & Pub, LLC (Angel Tello) 200 W. Grand Ave., George King, Jr./King on the Hill) 601 N. Wisconsin St., Lanza, LLC (Andrea W. Lanza) 219 N. Franklin St., Willie's Lakefront Lanes, Inc. (Gayle Wilber) 119 E. Main St., I & B, Inc. (Irving E. Carlson, II) Wilson House, 200 N. Franklin St.
- F. Consider Renewal of Combination "Class A" License Applications-Benaczak's, Inc. DBA Bernie's Fine Meats (Sandra A. Bennett) 119 N. Franklin St., Port Tobacco, LLC (Jennifer L. Groh) 215 N. Franklin St., The Basquet Case Market & Gifts, LLC (Donna M. Moras) 228 N. Franklin St., Beck's Enterprises, Inc. (Thomas J. Beck) Beck's Grand Avenue Mini-Mart/223 W. Grand Ave.
- G. Consider Renewal Class "A" Fermented Malt License-We Got Gas, LLC (Richard Fulop) 528 W. Grand Ave.
- H. Consider Renewal Class "B" Fermented Malt Licenses-John's Tavern & Pizzeria (John J. Crowley) 221 N. Franklin St., Hetchinspete, LLC (Peter W. Naiman) Jimmy & Michelle's Gourmet Pizza/477 W. Grand Ave.
- I. Consider Renewal "Class C" Reailer's Wine Licenses-John's Tavern & Pizzeria (John J. Crowley) 221 N. Franklin St., Hetchinspete, LLC (Peter W. Naiman) Jimmy & Michelle's Gourmet Pizza/477 W. Grand Ave.
- J. Consider Cabaret Licenses (Annual)-Harbor Hills, Inc. (Robert C. Nisleit) 101 Freeman Dr., Port Washington Hotel, LLC (Cathy A. Wilger) Holiday Inn Harborview/135 E. Grand Ave., Lakeview Conference Center, LLC (Chandrakany M. Patel) 350 E. Seven Hills Rd., Windrose, LLC (Kenneth W. Naujock) 308-312 N. Franklin St., Pasquale C. Montalto (Sundance) 551 N. Wisconsin St., Gopher One, Inc. (Donna R. Ferraino) 605 W. Grand Ave., Lanza, LLC (Andrea W. Lanza) 219 N. Franklin St., Willie's Lakefront Lanes, Inc. (Gayle Wilber) 119 E. Main St.
- K. Consider Temporary Class "B" Retailer's License (Picnic) Applications-Port Washington-Saukville Jaycees/July 21, 2007 (FishDay) Port Lake Front, Port Washington Kiwanis Club/July 21, 2007 (Fish Day) Port Washington Harbor,

Leatherneck Club/July 21, 2007 (Fish Day) Corner of Lake & Jackson, Port Washington Yacht Club/July 21,2007 (Fish Day) Tent outside of building premises, Port Washington Lions Club/July 21,2007 (Fish Day) Port Washington Lake Front

- L. Consider Temporary Bartender's License Applications-Port Washington-Saukville Jaycees-Jodi S. Dickmann, Michael L. Dickmann, Debra J. Pawling, Lisa M. Pawling, Lions Club-Dale J. Anderson, Jeffrey J. Bley, Merlin J. Mueller, James P. Riddle, Port Washington Kiwanis Club-Elizabeth A. Erlwig, Gene Giltner, Jim L. Olson, John H. Sigwart, Dennis Williamson, Erin Boehle, Port Washington Lions Club-David G. Mueller, Jeffrey J. Bley, Paul S. Miller, Jeffrey H. Barber, Richard A. Bichler, Louis C. Zogg, Michael G. Penkwitz, Patrick T. Poole, Roland W. Chaloupka, Kurtis A. Kleparski, Claude J. Zimmerman

MOTION BY ALDERMAN HUDSON, SECONDED BY ALDERMAN JUSHKA TO APPROVE THE CONSENT AGENDA. **Motion carried unanimously.**

MAYOR'S BUSINESS-None

OFFICERS'/STAFF REPORTS

- A. City Council Meeting in July-City Administrator Grams reported that the next City Council Meeting would be held on July 17th.

PUBLIC COMMENTS/APPEARANCES-Dennis Cooper-Horsefeathers Restaurant- Asked the Council where we stand on information signs. Mayor Huebner said we are waiting for a recommendation from the BID District and Tourism Council. He also asked what the ruling was on whether his patrons could take beer outside of his premises on Fish Day. City Administrator Grams said that patrons could not take beer or liquor outside the licensed premises. City Attorney Eberhardt indicated that State and local ordinances limit where beer and liquor are sold and consumed. Mr. Cooper said we need signage to explain to customers why they could not take alcohol off the premises and would like something from the City that we can post. He said there is no common sense to this rule.

COMMITTEES

A. Finance & License Committee

1. Ordinance 2007-13 (Amend Fees For Operator's License Applications) **1st Reading**
2. Payout Of Refunded/Rescinded Taxes To JABCO-MOTION WAS MADE BY ALDERMAN HUDSON, SECONDED BY ALDERMAN VOLLMAR TO APPROVE THE DISBURSEMENT OF THE REFUNDS TO JABCO, LLC FOR REFUNDED/RESCINDED TAXES. **Motion carried unanimously.**
3. Approve Supplemental Agreement No. 2 With The Department Of The Army-MOTION WAS MADE BY ALDERMAN HUDSON, SECONDED BY ALDERMAN JUSHKA TO APPROVE SUPPLEMENTAL AGREEMENT NO. 2 WITH THE DEPARTMENT OF THE ARMY. **Motion carried unanimously.**
4. Ordinance 2007-10 (Amend Chapter 23.06.010 Of The Municipal Code, Cable Franchise Fee Payments) **2nd Reading**-MOTION WAS MADE BY ALDERMAN HUDSON, SECONDED BY ALDERMAN JUSHKA TO APPROVE ORDINANCE 2007-10. **Motion carried unanimously.**

BOARDS/COMMISSIONS

A. Plan Commission

1. Ordinance 2007-14 (Rezone Property At 1248-1250 and 1306 W. Grand Avenue From RS-2 To RS-6) **1st Reading**
2. Ordinance 2007-11 (Rezoning Of Newly Annexed Land On The North Side Of Sunset Road, West Of The Greystone Subdivision, Freier Property) **2nd Reading**-MOTION WAS MADE BY ALDERMAN HAACKE, SECONDED BY ALDERMAN JUSHKA TO APPROVE ORDINANCE 2007-11. **Motion carried unanimously.**
3. Ordinance 2007-12 (Rezone A Portion Of Land At 1330 W. Grand Ave. From RS-2) **2nd Reading**-Annamarie Dittmar-Port Veterinary Clinic-Spoke to the Council about her intent to convert her house to an animal hospital. She said she would not board animals, except sick animals over night. She pointed out that there are many commercial businesses around her home. She intends to build a house behind her present home. Alderman Hudson said that because of a protest petition against the proposed rezoning, he respects her neighbor's concerns about the change in zoning. He suggested that she talk to her neighbors and explain her intentions to rezone to possibly convince them to reconsider her request. MOTION BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN NEUMYER TO CONTINUE DISCUSSION OF THIS ITEM LATER IN THE MEETING. 4 ayes, 3 nays (Hudson, Jushka and Ross) Mayor Huebner voted aye. **Motion carried.** City Attorney Eberhardt said he checked on the ruling in the State Statutes and City ordinances and a $\frac{3}{4}$ vote is needed to pass the rezoning. However, to determine whether the protest petition falls within the terms of the ordinance, we don't know if we have enough signatures on the petition signed by the owners of 20% or more of the area of land immediately adjacent and extending 100 feet there from. Procedurally, the City Attorney and City Planner would have to determine if the protest petition qualifies for a $\frac{3}{4}$ or super majority vote (6) votes, since Alderman Babcock is absent. MOTION BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN NEUMYER TO HAVE THE CITY ATTORNEY AND CITY PLANNER GET TOGETHER AND REVIEW STATE STATUTES TO DETERMINE WHETHER OR NOT THE PROPOSED REZONING NEEDS A SUPER MAJORITY VOTE BECAUSE OF THE CLOSE PROXIMITY OF THE OWNERS OF THE VARIOUS PARCELS OF LAND WHO HAVE MADE THE OBJECTION. **Motion carried unanimously.** Mayor Huebner moved this item to later in the meeting.
4. Consider Conditional Use Grant Application To Permit A Community Based Residential Facility At The Western Terminus Of Granite Lane-Bud Sova, Applicant, addressed the Council and said he was requesting that the CUG be approved subject to review by the City Attorney. MOTION WAS MADE BY ALDERMAN HUDSON, SECONDED BY ALDERMAN HAACKE TO APPROVE THE CONDITIONAL USE GRANT APPLICATION SUBJECT TO RECORDING OF THE CERTIFIED SURVEY MAP FOR THE FREIER PROPERTY CREATING A NEW LOT 1, ADHERENCE TO AN APPROVED FINAL BUILDING AND SITE PLAN, AND REVIEW OF THE CUG AND LAND COVENENT DOCUMENTS BY THE CITY ATTORNEY. **Motion carried unanimously.**

5. Consider Conditional Use Grant Application To Permit A Church On Property Located On The North Side Of Sunset Road And West Of The Greystone Subdivision-MOTION WAS MADE BY ALDERMAN HAACKE, SECONDED BY ALDERMAN VOLLMAR TO APPROVE THE CONDITIONAL USE GRANT APPLICATION SUBJECT TO RECORDING OF THE CERTIFIED SURVEY MAP FOR THE FREIER PROPERTY CREATING A NEW LOT 2, ADHERENCE TO AN APPROVED FINAL BUILDING AND SITE PLAN AND REVIEW OF THE CUG AND LAND COVENANT DOCUMENTS BY THE CITY ATTORNEY. **Motion carried unanimously.**

UNFINISHED BUSINESS-None

NEW BUSINESS

- A. Land Development Agreement For Freier Property-MOTION WAS MADE BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN HAACKE TO APPROVE THE LAND DEVELOPMENT AGREEMENT FOR THE FREIER PROPERTY WITH FINAL REVIEW BY THE CITY ATTORNEY. **Motion carried unanimously.**

FORTHCOMING EVENTS-None

PUBLIC COMMENTS/APPEARANCES-Lloyd Smith, 1312 W. Grand Avenue- Commented on the request of the Township of Grafton to the City to re-route Highway C because the Township of Grafton wishes to keep Highway C as rural as possible for the potential VK Homes Development along Highway C. Re-routing Highway C from this subdivision toward the west can only benefit the retail communities in the Village of Saukville and Grafton and to protect the retail community of the City of Port Washington (downtown). The logical thing to do would be to extend Highway C across from where CC now comes out (Sunset Road) across the WE Energies property and the construction route that has been created and then down to connect to Wisconsin Street, thereby making a strong infrastructure road into downtown Port Washington.

MOTION WAS MADE BY ALDERMAN HUDSON, SECONDED BY ALDERMAN JUSHKA TO HAVE A SHORT RECESS AT 8:42 P.M. **Motion carried unanimously.**

The Council reconvened at 8:54 p.m.

- A. Plan Commission, Item #3-Ordinance 2007-12 (Rezone A Portion Of Land At 1330 W. Grand Avenue From RS-2) **2nd Reading**-City Attorney Eberhardt reported that after reviewing a section of the City ordinances and State Statutes, an assumption was made that owners of the properties who signed the protest petition are in fact the owners of record – 4 parties who signed the protest. It was determined that the owners of the JJ Spinnaker Investments property lying north of the property to be rezoned are actually beyond the distance for which acreage or measurements would matter. The other signing parties, Jeffrey J. Mayer, Frank M. Vitucci, Trustee and Thomas Surges all do lie within the area that the statute and ordinance concern themselves with. After making the relevant calculations, it is our conclusion that the owners of these three properties do constitute the owners of 20% or more of the area of land immediately adjacent and extending 100 feet from the boundaries of the land to be rezoned. In order for this body to rezone the subject land would require a

super majority or specifically a vote of 6 members of the City Council. MOTION WAS MADE BY ALDERMAN VOLLMAR, SECONDED BY ALDERMAN NEUMYER TO APPROVE ORDINANCE 2007-12. 3 ayes (Haacke, Neumyer and Vollmar) and 3 nays (Jushka, Hudson and Ross) **Motion fails for lack of a super majority.**

MOTION BY ALDERMAN JUSHKA, SECONDED BY ALDERMAN VOLLMAR TO ADJOURN AT 9:00 P.M. **Motion carried unanimously.**