

MINUTES OF THE COMMON COUNCIL MEETING HELD FEBRUARY 19, 2019

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

Present: Mayor Tutaj, Alderpersons Wattawa, Schandel, Brickner, Feirer, Damon and Drew

Also Present: City Administrator Johnsrud, City Attorney Alexy, City Clerk/Treasurer Uecker, City Engineer Dejewski, Fire Chief Poplar, Police Chief Hunter, and interested citizens

Statement of Open Meetings Compliance:

City Clerk/Treasurer Uecker stated that the meeting had been properly posted and noticed.

Public Hearing:

- None

Presentation:

- None

Consent Agenda:

Moved by Alderwoman Schandel, seconded by Alderman Damon to place on file with reference in the minutes and approve the items as listed under Consent Agenda on the February 19, 2019 Common Council Agenda. Motion carried.

Items Removed from Consent Agenda:

None

Recommendation of Action from Committees/Commissions/Boards:

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve Beverage Operator's Licenses – New for Antonia Lara and Samantha Thomas. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Wattawa to approve a Beverage Operator's License – Renewal for Jeremy McGowan. Motion carried.

Moved by Alderman Feirer, seconded by Alderman Damon to concur with the recommendation from the Board of Public Works to update the 2019 Road Capital Plan as follows: Move East St. Francis Avenue between the railroad tracks and South Kinnickinnic Avenue from 2019 to 2020; move East Norwich Avenue east and west of South Pennsylvania Avenue from 2020 to 2019; and to move East Martin Lane and South Kingan Avenue between East Waterford Avenue and East Denton Avenue to 2022. Motion carried.

Moved by Alderman Feirer, seconded by Alderwoman Schandel to concur with the recommendation of the Board of Public Works to award the design of East Norwich Avenue east and west of South Pennsylvania Avenue to RA Smith in the amount of \$34,450. Motion carried.

Resolutions and Ordinances:

Moved by Alderman Damon, seconded by Alderwoman Schandel to introduce and adopt an Ordinance to Create Article V of Chapter 262 of the City of St. Francis Code of Ordinances Regulating the Application and Sale of Coal Tar Sealant Products. Motion carried. **Ordinance No. 1442**

Discussion and Action Items:

- Mid America Steel Drum
- Suburban Mutual Assistance Response Teams (SMART) Agreement

Move by Alderman Brickner, seconded by Alderman Feirer to suspend the agenda and take up Item #1 under Correspondence with Possible Action or Referral to Committees/Commissions/Boards. Motion carried.

Moved by Alderwoman Schandel, seconded by Alderman Damon to place on file with reference in the minutes the correspondence dated February 14, 2019 from Chief Hunter regarding SMART Agreement and to adopt the agreement. Motion carried.

Appointments to Committees/Commissions/Boards:

- None

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

Moved by Alderman Damon, seconded by Alderman Wattawa to place on file with reference in the minutes the Application for Special Event Through City – All Community Events for March 9, 2019 and to approve the application. Motion carried.

Moved by Alderman Damon, seconded by Alderwoman Schandel to place on file with reference in the minutes the Application for Special Event Through City – Katie Seely for May 17, 2019 and to approve the application. Motion carried.

Moved by Alderman Damon, seconded by Alderman Wattawa to place on file with reference in the minutes the correspondence dated February 11, 2019 from Memories Car Club regarding request for Street Closing and to approve the request. Motion carried.

Convene into Closed Session:

Moved by Alderman Brickner, seconded by Alderman Damon to convene into closed session pursuant to Wisconsin Statute sec. 19.85(1) (g) Conferring with legal counsel for the governmental body who is rendering oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is or is likely to become involved – Offer to Purchase for 2517 East Norwich Avenue. The following voted “aye”: Alderman Wattawa, Alderman

MINUTES OF THE COMMON COUNCIL MEETING HELD FEBRUARY 19, 2019

Damon, Alderman Feirer, Alderwoman Schandel, Alderman Drew and Alderman Brickner.
Motion carried.

Time: 7:41 p.m.

Moved by Alderman Feirer, seconded by Alderman Wattawa to reconvene into Open Session.
Motion carried.

Time: 7:59 p.m.

Moved by Alderwoman Schandel, seconded by Alderman Damon to accept the Offer to Purchase dated February 4, 2019 from Makers Village Investors Group, LLC for the property known as 2517 East Norwich Avenue. Motion carried.

Adjourn:

Moved by Alderman Damon, seconded by Alderman Wattawa to adjourn. Motion carried.

Time: 8:02 p.m.

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1442

AN ORDINANCE TO CREATE ARTICLE V OF CHAPTER 262 OF THE CITY OF ST. FRANCIS
CODE OF ORDINANCES REGULATING THE APPLICATION AND SALE OF
COAL TAR SEALANT PRODUCTS

WHEREAS, the Common Council of the City of St. Francis finds that the City's water resources are a natural asset, which enhance the environmental, recreational, cultural and economic resources of the area and contribute to the general health and welfare of the public; and

WHEREAS, the United States Geological Survey (USGS) has found that polycyclic aromatic hydrocarbons (PAHs), which are contained in coal tar sealants and other high PAH sealants, volatilize off sealed pavement and can be inhaled by humans and animals; are broken down by sunlight and abraded by vehicle and foot traffic; can be carried off of sealed pavement as small particles by that same traffic and transported into homes and onto nearby soils; and can be carried by storm water and other run off into the water resources of the City; and

WHEREAS, the USGS has also shown that PAHs are an environmental concern because they are toxic to aquatic life, resulting in a loss of species and a lower number of organisms; and

WHEREAS, studies cited by the USGS have shown that PAH compounds have been proven to be carcinogenic, mutagenic, and teratogenic to humans according to the International Agency for Research on Cancer; individuals with lifelong exposure to coal-tar sealcoat treated pavements and playgrounds have a 38-fold higher risk of cancer; and the American Medical Association therefore advocates for legislation to ban the use of pavement sealcoats that contain PAHS or require use of sealcoat products that contain minimal PAH; and

WHEREAS, environmental impacts and human health risks can be minimized and pavements can be maintained by utilizing alternative products or methods, absent PAHs; and

WHEREAS, the Common Council finds that regulating the amount of contaminants, including Polycyclic Aromatic Hydrocarbons (PAHs) contained in coal tar sealant products and other high PAH sealant products, entering the water resources of the *City* will improve and protect public health and the water quality of the City's and neighboring water resources;

NOW, THEREFORE, THE COMMON COUNCIL OF THE CITY OF ST. FRANCIS DO HEREBY ORDAIN as follows:

SECTION 1: Article V of Chapter 262 of the City of St. Francis Code of Ordinances is hereby created to read as follows:

Article V. Coal Tar Sealant Products

- A. COAL TAR is a byproduct of the process used to refine coal. Coal tar contains high levels of polycyclic aromatic hydrocarbons (PAHs).
- B. COAL TAR SEALANT PRODUCT means a pavement sealant product that contains coal tar, coal tar pitch, coal tar pitch volatiles, RT-12, Refined Tar or any variation assigned the Chemical Abstracts Service (CAS) numbers 65996-92-1, 65996-93-2, 65996-89-6, or 8007-45-2 or related substances.
- C. HIGH PAH SEALANT PRODUCT means any pavement sealant product that contains greater than 0.1% polycyclic aromatic hydrocarbons (PAHs) by weight, including, but not limited to, coal tar sealant products and sealant products containing steam-cracked petroleum residues, steam-cracked asphalt, pyrolysis fuel oil, heavy fuel oil, ethylene tar, or any variation of those substances assigned the chemical abstracts service number 64742-90-1, 69013-21-4 or related substances.
- D. PAVEMENT SEALANT PRODUCT, or sealcoat, is any substance that is typically applied on paved surfaces to protect the surfaces. This may include but is not limited to sealant products that are coal tar or asphalt based.
- E. POLYCYCLIC AROMATIC HYDROCARBONS (PAHs) are a group of organic chemicals that are formed during the incomplete combustion of coal, oil, gas, or other organic substances, are present at high levels in coal tar, and are known to be harmful to humans, fish, and other aquatic life.
- F. DIRECTOR means the City Engineer/Director of Public Works.

262-69 ENFORCEMENT.

Violations of this ordinance may be enforced by the Building Inspector, Zoning Administrator, or City Attorney.

262-70 REGULATION OF THE APPLICATION AND SALE OF COAL TAR OR OTHER HIGH PAH SEALANT PRODUCTS.

- A. Except as provided in § 262-71, “Exemptions”, No person shall apply any coal tar sealant product or high PAH sealant product within the City of St. Francis.
- B. No person shall sell, offer to sell, or display for sale any coal tar sealant product or high PAH sealant product within the City of St. Francis.
- C. Any person who sells pavement sealant products shall prominently display, in the area where such pavement sealant products are sold, a notice that contains the following language: “The application of coal tar sealant products or other high PAH sealant products on driveways, parking lots and all other paved surfaces in the City of St. Francis is prohibited by Chapter 262, Article V of the City of St. Francis Code of Ordinances. Polycyclic Aromatic Hydrocarbons (PAHs), are a group of

organic chemicals that are known to cause cancer and are toxic to aquatic life. Coal tar and other high-PAH sealant products are a major source of PAHs that can travel into homes, buildings, and soils, or be carried by stormwater and other run off into the water resources of the City of St. Francis.”

- D. No person shall allow a coal tar sealant product or other high PAH sealant product to be applied upon property that is under that person’s ownership or control.
- E. No person shall contract with any commercial applicator, residential or commercial developer, or any other person for the application of any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of St. Francis.
- F. No commercial applicator, residential or commercial developer, or other similar individual or organization shall direct any employee, independent contractor, volunteer, or other person to apply any coal tar sealant product or high PAH sealant product to any driveway, parking lot, or other surface within the City of St. Francis.

262-71 EXEMPTIONS.

The Director may exempt a person from the requirements of § 262-70 if the person is conducting bona fide research concerning the effects of a coal tar sealant product or high PAH sealant product on the environment; the use of the coal tar product or high PAH sealant product is required for said research; and the Director determines that said research will not cause significant contamination of the surrounding environment, including soils and aquatic ecosystems, and will not unduly endanger human health.

262-72.1 PENALTY.

- A. Any person who shall cause, permit, or suffer any violation of this provisions of this Article shall, upon conviction, be subject to a forfeiture of not less than \$500 for each offense plus statutory costs and assessments.
- B. Each day of each violation constitutes a separate offense and subject to an additional forfeiture.

SECTION 2: SEVERABILITY.

The several sections of this ordinance are declared to be severable. If any section or portion thereof shall be declared by a court of competent jurisdiction to be invalid, unlawful or unenforceable, such decision shall apply only to the specific section or portion thereof directly specified in the decision, and shall not affect the validity of any other provisions, sections or portions thereof of the ordinance. The remainder of the ordinance 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.

MINUTES OF THE COMMON COUNCIL MEETING HELD FEBRUARY 19, 2019

SECTION 3: EFFECTIVE DATE.

This ordinance shall take effect upon passage and publication as provided by law.

Passed and adopted at a regular meeting of the Common Council of the City of St. Francis this 19th day of February 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj

Ken Tutaj, Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC

Anne Uecker, City Clerk/Treasurer