

The meeting was called to order at 7:00 p.m. by Mayor St. Marie-Carls. Following the Pledge of Allegiance and a moment of silence for the community, roll call was taken.

Present: Mayor St. Marie-Carls, Alderpersons Wattawa, Schandel, McSweeney, and Klug

Also Present: City Administrator Johnsrud, City Attorney Alexy, Deputy City Clerk/Treasurer DeMores, Police Chief Dietrich, City Engineer Dejewski, Building Inspector Vretenar, and interested citizens

Excused: Council President Brickner, Alderperson Tutaj, Fire Chief Lockwood, City Clerk/Treasurer Uecker

**Statement of Open Meeting Compliance:**

Deputy City Clerk/Treasurer DeMores stated that the meeting has been properly noticed and posted.

**Presentation:**

Alan Richards representing the St. Francis Lions Club presented a check for \$1900 from the proceeds of the annual golf outing to the City of St. Francis for the purchase of a piece of fire rescue equipment to be determined by Police Chief Dietrich and Fire Chief Lockwood.

**Resolutions and Ordinances:**

Moved by Alderperson Klug, seconded by Alderperson McSweeney to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis IU Institutional District with a Special Use under §455-26(C) of the City of St. Francis Zoning Code – 3120 South Lake Drive (Bay View Park) . Motion carried. **Ordinance No. 1396**

Moved by Alderperson Klug seconded by Alderperson McSweeney to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis IU Institutional District with a Special Use under §455-26(C) of the City of St. Francis Zoning Code – 4235 South Lipton Avenue (Greene Park) . Motion carried. **Ordinance No. 1397**

Moved by Alderperson Klug, seconded by Alderperson McSweeney to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis IU Institutional District with a Special Use under §455-26(C) of the City of St. Francis Zoning Code – 4800 South Lake Drive (Sheridan Park) . Motion carried. **Ordinance No. 1398**

**Minute Approval:**

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to place on file the minutes of the Common Council meeting held August 2, 2016. Motion carried.

**Reports from Committees/Commissions/Boards:**

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to place on file the minutes as listed under Reports from Committees/Commissions/Boards as listed on the August 16, 2016 Common Council Agenda. Motion carried.

**Action Items from Committees/Commissions/Boards:**

Moved by Alderperson Wattawa, seconded by Alderperson Klug to approve a Carnival License for St. Francis Days on September 1-4, 2016 at Vretenar Memorial Park. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to approve Temporary Beverage Operator's Licenses for Jeffrey Budnik, Richard Hackl, Russell Iwanski, and Richard Stelloh. Motion Carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to approve a Temporary Class "B"/"Class B" Retailer's License for St. Francis Days – Steve Hecker, Agent for September 1-4, 2016 at Vretenar Memorial Park. Motion carried.

Moved by Alderperson Klug seconded by Alderperson Wattawa to approve the honorary name of Veterans Memorial Way to South Nicholson Avenue from East Bolivar Avenue to East Denton Avenue as recommended by the Board of Public Works and to prepare any resolution/ordinance required. Motion carried.

Moved by Alderperson McSweeney, seconded by Alderperson Klug to deny the request from Paul Frenn to vacate and delete right-of-way on South Lake Drive at 3907 South Lake Drive due to the street being a connecting highway which may have DOT jurisdiction on the release of the right-of-way and due to possible future development in the area as recommended by the Board of Public Works. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to deny the request to allow parking on South Arctic Avenue from East Howard Avenue to East Norwich Avenue due to the requirement of the TEA Grant funding to not allow parking on the street, the area having parking on other adjacent streets, and the ability of the development to provide additional parking on-site as recommended by Board of Public Works. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to create a "No Parking" zone on South Nicholson Avenue from East Van Norman north approximately 85 feet north of the center line of East Van Norman Avenue, would east side as recommended by the Board of Public Works and direct City Attorney to create the appropriate ordinance. Motion carried.

Moved by Alderperson Klug, seconded by Alderperson McSweeney to refer to the Planning Commission to vacate and delete a portion of the south side right-of-way of East Martin Lane. Motion carried.

**Appointments to Committees/Commissions/Boards:**

Moved by Alderperson McSweeney, seconded by Alderperson Schandel to concur with Mayor's appointment of Darin Frerichs to the Planning Commission. Motion carried.

**Correspondence with Possible Action or Referral to Committees/Commissions/Boards:**

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to place on file with reference in the minutes the Mayor's Update #90. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to place on file the correspondence dated July 25, 2016 from the Cohesive Community Committee regarding Lake Drive Development. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to place on file the Block Party Application from Gordon Pierce – Gordie’s for August 21, 2016 to approve the request and to approve a Temporary Extension of Class ‘B’/”Class B” License Premises to Gordie’s – Gordon & Joyce Pierce of 2000 E. Cora Avenue on Sunday, August 21, 2016 from 9:00 a.m. – 9:00 p.m. with the following guidelines: all 3 sides of extension need to be fenced in as indicated on map; no bar or selling of alcohol in the street area; consumption of alcohol is allowed in the fenced in area; there is to be full co-operation with Police Department to prevent underage alcohol consumption; and cleanup is to be completed within one hour of close of event. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to accept the recommendation of City Engineer Dejewski to cancel Projects 4-2016 South Brook Place Reconstruction and 5-2016 East Martin Lane Reconstruction for the 2016 construction schedule and plan to do these in 2018. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to reject the bids for Project 4-2016 South Brook Place Reconstruction since the project has been cancelled. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Klug to reject the bids for Project 5-2016 East Martin Lane Reconstruction since the project has been cancelled. Motion carried.

Moved by Alderperson McSweeney, seconded by Alderperson Wattawa to place on file the correspondence from Lori Kabat requesting lighting in alley at 3419 East Howard Avenue and to forward to Public Works. Motion carried.

**Discussion Items with Possible Action:**

Moved by Alderperson Wattawa, seconded by Alderperson Klug to place on file and approve all vouchers on the Voucher List dated August 3, 2016 through August 16, 2016 in the amount of \$1,067,873.18. Motion carried.

**Training/Conference/Seminar Requests:**

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to place on file with reference in the minutes the Training/Conference/Seminar Request as listed on the August 16, 2016 Common Council Agenda and to approve the request with the necessary expenses as they are a budgeted item. Motion carried.

**Adjourn to Closed Session:**

Moved by Alderperson Wattawa, seconded by Alderperson McSweeney to adjourn to Closed Session pursuant to Wis. Stat. sec. 19.85(1) (e) for purposes of deliberating or negotiating the purchasing of public properties, the investing of public funds, or conducting other specified public business, whenever competitive or bargaining reasons require a closed session. Upon conclusion of the closed session, the Common Council will reconvene in Open session prior to taking any action regarding those matters that were discussed in Closed Session for which action in open

session is required. Items for discussion: Amendment to Offer to Purchase/Temporary Parking Request – Wixon, Inc.; and Potential Sale of City property on East Howard Ave – Tax Key 544-9005; and Tax Keys 544-003-010, 584-9004, 584-9003, and 584-9002. Roll Call Vote: Alderpersons Wattawa, Schandel, McSweeney, and Klug voting “aye”. Motion carried.

Time: 8:42 p.m.

Moved by Alderperson Schandel, seconded by Alderperson McSweeney to take a 3 minute recess. Motion carried.

Moved by Alderperson McSweeney, seconded by Alderperson Wattawa to reconvene in open session. Alderpersons McSweeney, Wattawa, Schandel, and Klug vote “Aye”. Motion carried.

Time: 9:52 p.m.

Moved by Alderperson Wattawa, seconded by Alderperson Schandel to authorize City Administrator to enter into an amendment to the Offer to Purchase with Wixon to extend Closing on the Offer to Purchase until December 8, 2016. Motion carried.

Moved by Alderperson Wattawa, seconded by Alderperson Schandel to authorize City Administrator to enter into licensing agreement with Wixon to permit parking of up to 8 trailers on City property through December 31, 2016 on terms discussed in closed session. Motion carried.

Moved by Alderperson Klug, seconded by Alderperson Wattawa to adjourn. Motion carried.

Time: 9:57 p.m.

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1396

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS

IN THE CITY OF ST. FRANCIS AS IU INSTITUTIONAL DISTRICT

WITH A SPECIAL USE UNDER § 455-26(C) OF

THE CITY OF ST. FRANCIS ZONING CODE

3120 South Lake Drive

(Bay View Park)

WHEREAS, a request dated January 25, 2016 has been filed by Chris Abele, Milwaukee County Executive (“Applicant”), to rezone certain lands within the City of St. Francis described herein and incorporated by reference as Exhibit A (the “Subject Property”); and

WHEREAS, the Subject Property is currently zoned as part of the IU Institutional District under the City of St. Francis Zoning Code; and

WHEREAS, the Subject Property is currently used for purposes of a Milwaukee County park, and said use constitutes a legal nonconforming use; and

WHEREAS, the State of Wisconsin has recently created Wisconsin Statutes Section 59.17(2)(b)(3) which empowers the County Executive to take numerous actions regarding County owned lands, including acquisition and sale, except that the Milwaukee County Board continues to have the authority to control land that is zoned as Park on or after July 14, 2015; and

WHEREAS, in order to ensure that Milwaukee County parks that are located within the City of St. Francis will continue to be subject to the control of the Milwaukee County Board, the County Executive has requested that the City of St. Francis enact a zoning ordinance that allows parks and to specifically zone Bay View Park as “park”; and

WHEREAS, the City of St. Francis does not currently have a zoning district specifically limited to park purposes; and

WHEREAS, property in the IU Institutional District may be used for park purposes only if a Special Use is approved by the Common Council under §§ 455-26(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of the Planning Commission’s recommendation(s); and

WHEREAS, by virtue of its current use for park purposes, all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, is present in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since on or about January 26, 2016; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on February 24, 2016 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled "Review", prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (1) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (2) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (3) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (4) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (5) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- (6) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (7) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following "considerations" as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (1) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (2) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (3) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (4) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on August 2, 2016 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions

and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property IU Institutional District – Special Use, subject to the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The special use permit granted herein shall apply only to the specific use of the Subject Property by the Applicant for the operation of a county park is hereby granted subject to initial and continued compliance with each and every one of the following conditions:

1. The Subject Property shall be used solely for purposes of equipping operating and maintaining those county buildings, structures and facilities that are in existence as of the date of this Ordinance including, without limitation because of enumeration, existing swimming pools, tennis courts, playgrounds, bathing beaches, bathhouses and other similar currently existing public recreational facilities.
2. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
3. Signage identifying the name and type of business shall be consistent with signage used in other Milwaukee County parks as of the date of this Ordinance.
4. Applicants use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans considered by the Planning Commission at its meeting on February 24, 2016.
5. Hours of Operation. Hours of operation on the Subject Property shall be limited to hours established by Ordinance adopted by the Milwaukee County Board.
6. The Applicant shall be required to obtain any and all required licenses and permits from the City, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this Ordinance.
7. Traffic and Access Plans. This special use permit is limited to the currently existing traffic plan. Said traffic plan is hereby incorporated as a condition of the special use permit. In addition:
  - A. There shall be no overnight parking on the Subject Property.

8. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
9. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
10. No junk shall be accumulated or stored on the Subject Property.
11. Except as otherwise expressly provided herein, any amendment to any of the plans submitted by the Applicant in conjunction with the Application must be submitted to, and approved by the individuals, body, and/or bodies that originally approved said plan(s).
12. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
13. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property are subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
14. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
15. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
16. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
17. The special use hereby granted shall be subject to all limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
18. The special use granted under this Ordinance may be amended, varied, altered, or revoked only pursuant to the terms of this Ordinance and the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.

19. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 22<sup>nd</sup> day of August 2016.

/s/CoryAnn St. Marie-Carls, Mayor

ATTEST:

/s/Anne B. Uecker, City Clerk/Treasurer

**Exhibit A**

**Legal Description of Subject Property**

**Tax Key Number 542-9999-000**

Known as 3120 South Lake Drive in the City of St. Francis, Milwaukee County, Wisconsin.

All that part of NW 1/4 sec 14-6-22 E lying northerly of Lake Road and southerly of Schlosser subdivision

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1397

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS

IN THE CITY OF ST. FRANCIS AS IU INSTITUTIONAL DISTRICT

WITH A SPECIAL USE UNDER § 455-26(C) OF

THE CITY OF ST. FRANCIS ZONING CODE

4235 South Lipton Avenue

(Greene Park)

WHEREAS, a request dated January 25, 2016 has been filed by Chris Abele, Milwaukee County Executive (“Applicant”), to rezone certain lands within the City of St. Francis described herein and incorporated by reference as Exhibit A (the “Subject Property”); and

WHEREAS, the Subject Property is currently zoned as part of the IU Institutional District under the City of St. Francis Zoning Code; and

WHEREAS, the Subject Property is currently used for purposes of a Milwaukee County park, and said use constitutes a legal nonconforming use; and

WHEREAS, the State of Wisconsin has recently created Wisconsin Statutes Section 59.17(2)(b)(3) which empowers the County Executive to take numerous actions regarding County owned lands, including acquisition and sale, except that the Milwaukee County Board continues to have the authority to control land that is zoned as Park on or after July 14, 2015; and

WHEREAS, in order to ensure that Milwaukee County parks that are located within the City of St. Francis will continue to be subject to the control of the Milwaukee County Board, the County Executive has requested that the City of St. Francis enact a zoning ordinance that allows parks and to specifically zone Greene Park as “park”; and

WHEREAS, the City of St. Francis does not currently have a zoning district specifically limited to park purposes; and

WHEREAS, property in the IU Institutional District may be used for park purposes only if a Special Use is approved by the Common Council under §§ 455-26(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of the Planning Commission’s recommendation(s); and

WHEREAS, by virtue of its current use for park purposes, all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, is present in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since on or about January 26, 2016; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on February 24, 2016 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled "Review", prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (8) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (9) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (10) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (11) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (12) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- (13) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (14) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following "considerations" as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (5) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (6) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (7) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (8) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on August 2, 2016 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions

and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property IU Institutional District – Special Use, subject to the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The special use permit granted herein shall apply only to the specific use of the Subject Property by the Applicant for the operation of a county park is hereby granted subject to initial and continued compliance with each and every one of the following conditions:

20. The Subject Property shall be used solely for purposes of equipping, operating and maintaining those county buildings, structures and facilities that are in existence as of the date of this Ordinance including, without limitation because of enumeration, existing swimming pools, tennis courts, playgrounds, bathing beaches, bathhouses and other similar currently existing public recreational facilities.
21. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
22. Signage identifying the name and type of business shall be consistent with signage used in other Milwaukee County parks as of the date of this Ordinance.
23. Applicants use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans considered by the Planning Commission at its meeting on February 24, 2016.
24. Hours of Operation. Hours of operation on the Subject Property shall be limited to hours established by Ordinance adopted by the Milwaukee County Board.
25. The Applicant shall be required to obtain any and all required licenses and permits from the City, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this Ordinance.
26. Traffic and Access Plans. This special use permit is limited to the currently existing traffic plan. Said traffic plan is hereby incorporated as a condition of the special use permit. In addition:
  - B. There shall be no overnight parking on the Subject Property.

27. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
28. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
29. No junk shall be accumulated or stored on the Subject Property.
30. Except as otherwise expressly provided herein, any amendment to any of the plans submitted by the Applicant in conjunction with the Application must be submitted to, and approved by the individuals, body, and/or bodies that originally approved said plan(s).
31. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
32. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property are subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
33. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
34. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
35. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
36. The special use hereby granted shall be subject to all limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
37. The special use granted under this Ordinance may be amended, varied, altered, or revoked only pursuant to the terms of this Ordinance and the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.

38. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 22<sup>nd</sup> day of August 2016.

/s/CoryAnn St. Marie-Carls, Mayor

ATTEST:

/s/Anne B. Uecker, City Clerk/Treasurer

**Exhibit A**

**Legal Description of Subject Property**

**Tax Key Number 585-0077-000**

Known as 4235 South Lipton Avenue, in the City of St. Francis, Milwaukee County, Wisconsin.  
Harbor View Terrace all of blocks 6, 7, 8 11, 12, 13, 14, 15 & 16 - Exempt

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1398

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS

IN THE CITY OF ST. FRANCIS AS IU INSTITUTIONAL DISTRICT

WITH A SPECIAL USE UNDER § 455-26(C) OF

THE CITY OF ST. FRANCIS ZONING CODE

4800 South Lake Drive

(Sheridan Park)

WHEREAS, a request dated January 25, 2016 has been filed by Chris Abele, Milwaukee County Executive (“Applicant”), to rezone certain lands within the City of St. Francis described herein and incorporated by reference as Exhibit A (the “Subject Property”); and

WHEREAS, the Subject Property is currently zoned as part of the IU Institutional District under the City of St. Francis Zoning Code; and

WHEREAS, the Subject Property is currently used for purposes of a Milwaukee County park, and said use constitutes a legal nonconforming use; and

WHEREAS, the State of Wisconsin has recently created Wisconsin Statutes Section 59.17(2)(b)(3) which empowers the County Executive to take numerous actions regarding County owned lands, including acquisition and sale, except that the Milwaukee County Board continues to have the authority to control land that is zoned as Park on or after July 14, 2015; and

WHEREAS, in order to ensure that Milwaukee County parks that are located within the City of St. Francis will continue to be subject to the control of the Milwaukee County Board, the County Executive has requested that the City of St. Francis enact a zoning ordinance that allows parks and to specifically zone Sheridan Park as “park”; and

WHEREAS, the City of St. Francis does not currently have a zoning district specifically limited to park purposes; and

WHEREAS, property in the IU Institutional District may be used for park purposes only if a Special Use is approved by the Common Council under §§ 455-26(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of the Planning Commission’s recommendation(s); and

WHEREAS, by virtue of its current use for park purposes, all required data pursuant to § 455-48(D) of the City of St. Francis Zoning Code including, but not limited to all information required under § 455-47 of the City of St. Francis Zoning Code, is present in sufficient detail to permit the evaluation of the approval criteria set forth in § 455-48 of the City of St. Francis Zoning Code; and

WHEREAS, the Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since on or about January 26, 2016; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on February 24, 2016 upon due notice to the public; and

WHEREAS, pursuant to § 455-48(E), entitled "Review", prior to making any recommendation to the Common Council regarding the requested Special Use approval, the Planning Commission reviewed the site, existing and proposed structures, architectural plans, neighboring uses, parking areas, driveway locations, street access, traffic generation and circulation, drainage, sanitary and storm sewer, water systems, landscaping, park requirements and proposed plan of operation in relation to the standards and considerations detailed in § 455-48 of the City of St. Francis Code of Ordinances; and

WHEREAS, § 455-48(F) of the City of St. Francis Code of Ordinances provides that no special use permit shall be recommended or granted pursuant to Chapter 455 of the City Code of Ordinances unless the applicant shall establish the following:

- (15) Chapter and Comprehensive Smart Growth Plan purposes and intent. The proposed use and development will be in harmony with the general and specific purposes for which Chapter 455 was enacted and for which the regulations of the zoning district in question were established and with the general purpose and intent of the City of St. Francis Comprehensive Smart Growth Plan or element thereof.
- (16) No undue adverse impact. The proposed use and development will not have a substantial or undue adverse or detrimental effect upon or endanger adjacent property, the character of the area, or the public health, safety, morals, comfort, and general welfare and will not substantially diminish and impair property values within the community or neighborhood.
- (17) No interference with surrounding development. The proposed use and development will be constructed, arranged, and operated so as not to interfere with the use and development of neighboring property in accordance with the applicable zoning district regulations.
- (18) Adequate public facilities. The proposed use and development will be served adequately by essential public facilities and services, such as streets, public utilities, including public water supply system and sanitary sewer, police and fire protection, refuse disposal, public parks, libraries, schools, and other public facilities and utilities, or the applicant will provide adequately for such facilities.
- (19) No traffic congestion. The proposed use and development will not cause undue traffic congestion nor draw significant amounts of traffic through residential streets. Adequate measures will be taken to provide ingress and egress so designed as to minimize traffic congestion in the public streets.

- (20) No destruction of significant features. The proposed use and development will not result in the destruction, loss, or damage of any natural, scenic, or historic feature of significant importance.
- (21) Compliance with standards. The special use shall, in all other respects, conform to the applicable regulations of the district in which it is located, except as such regulations may, in each instance, be modified by the Common Council pursuant to the recommendations of the Planning Commission.

WHEREAS, the Planning Commission has recommended to the Common Council for the City of St. Francis ("Common Council") that the requested zoning be made and that the General Development/Site Plan be approved upon satisfaction of certain conditions that are incorporated herein; and

WHEREAS, the Planning Commission in making its recommendation, and the Common Council, having carefully reviewed the recommendation of the Planning Commission in making its determination as to the approval of the zoning requested, have given consideration to the following "considerations" as required by § 455-48(H) of the City of St. Francis Code of Ordinances:

- (9) Public benefit. Whether and to what extent the proposed use and development at the particular location requested are necessary or desirable to provide a service or a facility that is in the interest of the public convenience or that will contribute to the general welfare of the neighborhood or community.
- (10) Alternative locations. Whether and to what extent such public goals can be met by the location of the proposed use and development at some other site or in some other area that may be more appropriate than the proposed site.
- (11) Mitigation of adverse impacts. Whether and to what extent all steps possible have been taken to minimize any adverse effects of the proposed use and development on the immediate vicinity through building design, site design, landscaping, and screening.
- (12) Establishment of precedent of incompatible uses in the surrounding area. Whether the use will establish a precedent of, or encourage, more intensive or incompatible uses in the surrounding area.

WHEREAS, notice having been properly given, a public hearing was held before the Common Council on August 2, 2016 as required by said Section 455-48(C); and

WHEREAS, having determined that all procedural and notice requirements have been satisfied, having given the matter due consideration, and having based its determination on the effect of the granting of such rezoning on the health, safety, and welfare of the community and the immediate neighborhood in which said use will be located, and having given due consideration to the municipal problems involved as well as the impact on the community as to noise, dust, smoke, odor, and others, hereby determines that the rezoning will not violate the spirit or intent of the Zoning Code for the City of St. Francis, will not be contrary to the public health, safety, or general welfare of the City of St. Francis, will not be hazardous, harmful, noxious, offensive, or a nuisance by reason of noise, dust, smoke, odor, or other similar factors and will not, for any other reason, cause a substantial adverse effect on the property values and general desirability of the neighborhood as long as the operation is conducted pursuant to the following conditions

and in strict compliance with the same and is consistent with the recommendations found in the City of St. Francis comprehensive plan;

NOW, THEREFORE, the Common Council of the City of St. Francis, Milwaukee County Wisconsin, DO ORDAIN AS FOLLOWS:

SECTION 1: Commencing upon the date hereof, the Zoning Map of the City of St. Francis is hereby conditionally amended to rezone the Subject Property IU Institutional District – Special Use, subject to the conditions stated in Section 2 of this Ordinance being fully met.

SECTION 2: CONDITIONS IMPOSED.

The special use permit granted herein shall apply only to the specific use of the Subject Property by the Applicant for the operation of a county park is hereby granted subject to initial and continued compliance with each and every one of the following conditions:

39. The Subject Property shall be used solely for purposes of equipping, operating and maintaining those county buildings, structures and facilities that are in existence as of the date of this Ordinance including, without limitation because of enumeration, existing swimming pools, tennis courts, playgrounds, bathing beaches, bathhouses and other similar currently existing public recreational facilities.
40. The Applicant is required and must have all plans current, approved by the Planning Commission for the City of St. Francis, and on file with the Planning Commission for the City of St. Francis. The Applicant shall be entitled to amend or change any plan contemplated herein subject to the aforementioned conditions and subject to the Planning Commission for the City of St. Francis approval and without a public hearing, if such amendments and/or change is not a substantial change from the original plan as approved and as allowed herein.
41. Signage identifying the name and type of business shall be consistent with signage used in other Milwaukee County parks as of the date of this Ordinance.
42. Applicants use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, plan of operation, and related plans considered by the Planning Commission at its meeting on February 24, 2016.
43. Hours of Operation. Hours of operation on the Subject Property shall be limited to hours established by Ordinance adopted by the Milwaukee County Board.
44. The Applicant shall be required to obtain any and all required licenses and permits from the City, County, State, and Federal Government. If any license or permit is issued, any and all conditions of the same are incorporated herein and made a part of this Ordinance.
45. Traffic and Access Plans. This special use permit is limited to the currently existing traffic plan. Said traffic plan is hereby incorporated as a condition of the special use permit. In addition:
  - C. There shall be no overnight parking on the Subject Property.

46. The Applicant shall comply with all Federal, State, County, and local rules, codes, ordinances, and regulations in the construction, operation, and maintenance of the Subject Property. In the event any applicable law(s), regulation(s), condition(s), restriction(s), and/or ordinance(s) conflict, the more restrictive shall control.
47. The Applicant is required to properly maintain the Subject Property at all times and in full compliance with the property maintenance ordinance provisions of the City of St. Francis, as amended from time-to-time, to the satisfaction of the Building Inspector.
48. No junk shall be accumulated or stored on the Subject Property.
49. Except as otherwise expressly provided herein, any amendment to any of the plans submitted by the Applicant in conjunction with the Application must be submitted to, and approved by the individuals, body, and/or bodies that originally approved said plan(s).
50. The Applicant must pay all fees, costs, and assessments due and owing to the City of St. Francis and all costs and expenses incurred by the City of St. Francis, including legal and engineering fees and costs, arising out of or related to the Application, the review thereof, this Ordinance, and subsequent development of the Subject Property.
51. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property are subject to these conditions of approval. Applicant waives any claim(s) that it may have against the City of St. Francis, including, but not limited to, claims for damages, costs, and expenses, and claims of vested rights to the proposed development of the Subject Property, in the event any owner(s) of the Subject Property do not agree to the required terms.
52. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, and Health Department pertaining to the Application and subsequent development and operation on the Subject Property under this Ordinance.
53. Any use not specifically listed as permitted shall be considered to be prohibited except as may be otherwise specifically provided herein. In the case of a question as to the classification of use, the question shall be submitted to the Planning Commission for determination.
54. No use is hereby authorized unless that use is conducted in a lawful, orderly, and peaceful manner. Nothing in this Ordinance shall be deemed to authorize any public or private nuisance or to constitute a waiver, exemption, or exception to any law, ordinance, order, or rule of either the City of St. Francis, the County of Milwaukee, the State of Wisconsin, the United States of America, or other duly constituted authority except only to the extent that it authorizes a nonconforming use of the Subject Property in specific respects expressly described herein. This Ordinance shall not be deemed to constitute a building permit, nor shall this Ordinance constitute any other license or permit required by City Ordinance or other law or regulation.
55. The special use hereby granted shall be subject to all limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
56. The special use granted under this Ordinance may be amended, varied, altered, or revoked only pursuant to the terms of this Ordinance and the procedures and subject to the standards and limitations provided in Chapter 455 of the City of St. Francis Zoning Code for its original approval.

57. Any violation of this Ordinance shall constitute a violation of the Zoning Ordinance for the City of St. Francis and shall be subject to the enforcement procedures contained in the City of St. Francis Zoning Code, as amended from time-to-time, and such other remedies as may be available to the City of St. Francis under Wisconsin law.

SECTION 3: SEVERABILITY.

The several sections of this Ordinance are declared to be severable. If any section or provision thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful, or unenforceable, such declaration shall apply only to the specific section(s) or portion(s) thereof directly specified in said declaration, and shall not affect the validity of any other provisions, sections, or portions of the Ordinance, which shall remain in full force and effect. Any other ordinances whose terms are in conflict with the provisions of this Ordinance are hereby repealed as to those terms that conflict.

SECTION 4: EFFECTIVE DATE.

This Ordinance shall take effect upon its passage and posting/publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 22<sup>nd</sup> day of August 2016.

/s/CoryAnn St. Marie-Carls, Mayor

ATTEST:

/s/Anne B. Uecker, City Clerk/Treasurer

**Exhibit A**

**Legal Description of Subject Property**

**Legal Description For: 4800 South Lake Drive**

**Tax Key Number 543-9004-001 and 543-9005-001**

Known as 4800 South Lake Drive in the City of St. Francis, Milwaukee County, Wisconsin.

543-9004-001 - CERTIFIED SURVEY MAP NO. 5579 LOT 1, EXC PART RE-DIVIDED AS PAR. 2 OF CSM-6843, SE 14-6-22

543-9005-001 - CERTIFIED SURVEY MAP NO. 5579 LOT 2, EXC. PART RE-DIVIDED AS PAR. 3 & 4 OF CSM-6843, SE 14-6-22