Keith G. Bosman, Mayor

Debra L. Salas, City Clerk

# KENOSHA MUNICIPAL BUILDING COUNCIL CHAMBERS ROOM 200 August 5, 2013

At a meeting of the Common Council held this evening, His Honor, Mayor Keith G. Bosman presided. The meeting was called to order at 7:03 pm.

On roll call, the following members of the Common Council were present: Alderpersons Haugaard, Schwartz, Michalski, Ruffolo, LaMacchia, Ohnstad, Juliana, Mathewson, Rosenberg, Kennedy, Gordon, Bostrom, Wilson

and Prozanski. Alderpersons Orth and Downing were excused. A moment of silence was observed in lieu of the invocation.

Mayor Bosman then introduced Boys Scout Troops 512 and 525, from Trinity Lutheran Church and St. Mary's Catholic Church, who then led the Council in the Pledge of Allegiance to the American Flag.

It was moved by Alderperson LaMacchia, seconded by Alderperson Gordon, to approve the minutes of the regular meeting held July 15, 2013 and the special meeting held July 29, 2013.

Motion carried unanimously.

The Mayor announced two referrals of resolutions by Alderperson Kevin Mathewson to the Public Works Committee and the Park Commission: Resolution Establishing Daily Hours for Kennedy Drive; and Resolution Establishing Daily Hours for Simmons Island.

Sixteen Citizens spoke during Citizen's Comments: Troy McDonald, Tammy Conforti, Dr. Maggie Regner, Karen Roberts, Jamie Forsythe, Margie Gentner, Raymond Cameron, Phil Haney, Keith Kemper, Roger Clark, Jerry Rintamaki, John Franco, Chester Dickow, Kurt Wiklund, Ed Potokar, and Kevin Riordan,

It was moved by Alderperson Mathewson, seconded by Alderperson LaMacchia, to allow citizen's comments to go beyond the 45 minutes limit.

On a voice vote, motion carried. Three more citizens spoke: Lindsay Post Rebel, Violet Ricker and Louis Rugani.

The Mayor then commented that the City Attorney recommended Item A.1. should also be referred to the Public Works Committee.

# A. REFERRALS TO THE COMMITTEE ON FINANCE

- A.1. Resolution by Alderman David F. Bogdala to Amend the City of Kenosha Capital Improvement Program for 2013 by Decreasing OT-96-001 "Equipment Mini Van" in the Amount of \$13,100 and to Create Capital Improvement Line Item OT-13-004 "School Zone Signage" in the Amount of \$13,100 for a Net Change of \$0. (Also referred to Public Safety and Welfare Committee)
- A.2. Sponsors: Alderperson David F. Bogdala, Alderperson G. John Ruffolo to Amend the City of Kenosha Capital Improvement Program for 2013 by Decreasing FI-13-003 "Fire Administration Office" in the Amount of \$300,000 and to Increase Capital Improvement Line Item IN-93-002 "Resurfacing" in the Amount of \$300,000 for a Net Change of \$0. (Also referred to Public Works & Public Safety and Welfare Committees)

### TO THE PUBLIC WORKS COMMITTEE

- A.3. Memorandum of Understanding between the City of Kenosha and WisDOT for the WIS 50 Access Management Vision (I94 to 43rd Avenue).
- A.4. Sponsor: Alderperson Michael J. Orth To Repeal and Recreate Section 13.035.B.2 (of the Code of General Ordinances For the City of Kenosha) Regarding Peddler's Stand Operation. (Also referred to Licensing/Permit Committee and Park Commission)

### TO THE CITY PLAN COMMISSION

- A.5. Conditional Use Permit for a 105,387 s.f. addition to the Carthage Straz Center at 2001 Alford Park Drive. (Carthage College) (1st District)
- A.6. Conditional Use Permit for a 1,949 s.f. restaurant with a drive-thru to be located at 8040 Sheridan Road. (Taco Bell) (12th District)
- A.7. By the City Plan Commission To Repeal and Recreate Section 3.31 H. of the Zoning Ordinance for the

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City of Kenosha Regarding Garage Door Placement.

A.8. By the City Plan Commission - To Repeal and Recreate Section 3.32 H. of the Zoning Ordinance for the City of Kenosha Regarding Garage Door Placement.

### TO THE CITY PLAN COMMISSION

A.9. Resolution By the Mayor: To Approve the Route of the Streetcar System Expansion and to Commence Project Design and Engineering. (Also referred to Public Works Committee)

# B. COMMUNICATIONS, PETITIONS, REPORTS OF DEPARTMENTS

It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve B.1.:

- a. 38 applications for Operator's (Bartender's) licenses, per list on file in the office of the City Clerk.
- b. 1 transfer of agent status of Beer and/or Liquor license, per list on file in the office of the City Clerk.
- c. 3 applications for special Class "B" Beer and/or "Class B" Wine licenses per list on file in the office of the City Clerk.
- d. 1 application for a Taxi Driver's license per list on file in the office of the City Clerk.

On a voice vote, motion carried.

It was moved by Alderperson Kennedy, seconded by Alderperson Schwartz, to receive and file:

B.2. Communication from the City Clerk Regarding the Voluntary Surrender of the Class "B" Beer/"Class B" Liquor License - Eva Lagunas (El Caporal, 3200-60th Street).

On a voice vote, motion carried.

It was moved by Alderperson Bosman, seconded by Alderperson Kennedy to approve:

B.3. Sign Code Appeal: Special Exception Request for Sign Area Relief to Install a One-hundred-fifty Square Foot (150 s.f.) Sign at 11880-74th Place (Kenosha Commons). (Zoning: B-2 Community Business District): Petitioner/Owner: Ed Potokar. A hearing was held. No one spoke for or against.

On a voice vote, motion carried.

It was moved by Alderperson Wilson, seconded by Alderperson LaMacchia, to approve:

B.4. Special Exception Request to the Off-Street Parking Requirement of Section 6.01 F.17 (of the Zoning Ordinance) for property at 7701 Green Bay Road. (Meijer) A public hearing was held. No one spoke for or against.

On roll call vote, motion carried 12-3, with Alderpersons Bogdala, Ruffolo and Mathewson voting no.

At 7:59 pm, it was moved by Alderperson Michalski, seconded by Alderperson Kennedy, to go into Closed Session (pursuant to §19.85(1)(g), Wisconsin Statutes to discuss litigation strategies with the City's Legal Counsel regarding settlement issues surrounding the action) for:

B.5. Discussion on the litigation with regard to BC Tavern of Kenosha, Inc. v. City of Kenosha Case No. 11-C-959.

At 8:31 pm, it was moved by Alderperson Kennedy, seconded by Alderperson Ohnstad, to reconvene into open session. The meeting resumed at 8:34 pm.

# C. RECOMMENDATIONS FROM THE COMMITTEE ON LICENSING/PERMITS

- C.1. It was moved by Alderperson Ohnstad, seconded by Alderperson Juliana, to approve applications for new Operator's (Bartender's) licenses, subject to:
- 20 demerit points:
- a. Devin Dorsey
- b. April Gustafson
- c. Daniel Leiting
- d. Keli Mielke
- e. Maureen Modory
- f. Jagjit Singh
- g. Holly Schonscheck

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- h. Hector Cedeno Silva
- 40 demerit points:
- i. Lisette Gomez
- i. Matthew Freeman
- 60 demerit points:
- k. Scott Bohlman

80 demerit points:

1. Baron Olsen

A hearing was held. The applicants did not appear. Alderperson Kennedy said his vote for g. should be recorded as "abstain".

It was moved by Alderperson Bogdala, seconded by Alderperson Mathewson, to separate 1.

On a voice vote, motion carried.

On a voice vote, motion to approve a. through k. carried.

It was moved by Alderperson Juliana, seconded by Alderperson LaMacchia, to approve 1.

On a voice vote, motion carried.

C.2. It was moved by Alderperson Mathewson, seconded by Alderperson LaMacchia, to approve application of Christopher Johnson for a new Taxi Driver's License subject to 40 demerit points. A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

C.3. It was moved by Alderperson Juliana, seconded by Alderperson LaMacchia, to approve application of N&S Source, Inc., Nihal Singh, Agent, for a Class "A" Retail Beer Only License located at 6119-22nd Avenue (Uptown Pantry) to be effective August 6th, 2013, upon surrender of a similar license from Gala Corporation, with no adverse recommendations. A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

- C.4. It was moved by Alderperson LaMacchia, seconded by Alderperson Schwartz, to approve application of Kavalauskas, LLC (2325-52nd Street, Spanky's Bar & Grill) for a Temporary Outdoor Extension on August 9th and August 10th, 2013 with no adverse recommendations. A hearing was held. The applicant did not appear. On a voice vote, motion carried.
- C.5. It was moved by Alderperson Michalski, seconded by Alderperson Wilson, to approve application of Sunset Grille, LLC (Stacey West-Rivera, Agent, 2500-52nd Street, Sunset Grille & Mulligan's Pub) for a Daily Cabaret License on August 10, 2013. A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

- C.6. It was moved by Alderperson Juliana, seconded by Alderperson Kennedy, to approve application of Kavalauskas, LLC (Rick Kavalauskas, Agent, 2325-52nd Street, Spanky's Bar & Grill) for a Yearly Cabaret License (2013-2014 Term) with no adverse recommendations. A hearing was held. The applicant did not appear. On a voice vote, motion carried.
- C.7. It was moved by Alderperson Kennedy, seconded by Alderperson Wilson, to approve application of Groby, LLC (Mark Gerber, Agent, 2627-63rd Street, Gerb's Tap) for a Yearly Cabaret License (2013-2014 Term) with no adverse recommendations. A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

C.8. It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve application of Kavalauskas, LLC (2325-52nd Street, Spanky's Bar & Grill), for an Outdoor Area – Cabaret/Amplified License on August 9th and August 10th, 2013, with no adverse recommendations.

A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

C.9. It was moved by Alderperson Juliana, seconded by Alderperson Michalski, to approve application of Traci Peterson (2425-60th Street, Hattrix) for an Outdoor Area-Cabaret/ Amplified License on August 10th and August 11th, 2013 with no adverse recommendations. A hearing was held. The applicant did not appear.

On a voice vote, motion carried.

C.10. It was moved by Alderperson Michalski, seconded by Alderperson Kennedy, to deny application of 52nd

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Gold Exchange, Inc. for a Secondhand Jewelry Dealer License located at 7519-22nd Avenue (52nd Gold Exchange) based on inaccurate description of business. A hearing was held. The applicant did not appear. On a voice vote, motion carried.

C.11. It was moved by Alderperson Kennedy, seconded by Alderperson Ohnstad, to approve application of Jadvyga Valiauga for a Kenosha Massage Therapist License with no adverse recommendations. A hearing was held. The applicant appeared.

On a voice vote, motion carried.

### D. ORDINANCES 1ST READING

It was moved by Alderperson Michalski, seconded by Alderperson Schwartz, to send the following ordinances on their way:

- D.1. By Stormwater Utility Committee To Repeal, Recreate and Renumber Subsections 2.10 A. and B. (of the Code of General Ordinances) Regarding Special Assessments.
- D.2. By Alderperson LaMacchia To Repeal and Recreate Subparagraph 17.05 G. (of the Code of General Ordinances) regarding the number of lots in Final Phase Plat.

On a voice vote, motion carried.

# E. ZONING ORDINANCES 1ST READING

It was moved by Alderperson Michalski, seconded by Alderperson Schwartz, to send the following ordinance on its way:

E.1. By Alderperson Schwartz - To Repeal and Recreate Subparagraph 4.06 B.15.g. (of the Zoning Ordinance) regarding the Service Window at Drive-Thru Facilities.

On a voice vote, motion carried.

### F. ORDINANCES 2ND READING

Full text of ordinances are on file in the office of the City Clerk.

F.1. It was moved by Alderperson Michalski, seconded by Alderperson Juliana, to adopt Ordinance 30-13 as amended by the Licensing/Permit Committee.

A public hearing was held. Matt Geary, owner of Public Craft Brewery, 761-58th Street, spoke in favor.

On roll call vote, motion carried 14-0-1, with Alderperson Schwartz abstaining and said ordinance was thereupon adopted:

### Ordinance 30-13

By Alderperson Rocco LaMacchia - To Amend Various Sections Of 10.076 (Of The Code Of General Ordinances For The City Of Kenosha) Entitled "Outdoor Cafe Of A "Class B", Class "B" And/Or "Class C" Licensed Premises In A Public Right-Of-Way; And To Create Subsection 10.076 C.2.H.

## G. ZONING ORDINANCES 2ND READING

G.1. It was moved by Alderperson Ohnstad, seconded by Alderperson LaMacchia, to adopt Ordinance 31-13. A public hearing was held. Aaron Kohlmeier, owner of Welcome Home Properties LLC, spoke in favor. On roll call vote, motion carried unanimously and said ordinance was thereupon adopted:

### Ordinance 31-13

By the City Plan Commission - To Create Subsection 18.02x (of the Zoning Ordinance) to Amend the Land Use Plan Map for the City of Kenosha: 2035. (Welcome Home Properties LLC)

G.2. It was moved by Alderperson Bogdala, seconded by Alderperson Ohnstad, to adopt Ordinance 32-13. A public hearing was held. Virginia Hoekstra spoke against. Mr. Kohlmeier spoke in favor.

On roll call vote, motion carried unanimously and said ordinance was thereupon adopted:

### Ordinance 32-13

By The Mayor - Petition to Rezone property at 5901-60th Street from RD Two family Residential to IP Institutional Park in conformance with Section 10.02 (of the Zoning Ordinance). (Welcome Home Properties, LLC)

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### H. RESOLUTIONS

Full text of resolutions are on file in the office of the City Clerk.

H.1. It was moved by Alderperson Ohnstad, seconded by Alderperson LaMacchia, to approve Resolution 105-13. On roll call vote, motion carried unanimously and said resolution was thereupon approved:

### **Resolution 105-13**

# by The Mayor - Awarding the Sale of \$10,915,000 General Obligation Refunding Bonds, Series 2013.

H.2. It was moved by Alderperson Ohnstad, seconded by Alderperson LaMacchia, to approve Resolution 106-13 as amended by the Finance Committee. A hearing was held. No one spoke for or against said resolution.

H.2.1. It was moved by Alderperson Mathewson, seconded by Alderperson Ruffolo, to amend to reduce to \$0. On roll call vote, motion failed 2-13, with Alderpersons Ruffolo and Mathewson voting ave.

On roll call vote, original motion to amend to reduce by one-half carried 8-7, with Alderpersons Gordon, Bostrom, Wilson, Bogdala, Schwartz, Michalski and Juliana voting nay and said resolution was thereupon approved:

### **Resolution 106-13**

# By Finance Committee - To Correct Resolution #055-13 Snow Removal from Sidewalks

## **Project #12-001**

H.3. It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve Resolution 107-13. A hearing was held. No one spoke for against said resolution.

On roll call vote, motion carried unanimously and said resolution was thereupon approved:

### Resolution 107-13

# By Finance Committee - To Levy a Special Assessment (Under Authority of Charter Ordinance No. 26, as Amended, upon Certain Parcels of Land Within the City of Kenosha, Wisconsin) in the Amount of \$5,226.45 for Trash and Debris Removal.

H.4. It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve Resolution 108-13.

On roll call vote, motion carried unanimously and said resolution was thereupon approved:

### **Resolution 108-13**

# by Finance Committee - Authorizing a Development Financing Agreement With Respect to Varin/Library Park LLC Project in Tax Incremental District No. 15 and Providing for the Issuance of a Tax Increment Project Revenue Bond of the City of Kenosha, Wisconsin.

H.5. It was moved by Alderperson Kennedy, seconded by Alderperson Michalski, to approve Resolution 109-13. A public hearing was held. No one spoke for against said resolution.

On roll call vote, motion carried unanimously and said resolution was thereupon approved:

### Resolution 109-13

# by Committee on Public Works – To Order the Cost of Public Sidewalk and/or Driveway Approach Construction and/or Replacement to be Specially Assessed to Abutting Property. (Project 13-1012, 70th Street - 39th Avenue to 40th Avenue)

H.6. It was moved by Alderperson Kennedy, seconded by Alderperson Schwartz, to approve Resolution 110-13. On roll call vote, motion carried unanimously and said resolution was thereupon approved:

# **Resolution 110-13**

# by Committee on Public Safety and Welfare - To Remove the Existing "15 Minute Parking between Signs 8 am - 6 pm Mon. thru Sat." Restriction in Front of 4721-7th Avenue.

H.7. It was moved by Alderperson Kennedy, seconded by Alderperson Schwartz, to approve Resolution 111-13. On roll call vote, motion carried unanimously and said resolution was thereupon approved:

# **Resolution 111-13**

# By Committee on Public Safety and Welfare - To Remove the Existing "No Parking from 8:00 am - 5:00 pm Except Holidays" Restriction on 31st Avenue between 79th Street and 80th Street.

H.8. It was moved by Alderperson Kennedy, seconded by Alderperson Schwartz, to approve Resolution 112-13

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as amended by the Public Safety & Welfare Committee.

H.8.1. It was moved by Alderperson Kennedy, seconded by Alderperson Schwartz, to open to a public hearing. On a voice vote, motion carried.

Veronica King spoke in favor. Alderperson Ohnstad stated that he would like his name added as a co-sponsor. On roll call vote, motion carried 14-1 with Alderperson Mathewson voting nay and said resolution was thereupon approved:

### **Resolution 112-13**

by Alderperson Anthony Kennedy; Co-Sponsors Alderperson Michael J. Orth, Alderperson Rocco J. LaMacchia, Sr., Alderperson Chris Schwartz, Alderperson Curt Wilson – To Urge the United States Congress to Take Action to Re-Effectuate the Preclearance Provision of the Voting Rights Act of 1965. H.9. It was moved by Alderperson Kennedy, seconded by Alderperson Gordon, to approve Resolution 113-13. On roll call vote, motion carried 13-2 with Alderpersons Bogdala and Mathewson voting nay and said resolution was thereupon approved:

#### **Resolution 113-13**

Resolution by Alderperson Curt Wilson; Co-Sponsors Alderperson Keith Rosenberg, Alderperson Michael J. Orth, Alderperson Tod Ohnstad – To Urge Passage of an Amendment to the United States Constitution to Protect the Rights of Citizens to Fair Election Process not Tainted by Undue Influence of Large Election Expenditures by Corporations, Labor Unions, and the Most-Affluent Citizens.

H.10. It was moved by Alderperson LaMacchia, seconded by Alderperson Wilson, to approve Resolution 114-13. On roll call vote, motion carried 13-2 with Alderpersons Bogdala and Mathewson voting nay and said resolution was thereupon approved:

### **Resolution 114-13**

By Alderperson Curt Wilson; Co-Sponsors Alderperson Patrick A. Juliana, Alderperson Scott N. Gordon, Alderperson Chris Schwartz, Alderperson Rocco J. LaMacchia, Sr. – To Extend the Moratorium on the Granting of Secondhand Article Dealer and Secondhand Jewelry Licenses.

H.11. It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve Resolution 115-13.

On roll call vote, motion carried unanimously and said resolution was thereupon approved:

### **Resolution 115-13**

By the Mayor - To approve a three-lot Certified Survey Map to be located at 7701 Green Bay Road. (Meijer)

# I. APPOINTMENTS/ REAPPOINTMENTS BY THE MAYOR

It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve:

I.1. Reappointment of Alderperson Daniel Prozanski, Jr., (4429-88th Place, Kenosha) to the Transit Commission for a three-year term which will expire June 7, 2016.

On roll call vote, motion carried unanimously.

# J. PUBLIC CONSTRUCTION AND IMPROVEMENT CONTRACTS

It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve:

J.1. Award of Professional Service Contract for Project 13-1421 Emerald Ash Borer Treatment Phase II to Trugreen, Inc. (Lake Forest, Illinois) in the amount of \$14,159.75.

On roll call vote, motion carried unanimously.

# K. OTHER CONTRACTS AND AGREEMENTS

It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve:

K.1. Request for Conveyance of Easement Rights to Carthage College for Installation of Fiber Network Extension Across Alford Park and Alford Park Drive.

On roll call vote, motion carried unanimously.

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# L. RECOMMENDATIONS FROM THE COMMITTEE ON FINANCE

It was moved by Alderperson Kennedy, seconded by Alderperson LaMacchia, to approve:

L.1. Disbursement #13 - \$4,768,077.85.

L.2. 2014 Community Development Block Grant Fund Allocation Plan.

On roll call vote, motion carried unanimously.

# M. RECOMMENDATIONS FROM THE COMMITTEE ON PUBLIC WORKS

# N. RECOMMENDATIONS FROM THE COMMITTEE ON PUBLIC SAFETY & WELFARE

# O. REPORTS AND RECOMMENDATIONS OF BOARDS AND COMMISSIONS

It was moved by Alderperson Kennedy, seconded by Alderperson Ohnstad, to approve:

O.1. Conditional Use Permit for a Tattoo Parlor to be located at 2308-63rd Street. (Kalaca Tattoo)

A public hearing was held. Abel De Los Santos, applicant, appeared.

On roll call vote, motion carried 14-1 with Alderperson Bogdala voting no.

It was moved by Alderperson Prozanski, seconded by Alderperson LaMacchia, to approve:

O.2. Conditional Use Permit for a 192,940 s.f. grocery/retail store and a 2,509 s.f. gas station/convenience store to be located at 7701 Green Bay Road. (Meijer)

A public hearing was held. Attorney Brian Randall, of the law firm Friebert, Finerty, & St. John, SC, representing Meijer (Kenosha), spoke. Four citizens spoke: Melody Ferruzzi, Roland Pizzala, Phil Haney and Virginia Hoekstra.

O.2.1. It was moved by Alderperson Mathewson, seconded by Alderperson Ruffolo, to amend to add "r." to Conditions of Approval: "deliveries prohibited after 9:00 pm".

Alderperson Mathewson then clairified his motion: "no deliveries between the hours of 9:00 pm and 5:00 am".

On roll call vote, motion failed 3-12 with Alderpersons Bogdala, Ruffolo and Mathewson voting aye.

Alderperson Bogdala then requested that Miss Roderick come to the podium to answer questions.

On roll call vote, original motion to approve carried unanimously.

At 10:30 pm, Mayor Bosman left the meeting and Council President Alderperson Haugaard presided as Acting Mayor.

At approximately 10:38 pm, during Alderperson Comments, quorum was lost.

# **ADJOURNMENT**

It was moved by Alderperson Kennedy, seconded by Alderperson Gordon, to adjourn at 10:38 pm. On a voice vote, motion carried.

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KEITH G. BOSMAN MAYOR

Attest:

DEBRA L. SALAS CITY CLERK/TREASURER