

CITY OF GLENDALE COMMON COUNCIL

Meeting Minutes

January 8, 2024

Regular meeting of the Common Council of the City of Glendale held in City Hall, 5909 North Milwaukee River Parkway, Glendale, Wisconsin and via Zoom conference call.

The meeting was called to order by Mayor Bryan Kennedy at 6:02 p.m.

Roll Call: Present: Mayor Bryan Kennedy, Ald. Tomika Vukovic, Jim Daugherty, John Gelhard, Phillip Bailey, Steve Schmelzling, and JoAnn Shaw. Absent: None.

Other Officials Present: Karl Warwick, City Administrator; Mark Ferguson, Police Chief; John Fellows, Community Development Director; and Megan Humitz, City Clerk.

PLEDGE OF ALLEGIANCE.

The members of the Common Council, City staff, and all those present pledged allegiance to the flag of the United States of America.

OPEN MEETING NOTICE.

City Administrator Warwick advised that in accordance with the Open Meeting Law, the local news media was advised on Thursday, January 4, 2024, of the date of this meeting; that the Agenda was posted on the official bulletin board of City Hall, the Glendale Police Department, and the North Shore Library; that copies of the Agenda were made available to the general public in the Municipal Building and the Police Department; and those persons who requested, were sent copies of the Agenda.

PUBLIC COMMENT.

Glendale resident Kathleen Carey, 5711 N Crestwood Blvd, wanted to compliment the creator of the newsletter on the comprehensiveness of the content.

CONSENT AGENDA.

I. File No.

Adoption of Minutes of Meeting held on December 11, 2023 and Approval of Accounts Payable.

Motion by Ald. Gelhard, seconded by Ald. Vukovic, to Adopt the Minutes of Meeting held December 11, 2023, as amended, and Approve Accounts Payable was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

PUBLIC HEARING: AN ORDINANCE AMENDING TITLE 12, CHAPTER 1 “ZONING CODE,” SECTION 13.1.34 “B-1 BUSINESS AND COMMERCIAL DISTRICT.”

Community Development Director, John Fellows, stated the B-1 Zoning District dates to at least as early as 1951. It dates to 2002 in its current form, the Plan Commission approved creation of the 23 subdistricts named “A” through “P” in August 2002 and revised that December. The impetus for the change occurred shortly after the 2000 Census and the then-community visioning project, “Glendale 2021 – Our Vision.” The City at the time wanted to end its image as merely a place for fast food. Staff and policymakers examined Glendale’s business districts and wanted to overhaul the commercial zoning codes. It appears as if the B-1 District has not changed in that time. The various B-1 subdistricts each reflect individual commercial districts within the City. The B-1 M subdistrict, described in Section 13.1.34(c)(20) of the Glendale Code of General Ordinances, consists of three parcels along the southern boundary of Glendale with the City of Milwaukee, just north of the Capitol Drive right-of-way. Those parcels have structures which cross the municipal boundary and reside in both municipalities. As can be seen on Glendale’s Zoning Map, within Glendale the B-1 M area is surrounded by parcels zoned M-1. Much of Capitol Drive to the east and west of Glendale’s portion within the City of Milwaukee allow for restaurants, as do portions

of the E. Capitol Drive business district in the Village of Shorewood. A tenant at 100 E. Capitol Drive is interested in opening a sit-down restaurant concept which as previously stated is currently not allowed in the B-1 M subdistrict.

Glendale's B-1 M subdistrict does not permit any restaurants, putting those commercial parcels at a competitive disadvantage with neighboring City of Milwaukee parcels in the broader Capitol Drive business district. For the structure containing Outpost Foods at 100 E. Capitol Drive, the southern-most 15 feet of the structure reside in Milwaukee, and the remainder in Glendale. This has created confusion whereby tenants believe certain uses are acceptable based on the City of Milwaukee's zoning, but they may not be in the City of Glendale. The parcels at 208 and 230 E. Capitol Drive have their structures and majority-tax increment in the City of Milwaukee with their rear parking lots in Glendale.

Mayor Kennedy opened the public hearing. Mayor Kennedy called three times for anyone on the Zoom call or in the Council chambers that wished to speak for public comment. Hearing no public comment, Ald. Shaw made the motion to close the public hearing, seconded by Ald. Schmelzling. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

Motion by Ald. Bailey, seconded by Ald. Shaw, to approve an Ordinance Amending Title 13, Chapter 1 "Zoning Code," Section 13.1.34 "B-1 Business and Commercial District" was approved. Ayes: Ald. Vukovic, Gelhard, Bailey, and Schmelzling. Noes: Ald. Daugherty and Ald. Shaw. Absent: None. Abstain: None. Motion carried.

PUBLIC HEARING: CONSIDERATION OF A REQUEST OF A GENERAL AND SPECIFIC DEVELOPMENT PLAN FOR A PLANNED DEVELOPMENT DISTRICT FOR 4160 N. PORT WASHINGTON ROAD, IN A PD PLANNED DEVELOPMENT DISTRICT, PLANNED USE LAND USE CLASSIFICATION, TAX KEY NUMBERS 242-1198-004 AND 242-1198-003.

Community Development Director, John Fellows, stated, the Common Council at its meeting on April 10, 2023 approved a general development agreement and rezoning of this parcel to a PD Planned Development District for prospective property buyer, Meta House, a 501(c)(3) nonprofit dedicated to treating women with substance abuse. The Planning and Architectural Review Commission at its meeting on May 2, 2023 recommended the Common Council approve Meta House's Development Agreement with the City. The Common Council, at its May 22, 2023 meeting, postponed consideration for the Development Agreement pending a payment in lieu of taxes (PILOT) agreement with Meta House. Meta House later requested a delay of Common Council consideration of the Development Agreement until July 24, 2023. Finally, on July 19, 2023, a Meta House representative informed the City it was no longer pursuing purchase of the subject property due to a breakdown in negotiations with the property owner. Due to the way Article D – PD Planned Development District is written within Title 13 - Zoning, the property has a PD zoning classification without any uses allowed due to the lack of an approved Specific Development Plan and a Development Agreement. To enable land uses, the property owner, Beerline Crossing LLC, seeks to have the Plan Commission and Common Council approve a revised General Development Plan, Specific Development Plan and then enter into a Development Agreement to reenable uses on the property.

For General and Specific Development Plans, the applicant desires to leave the building, site, and landscaping unchanged. The applicant has indicated that some exterior remodeling will occur in the future based upon the future projected uses. Specifics of these changes are not being presented. The applicant is aware that no exterior changes are being granted. The applicant is aware that an amendment to the PD and Development agreement will need to occur in the future of any site changes, new buildings, exterior renovations and similar. The Planning and Architectural Review Commission held a public hearing on November 7, 2023, and provided a positive recommendation to Council for approval. The Common Council requested a Public Hearing for January 8, 2024. Adoption of the General and Specific Development Plans and a corresponding development agreement with the above indicated uses would allow the indicated uses. Other uses not listed would need be required to return to the Planning and Architectural Review Board and possibly Common Councils for approval. Plans and specifications for the temporary fence will need to be provided prior to the recommendation of the specific development plan by the Planning and Architectural Review Commission.

Mayor Kennedy Opened the public hearing. Mayor Kennedy called three times for anyone on the Zoom call or in the Council chambers that wished to speak for public comment. Hearing no public comment, Ald. Shaw made the motion to close the public hearing, seconded by Ald. Gelhard. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

Motion by Ald. Daugherty, seconded by Ald. Bailey, to approve a general and specific development plan for a Planned Development District for 4160 N. Port Washington Road, in a PD Planned Development District, in Planned Mixed Use land use classification, Tax Key Numbers 242-1198-004 and 242-1198-003, per Title 13, Article D of the municipal code.

Motion by Ald. Vukovic, seconded by Ald. Shaw, to lay over approval to a future meeting of a general and specific development plan for a Planned Development District for 4160 N. Port Washington Road, in a PD Planned Development District, in Planned Mixed Use land use classification, Tax Key Numbers 242-1198-004 and 242-1198-003, per Title 13, Article D of the municipal code, was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

NEW BUSINESS.

II. File No.

Presentation: Update from Wisconsin Department of Transportation's I-43 Projects

Representatives Tom Erdmann and Jason Lynch from the Wisconsin DOT were present to give updates on the main construction projects impacting Glendale. An update was provided on the I-43 North-South Project Schedule, the I-43 Brown Street to Capitol Project, and the I-43 URT Capitol Drive to Hampton Avenue Project, A lengthy discussion took place regarding the sound walls.

This item was for discussion purposes only. No action was taken on this item.

III. File No.

Recommendation from Legislative, Judiciary & Finance Committee to Approve the Application for Class "B" Beer Retailer License, and "Class B" Liquor Retailer License Filed by Wisconsin Athletic Club, LLC for WAC North Shore, located at 7601 N Port Washington Road.

Mayor Kennedy stated the State of Wisconsin requires any business selling alcohol to have an Alcohol Beverage License. All other licenses have been approved for the current location and all background checks have been concluded by the City of Glendale Police Department. Proposed agent, C. Misko, was approved by the Police Department. All applications are on file in the Clerk's office. The Legislative, Judiciary & Finance Committee held a meeting on January 8, 2024. The Legislative, Judiciary & Finance Committee recommended laying over the approval of a Class "B" Beer Retailer License, and "Class B" Liquor Retailer License filed by Wisconsin Athletic Club, LLC for WAC North Shore located at 7601 N Port Washington Road. Wisconsin Athletic Club, LLC for WAC North Shore, as a resident informed the Committee that approval of the license would be a violation of the City's Code of Ordinances, specifically 7.2.14(b), which prohibits employment of underage employees in a facility with a Class "B" license. The Common Council would first have to approve a change in the Code of Ordinances for this item to be recommended for approval.

Motion by Ald. Shaw, seconded by Ald. Gelhard, to layover approval to a future meeting of the Class "B" Beer Retailer License, and "Class B" Liquor Retailer License Filed by Wisconsin Athletic Club, LLC for WAC North Shore, located at 7601 N Port Washington Road was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

IV. File No.

Extinguish the Pilot Agreement with Lubavitch of Wisconsin, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 6789 to 6799 North Green Bay Avenue moving forward.

V. File No.

Extinguish the Memorandum of Understanding with Ohr Ha Torah, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 7020 North Green Bay Avenue and 7420 North Berwyn Avenue moving forward.

VI. File No.

Extinguish the Pilot Agreement for Payment in Lieu of Taxes with Torah Academy of Milwaukee, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 680 North Green Bay Avenue moving forward.

City Administrator Warwick stated the City of Glendale previously adopted three agreements with not-for-profit organizations, that are traditionally exempt from property taxes, to require these organizations pay to the City of Glendale property taxes equivalent to the assessed value only for the City's mill rate. The agreements do not require property tax collection for any other "eligible" government. The Council was provided with a summary of the agreements. Some of the agreements have amendments. Based on Administrator Warwick's reading of the agreement, the purpose was to compensate the City for the loss of revenue when converting a tax-paying business to a use that would not pay property taxes. The revenue received was meant to cover the cost of police and fire protection services and other essential services provided by the City. Mayor Kennedy has asked that this item be presented to the Common Council for consideration as there are other not-for-profit organizations, including other religious institutions that are fully exempt from property taxes and were never presented with similar Pilot Agreements. If these are extinguished, the City would have a remaining Property Tax Pilot Agreement with the Village of Whitefish Bay for taxes on their public works facility in Glendale.

Motion by Ald. Shaw, seconded by Ald. Daugherty, to layover the approval to extinguish the Pilot Agreement with Lubavitch of Wisconsin, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 6789 to 6799 North Green Bay Avenue moving forward until the City has a policy in place was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

Motion by Ald. Shaw, seconded by Ald. Daugherty, to layover the approval to extinguish the Memorandum of Understanding with Ohr Ha Torah, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 7020 North Green Bay Avenue and 7420 North Berwyn Avenue moving forward until the City has a policy in place was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

Motion by Ald. Shaw, seconded by Ald. Daugherty, to layover the approval to extinguish the Pilot Agreement for Payment in Lieu of Taxes with Torah Academy of Milwaukee, Inc. and relinquish the right to receive payments in lieu of taxes on the property located at 6800 North Green Bay Avenue moving forward until the City has a policy in place was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

VII. File No.

2024 World Migratory Bird Day Resolution

Mayor Kennedy stated World Migratory Bird Day Resolution is an annual Resolution required to be adopted in January and is required for the City's continued participation in the Bird City Wisconsin Award program. The actual date for World Migratory Bird Day is May 11, 2024. The Friends of Kletzsch Park will coordinate

Glendale's World Migratory Bird Day celebration on date to be determined. The City has participated in World Migratory Bird Day since 2015.

Motion by Ald. Daugherty, seconded by Ald. Shaw, to approve the 2024 World Migratory Bird Day Resolution as presented was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

VIII. File No. _____
Budget Amendments for 2023 Budget

City Administrator Warwick stated the 2023 Annual Program Budget was adopted on November 14, 2022. At the April 10th Common Council meeting, a budget amendment was approved for \$80,000 to purchase a police vehicle that was totaled, with the insurance revenue covering the cost of the vehicle replacement. A Budget Amendment was also approved, on November 22 reducing the cost of Public Works vehicle replacements from \$450,000 to \$325,000 as a result in the shift of when certain vehicles will arrive and purchasing replacement brine equipment to keep up with demand. This proposed budget amendment encompasses all year-end adjustments that were made during the year and approved as Estimated Year End figures in the adopted 2024 budget. The summary of the proposed budget amendments included in the Resolution are: Creation of a Finance Division in the General Fund with a Budget of \$722,283; Reduction in General Fund Administration expenditures by \$408,923, moving "Finance" expenditures to Finance; Increase in Finance Expenditures: Increase in North Shore Fire – Capital Outlay from \$70,259 to \$202,587 to represent the actual cost for this capital outlay; Creation of a line item for Plan Review and Inspections Previous Years of \$116,689; Unpaid expenditures for building plan review and inspection services that were unpaid from 2019 to 2022; Increase in Proprietary Fund Expenditures.

Motion by Ald. Bailey, seconded by Ald. Gelhard, to approve the Resolution Amending the 2023 City of Glendale Budget was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

IX. File No. _____
Review and Approval of Ordinance Repealing Section 7.19.1(c) of the Code of Ordinances of the City of Glendale Pertaining to Rummage Sale Permits

Administrator Warwick many years, the City of Glendale Ordinances has required a Rummage Sale Permit from any resident offering property for sale at a residential property. Permits have not been issued for rummage sales for many years and City staff do not feel it necessary to continue to require a permit for this purpose. Rummage sales are subject to the restrictions set forth in the Code of Ordinances, including hours of operation, location, number of rummage sales in a year (3), number of days permitted and signage. There have been no complaints in recent years of excessive rummage sales in the City. The remainder of the ordinance will remain as is, and excessive rummage sales will be handled on a complaint basis.

Motion by Ald. Vukovic, seconded by Ald. Daugherty, to approve Ordinance Repealing Section 7.19.1(c) of the Code of Ordinances of the City of Glendale Pertaining to Rummage Sale Permits was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, and Schmelzling. Noes: Ald. Shaw. Absent: None. Abstain: None. Motion carried.

X. File No. _____
Resolution Regarding Milwaukee Specific Sales Tax

Glendale resident Wayne Martin, 7275 N Port Washington Rd, raised some questions regarding this topic. Mr. Martin questioned how refunds will be administered to those who are erroneously charged. Mayor Kennedy clarified that the WI DOR has stated residents can take their receipts to the location they made their purchase and will be refunded. Unclaimed refunds will be segregated and put into the state coffers and will not be distributed

back to the City of Milwaukee. Mr. Martin questioned if any businesses have refused to give refunds. Mayor Kennedy indicated this process has just started, but he has not heard of any businesses who have not cooperated. Mr. Martin asked why there was a need for a resolution if there are no issues. Mayor Kennedy stated this was created before the developments over the past two days, and now the resolution is in line with what is occurring at the state level.

Mayor Kennedy stated the State recently allowed the City of Milwaukee to collect a 2% sales tax at locations within the City of Milwaukee, beginning January 1, 2024. As a result of shared zip codes, many of the communities that share zip codes with the City of Milwaukee have seen the 2% Milwaukee-specific sales tax appear on bills in their communities. Examples include, residential streaming service bills, bills for parts home repairs, receipts at restaurants and receipts at various grocery stores. Mayor Kennedy and Administrator Warwick checked the sale tax rates at various businesses and the Milwaukee-specific sales tax has appeared at some locations in the City of Glendale. Mayor Kennedy is asking the Common Council to adopt the attached Resolution seeking the immediate halting of the Milwaukee-specific sales tax at locations in the City of Glendale and requesting the City of Milwaukee return all improperly collected sales tax. Milwaukee County communities experiencing these same sales tax issues are initiating similar actions. Mayor Kennedy requested a change in the title of Resolution, striking "City of Milwaukee and."

Motion by Ald. Bailey, seconded by Ald. Gelhard, to approve a Resolution Requesting that the State of Wisconsin Immediately Take Action to Ensure that the City of Milwaukee Sales Tax is not Applied to Purchases Occurring at Residences and Businesses Located in the City of Glendale was approved, as amended. Ayes: Ald. Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: Ald. Vukovic. Absent: None. Abstain: None. Motion carried.

XI. File No.

Direct the City Attorney to Seek Relief Through the Court System or any other means to Cease Imposition of the City of Milwaukee 2% Sales Tax in the City of Glendale and refund all Improperly Collected Taxes.

Mayor Kennedy stated the Milwaukee-specific 2% sales tax is being applied to locations in the City of Glendale since it was imposed on January 1, 2024. The collection of any City of Milwaukee-specific sales tax in the City of Glendale is improper and illegal, and should it occur, that sales tax collection needs to immediately be halted. The item was created to direct the City Attorney to seek relief through the court system or any other means to cease the imposition of the City of Milwaukee Specific 2% Sales Tax in the City of Glendale and refund all improperly collected taxes. Mayor Kennedy requested this item be postponed indefinitely as he does not believe this will be necessary.

Motion by Ald. Shaw, seconded by Ald. Gelhard, to postpone indefinitely the authorization to direct the City Attorney to seek relief regarding the Milwaukee-specific sales tax. was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Abstain: None. Motion carried.

COMMISSION, COMMITTEE, BOARD, AND STAFF REPORTS.

There were several updates from Council members on the activities of the various Commissions, Committees and Boards on which they serve as a Member and an Administrator update.

CLOSED SESSION.

Motion by Ald. Shaw, seconded by Ald. Daugherty, to convene in Closed Session per Wis. Stat. Sec. 19.85(1)(g) to confer with legal counsel for the City who will render oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is involved (Glendale vs WE Energies, Public Service Commission Docket 6630-CC-237934), per Wis. Stats. §19.85(1)(c) to consider the employment, promotion, compensation, wage ranges or performance evaluation data of public employees, in all departments over which the Council has jurisdiction or exercises responsibility (Review

of Salary Adjustments), and per Wis. Stat. Sec. 19.85(1)(g) to confer with legal counsel for the City who will render oral or written advice concerning strategy to be adopted by the body with respect to litigation in which it is involved (An update and strategy in the case of City of Glendale v. Linda Reed). Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Motion carried.

A closed session of approximately 47 minutes was held. The Council discussed Glendale vs WE Energies, Public Service Commission Docket 6630-CC-237934, Review of Salary Adjustments, and the case of the City of Glendale v. Linda Reed.

Motion by Ald. Shaw, seconded by Ald. Bailey, to reconvene to open session and regular order of business. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Motion carried.

ACTION ON CLOSED SESSION ITEMS.

Mayor Kennedy stated there was one item from closed session that requires consideration, which is approval of the recommended salary adjustments.

Motion by Ald. Shaw, seconded by Ald. Schmelzling, to grant for 2023, a 3.5% salary increase which was given to non-represented staff also be given to the City Administrator, retroactive to January 1, 2023, was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Motion carried.

Motion by Ald. Bailey, seconded by Ald. Shaw, to authorize a 3.5% salary increase for non-represented staff, including the City Administrator, which is the same increase negotiated in collective bargaining with the Police Department, retroactive to January 1, 2024, was approved. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Motion carried.

ADJOURNMENT.

There being no further business, a motion was made by Ald. Shaw seconded by Ald. Gelhard, to adjourn the meeting. Ayes: Ald. Vukovic, Daugherty, Gelhard, Bailey, Schmelzling, and Shaw. Noes: None. Absent: None. Motion carried and adjournment of the Common Council was ordered at 9:06 p.m., until Monday, January 22, 2023, at 6:00 p.m.

Megan Humitz
City Clerk