

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 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, Assistant City Engineer Lindhorst, 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:

- Change of Zoning R-3 SU to R-3 SU – 3701 South Packard Avenue
- Project No. 1-2018 – South Kirkwood Avenue from East Martin Lane to East Tesch Avenue and South Kirkwood Avenue from East Lunham Avenue to Dead End

Presentation:

- None

Consent Agenda:

Moved by Alderman Wattawa, Alderman Damon seconded by to place on file with reference in the minutes and approve the items as listed under Consent Agenda on the April 16, 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 Damon to approve Beverage Operator's Licenses New for Kristen Wieneke. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Damon to approve a Direct Sellers & Solicitors Permit for Michael Y. O'Brien, Jr. – Edward Jones. Motion carried.

Moved by Alderman Brickner, seconded by Alderwoman Schandel to approve a Special Event Outdoor Cabaret License for Redbar – Nicholas Shell, Agent, 2245 East St. Francis Avenue for June 23, 2019 from 10:00 a.m. to 6:00 p.m. Motion carried.

Moved by Alderman Brickner, seconded by Alderwoman Schandel to approve a Temporary "Class B" Extension of Premise for Redbar – Nicholas Shell, Agent, 2245 East St. Francis Avenue for June 23, 2019. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Damon to write-off the Delinquent Personal Property taxes for 2010-2014 for Tax Key No. 106005 – 3042 East Layton Avenue. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Damon to approve a one year contract with Tactical Athlete Health and Performance Institute. Motion carried.

Moved by Alderman Wattawa, seconded by Alderwoman Schandel to receive and acknowledge the recommendation from the Planning Commission to approve the Zoning Code Amendment to Section 455-45(H) and to direct the City Clerk to set the Public Hearing. Motion carried.

Moved by Alderman Feirer, seconded by Alderman Drew to concur with the recommendation from the Board of Public Works to add S. Iowa Avenue from E. St. Francis Avenue to E. Howard Avenue, E. Tesch Avenue from S. Lipton Avenue to S. Packard Avenue and E. Denton Avenue from S. Packard Avenue to S. Lake Drive to the Snow Emergency Routes. Motion carried.

Moved by Alderman Feirer, seconded by Alderwoman Schandel to concur with the recommendation from the Board of Public Works to amend the ordinance for no parking on S. Lake Drive as recommended by the City Engineer as amended at the April 11, 2019 meeting. Motion carried.

Resolutions and Ordinances:

Moved by Alderman Feirer, seconded by Alderman Wattawa to introduce and adopt a Resolution of Commendation for Service to the City of St. Francis Conferred on Dimitri Kamolov. Motion carried. **Resolution No. 2781**

Moved by Alderman Drew, seconded by Alderman Wattawa to introduce and adopt an Ordinance to Conditionally Rezone Certain Lands in the City of St. Francis from R-3 Residential Mixed-Use District to R-3 Residential Mixed-Use District with a Special Use under §455-23(C) of the City of St. Francis Zoning Code – 3701 South Packard Avenue. Motion carried. **Ordinance No. 1445**

Moved by Alderwoman Schandel, seconded by Alderman Brickner to introduce and adopt an Ordinance to Repeal and Create Section 374-3(G) of the City of St. Francis Code of Ordinances to Establish an Appeal Procedure Concerning Sewer Charges. Motion carried. **Ordinance No. 1446**

Discussion and Action Items:

- Mid America Steel Drum

Moved by Alderman Damon, seconded by Alderman Brickner to enter into a License Agreement with Joan Kelly for 3701 South Packard Avenue. Motion carried.

Appointments to Committees/Commissions/Boards:

Moved by Alderman Wattawa, seconded by Alderman Brickner to place on file and concur with the Mayor's appointments. Motion carried.

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

Moved by Alderwoman Schandel, seconded by Alderman Wattawa to place on file with reference in the minutes the correspondence dated April 11, 2019 from the City Engineer regarding filling of vacant position in the DPW and to authorize the filling of the position. Motion carried.

Moved by Alderman Wattawa, seconded by Alderman Brickner to place on file with reference in the minutes the correspondence dated April 11, 2019 from the City Engineer regarding Capital purchase for Highway Department and to approve the request. Motion carried.

Moved by Alderman Brickner, seconded by Alderman Feirer to place on file with reference in the minutes the Application for Block Party/Street Closing – Ellen Street on June 23, 2019 and to approve the request. Motion carried.

Moved by Alderman Feirer, seconded by Alderman Damon to place on file with reference in the minutes the correspondence dated April 10, 2019 from Everybody Plays regarding donation for a wheelchair swing, to accept the donation and to have the swing installed. Motion carried.

Convene into Closed Session:

Moved by Alderman Brickner , seconded by Alderman Damon to convene into Closed Session pursuant to Wis. Stat. sec. 19.85(1)(e) for the purpose 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. Items for discussion – Offer to Purchase (City owned parcel at Norwich and Kinnickinnic Avenues) and 19.85(g) conferring with legal counsel for the government 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 – 2040 East St. Francis Avenue – BRI 2040, LLC and 3770 South Pennsylvania Avenue – BRI 3770, LLC. The following voted "aye": Alderman Wattawa, Alderman Damon, Alderman Feirer, Alderwoman Schandel, Alderman Drew and Alderman Brickner. Motion carried.

Time: 8:41 p.m.

Reconvene into Open Session:

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

Time: 9:24 p.m.

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

Moved by Alderman Damon, seconded by Alderman Wattawa to authorize City Officers to execute the Offer to Purchase as presented with revisions referred to in Closed Session and to authorize City Officers to execute documents necessary to accomplish closing on the sale. Motion carried.

Adjourn:

Moved by Alderman Drew, seconded by Alderman Feirer to adjourn. Motion carried.

Time: 9:28 p.m.

Resolution No. 2781

RESOLUTION OF COMMENDATION FOR
SERVICE TO THE CITY OF ST. FRANCIS
CONFERRED ON DIMITRI KAMOLOV

At a regular meeting of the Common Council of the City of St. Francis, Milwaukee County, Wisconsin, held on the 16th day of April, 2019 a quorum being present and a majority of the Council voting therefore, said Council does resolve as follows:

WHEREAS, DIMITRI KAMOLOV began as an Auxiliary in the St. Francis Police Department in 1988 and served until 1992. He also served as a Dispatcher from 1990-1992. On June 16, 1992 Kamolov began his career as a full time Police Officer for the City of St. Francis; and

WHEREAS, DIMITRI KAMOLOV was promoted to 2nd Shift Acting Shift Commander in 1996 and remained in that position until 2002; and

WHEREAS, DIMITRI KAMOLOV has been a Community Resource Officer from 2006 until the date of his retirement. Under his guidance and joint leadership, the program was acknowledged by the National Night Out Association for placing 1st place in the Nation for Cities under 15, 000 in 2007, 2009, 2014 and 2017; and

WHEREAS, DIMITRI KAMOLOV, has also been actively involved in Choose Not to Lose, Shop with a Cop, Concerns of Police Survivors Summer Camp and has been a vital member of the South Shore Joint Tactical Unit since its inception in 2010.

WHEREAS, DIMITRI KAMOLOV has retired from the St. Francis Police Department effective April 16, 2019; and

NOW, THEREFORE, BE IT RESOLVED by the Common Council of the City of St. Francis, Milwaukee County, Wisconsin, on behalf of itself and all the residents of the City of St. Francis that it hereby highly commends DIMITRI KAMOLOV for more than twenty-six years of valuable service with the City of St. Francis; and

BE IT FURTHER RESOLVED that the best wishes for health, happiness and success are hereby tendered to DIMITRI KAMOLOV, in all his future endeavors.

PASSED and APPROVED this 16th day of April, 2019.

/s/Ken Tutaj

Mayor

ATTEST:

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

/s/Anne B. Uecker, MMC/WCPC

City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1445

AN ORDINANCE TO CONDITIONALLY REZONE CERTAIN LANDS IN THE CITY OF ST. FRANCIS FROM R-3, RESIDENTIAL MIXED-USE DISTRICT TO R-3 RESIDENTIAL MIXED-USE DISTRICT WITH A SPECIAL USE UNDER § 455-23(C) OF THE CITY OF ST. FRANCIS ZONING CODE 3701 S PACKARD AVENUE

WHEREAS, an Application dated March 18, 2019 having been filed by Megan P. Vetting, as agent for The Heart Revival, LLC, a Wisconsin limited liability company (“Applicant”), with the consent of Property Owner Joan Kelly, to rezone the lands commonly referred to as 3701 South Packard Avenue in the City of St. Francis, Milwaukee County, Wisconsin, which are more particularly described in the attached Exhibit A (the “Subject Property”) to the R-3 Residential Mixed Use District with a Special Use Permit; and

WHEREAS, pursuant to the terms of Ordinance No. 1425, the Subject Property is currently zoned as part of the R-3 Residential Mixed-Use District with a Special Use Permit to permit use the Subject Property as a “Personal Service Establishment, General” and, specifically, a small beauty salon; and

WHEREAS, the Application seeks use of the Subject Property for purposes of a Specialty or Personal Instruction School, as defined under § 455-61 of the City of St. Francis Zoning Code, to permit the use of the Subject Property as a yoga studio for up to fifteen (15) students; and

WHEREAS, use of Subject Property for a yoga studio is only permitted in the R-3 Residential Mixed-Use District if a Special Use is approved by the Common Council under §§ 455-23(C) and 455-48 of the City of St. Francis Zoning Code following a public hearing and receipt of Planning Commission recommendations; and

WHEREAS, the Applicant has supplied 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, 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 initial Application and related information provided by Applicant has been available for public inspection in the office of the City Clerk since March 18, 2019; and

WHEREAS, the Application was considered by the City of St. Francis Planning Commission at a regular meeting held on March 27, 2019 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

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

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

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

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 April 16, 2019 as required by 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 R-3 Residential Mixed Use District– Special Use to permit use of the Subject Property as a yoga studio for instruction of up to fifteen (15) students, subject to initial and continued compliance with each of the conditions stated in Section 2 of this Ordinance being fully met.

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

SECTION 2: CONDITIONS IMPOSED.

The rezoning of the Subject Property to permit its use as a yoga studio as set forth in the Application dated March 18, 2019 and related plans and materials submitted by the Applicant and on file in the office of the Zoning Administrator 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 in compliance with all applicable provisions of the City Code including, but not limited to, fire safety, noise, parking, public health, sign regulations, and zoning regulations.
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. Services provided shall consist of classes of up to fifteen (15) persons in the practice of yoga. No retail sales shall be conducted on the Subject Property unless Applicant obtains approval of an amended Plan of Operation from the Planning Commission.
4. Permitted accessory uses for the Subject Property shall be as set forth in § 455-23, R-3 Residential Mixed-Use District, of the City of St. Francis Zoning Code, as amended from time-to-time.
5. Use of the Subject Property, including but not limited to the lot layout, shall be in substantial conformity with the Application, site plan, and related plans presented to the Planning Commission at its meeting on March 27, 2019 as such plans may be subsequently approved by the Planning Commission from time to time. Use of the Property shall also conform with a Plan of Operation to be submitted by the Applicant for approval of the Planning Commission. Thereafter, the Site Plan, plan of operation, and related plans shall be deemed incorporated into this Ordinance by reference and violation of the requirements of any such plan(s) shall be deemed to constitute a violation of this Ordinance.
6. Signage on the Subject Property shall conform to the requirements of the City Code. Applicant shall obtain all necessary permit(s).
7. No junk shall be stored or allowed to accumulate on the Subject Property.
8. Applicant shall provide and maintain off-street parking on the Subject Property, including employee parking, in accordance with the provisions of § 455-38 of the City of St. Francis Code of Ordinances. All parking on, and ingress/egress to, the Subject Property shall be in accordance with the site plan approved by the Planning Commission from time-to-time and shall be clearly striped in accordance with the approved Site Plan and permanently maintained. Disabled parking spaces shall be clearly marked and located building on the Subject Property in accordance with applicable statutes.

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

9. No idling of diesel engines or trucks shall be permitted on the Subject Property except while loading/unloading operations are actively being conducted.
10. Hours of operation on shall be as set forth in the Plan of Operation approved by the Planning Commission under ¶ 5, above.
11. Applicant shall provide dumpster screening as approved by the Planning Commission.
12. Applicant shall maintain the existing fence on the Subject Property as a buffer in compliance with § 455-36 of the City of St. Francis Code of Ordinances.
13. Applicant shall complete all asphalt work (patching and sealcoating) and striping of the surface parking on the Subject Property by June 30, 2019.
14. Applicant shall provide evidence to the Zoning Administrator of having secured rights by license/purchase agreement(s) with one or more adjacent property owners to twelve or more additional surface parking areas prior to the issuance of any occupancy permit. Applicant shall, thereafter perpetually maintain such rights as a condition of this Special Use.
15. Lighting fixtures shall be of a type and be located in such a manner that no light or reflected glare is directed off-site and shall provide that no light is directed above a horizontal plane passing through the bottom of the fixture. All glare shall be directed onto the Subject Property and away from adjacent properties. All exterior lighting of the Subject Property shall comply with City Code and any applicable FAA regulations.
16. No alterations shall be made to existing grades/drainage without the prior written approval of the City Engineer of plans submitted by the Applicant.
17. Prior to the issuance of an occupancy permit, Applicant shall install landscaping including, but not limited to, landscaping creating a buffer zone between any adjacent residential property in accordance with a landscaping plan prepared by Applicant and approved by the Planning Commission. In addition, Applicant shall, prior to the issuance of an occupancy permit, complete installation of a make-up air flow handling system in accordance with Wisconsin State law;
18. If hazardous substances are used and/or stored, a Applicant shall file a report with the Fire Department explaining the proposed facility's intended methods of operation and all such hazardous materials, their quantities, classifications, locations, and the effects of any chemical (material) inter-mixing in the event of an accident or spill.
19. Applicant shall maintain the Subject Property in a neat appearance and maintained in accordance with all applicable provisions of the City of St. Francis Code of Ordinances and as amended from time-to-time.
20. 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. No outdoor storage shall be permitted on the Subject Property.

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

21. 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.
22. 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.
23. 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.
24. Any application for use of, or construction on, the lands described on Exhibit A, is an acknowledgement by Applicant that the Subject Property is 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.
25. Applicant shall satisfy all comments and concerns of the Building Inspector, City Engineer, Fire Chief, Police Chief, and Health Department pertaining to the Application and subsequent development as a condition of the issuance of any certificate of occupancy and, thereafter, pertaining to the operation on the Subject Property under this Ordinance.
26. 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.
27. 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.
28. The special use hereby granted shall be subject to all applicable limitations set forth in § 455-48(L) of the City of St. Francis Zoning Code, as amended from time to time.
29. The special use granted under this Ordinance may be amended, varied, or altered only pursuant to 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.
30. 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

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

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.

31. The special use granted under this Ordinance, shall be subject to acceptance in writing by the Applicant.

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 16th day of April 2018.

City of St. Francis

By: /s/Ken Tutaj

Ken Tutaj, Mayor

ATTEST:

/s/Anne B. Uecker, MMC/WCPC

Anne B. Uecker, City Clerk/Treasurer

STATE OF WISCONSIN

CITY OF ST. FRANCIS

MILWAUKEE COUNTY

ORDINANCE NO. 1446

AN ORDINANCE TO REPEAL AND CREATE SECTION 374-3(G)
OF THE CITY OF ST. FRANCIS CODE OF ORDINANCES
TO ESTABLISH AN APPEAL PROCEDURE CONCERNING SEWER CHARGES

WHEREAS, Section 374-3(E) of the City of St. Francis Code of Ordinances establishes regulations concerning sanitary sewer billing; and

WHEREAS, City of St. Francis Staff has recommended modification of the existing regulations within § 374-3 to provide a uniform appeal procedure; and

WHEREAS, the Common Council finds that adoption of such recommended revisions will promote the health, safety, and welfare of the public;

NOW, THEREFORE, the Common Council of the City of St. Francis, Wisconsin do ordain as follows:

SECTION 1. Section 374-3(G) of Chapter 374, entitled "Sewers and Water", of the City of St. Francis Code of Ordinances is hereby created to read as follows:

G. Appeals.

1. Purpose. Metered water users are responsible for their own water usage, as well as any usage resulting from any leakage, spillage, or usage which may or may not enter the St. Francis Sewer Utility. As a result, it is the responsibility of metered water users to identify usage that may be abnormal and report it to Milwaukee Water.
2. Eligibility. Any metered water user who believes that their most recent quarterly sewer billing is abnormal due to possible excess water usage that is not accountable to the user may request an adjustment to that sewer bill if at least one of the following conditions is met:
 - a. The metered water user provides a receipt from a licensed plumber documenting (a) the existence of one or more water leak sources on the property subject to the sewer bill; and (b) confirming all identified leak sources have been professionally repaired [Note: Repairs made by the metered user are ineligible for consideration];
or
 - b. The metered water user provides documentary evidence that a faulty water meter has been identified and replaced by Milwaukee Water Works.
3. Adjustment. Metered users meeting the eligibility requirements in subparagraph G(2) may receive an adjustment to the most recent quarterly sewer billing in an amount whichever is greater:
 - a. The usage credit in units of one hundred cubic feet ("CCF") of water granted from Milwaukee Water; or

MINUTES OF THE COMMON COUNCIL MEETING HELD APRIL 16, 2019

- b. The difference between the most recent quarterly sewer billing and a comparable historical quarterly water usage (as reasonably determined by the City Administrator) in CCF [Example: 3rd Quarter use is 54 CCF to 3rd Quarter use in a previous comparable year is 21 CCF = adjustment of 33 CCF]; or
 - c. The difference from the most recent quarterly billing to the last previously billed quarter water usage in CCF, if the metered user has occupied the property less than 12 months [Example 3rd Quarter use is 54 CCF to 2nd Quarter use is 21 CCF – adjustment = adjustment of 33 CCF].
4. Determination. The City Administrator, in consultation with the City Engineer and City Clerk, shall review any request for adjustment and provide a determination concerning eligibility for an adjustment under this subsection. If eligibility is determined, the adjustment is made to the current sewer billing. A person aggrieved by a determination by the City Administrator under this Section may proceed as provided under Chapter 4 of this Code.

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.

SECTION 3: EFFECTIVE DATE. This ordinance shall take effect immediately 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 16th day of April 2019.

CITY OF ST. FRANCIS

BY: /s/Ken Tutaj

Mayor

ATTEST: /s/Anne B. Uecker, MMC/WCPC

City Clerk/Treasurer

Exhibit A

Legal Description of Subject Property

Legal Description For: 3701 S. Packard Avenue

Tax Key Number 544-9998-001

That part of the Southwest $\frac{1}{4}$ of Section 14, Town 6 North, Range 22 East, in the City of St. Francis, Milwaukee County, Wisconsin, bounded and described as follows: Commencing at the Southeast corner of said $\frac{1}{4}$ Section; thence North along the East line of said $\frac{1}{4}$ Section 1235.60 feet to a point; thence S. $89^{\circ} 56' 15''$ W. 33.00 feet to the point of beginning; thence North 73.50 feet to a point; thence S. $89^{\circ} 56' 15''$ W. 132.00 feet to a point; thence South 73.50 feet to a point; thence N. $89^{\circ} 56' 15''$ E. 132.00 feet to the point of beginning.