



# City of Waukesha

City Hall,  
201 Delafield Street  
Waukesha, WI 53188

## Meeting Minutes - Final City Council

*Mayor Shawn Reilly, Dist. 1 - Ald. Terry Thieme  
Dist. 2 - Ald. Eric Payne, Dist. 3 - Ald. Chris Hernandez  
Dist. 4 - Ald. Joe Pieper, Dist. 5 - Ald. Peter Bartels  
Dist. 6 - Ald. Adam Jankowski, Dist. 7 - Ald. Daniel Manion  
Dist. 8 - Vance Skinner, Dist. 9 - Kathleen Cummings  
Dist. 10 - Ald. Steve Johnson, Dist. 11 - Ald. Roger Patton  
Dist. 12 - Ald. Aaron Perry, Dist. 13 - Ald. Andy Reiland  
Dist. 14 - Ald. Joan Francoeur, Dist. 15 - Ald. Cory Payne*

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Tuesday, October 7, 2014

6:30 PM

Council Chambers, City Hall  
Use lower level glass door.

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### Council Chambers, City Hall

#### Rollcall

*Ald. C. Payne arrived at 7:12 p.m. after roll call was taken.*

**Present:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

#### 2. Pledge of Allegiance

3. Announcement of Closed Sessions pursuant to Wis. Stats. 19.85(1)(g); to confer 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:

A. Alan B. Schulthess v. City of Waukesha, WC claim number 2011008834

B. City of Waukesha v. The Fifield Group, LLC, et al., Waukesha County Circuit Court case number 14 CV 1415

C. Disbursement of BID Funds

#### 4. Public Comment

*Dale & Angie Zeisberger, 2215 Saratoga Rd, Bob Deatrick, 3301 Fox Ridge Dr, Marilee Burczyk, 2310 Saratoga Rd. and Bette Naughton, 2311 Saratoga Rd. spoke against extending fire and EMS services to a portion of the City of New Berlin.*

#### 5. Approval of Minutes

**A. ID#14-1250** Approval of Minutes for September 16, 2014

**A motion was made by Ald. Thieme, seconded by Ald. Skinner, that the Minutes of September 16, 2014 be approved. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

## 6. Public Hearings

**A. ID#14-0889** Zoning Code Modification – Amend Section 22.56(2), ‘Setback Averaging,’ so it no longer mandates that residential homes must be set back further from the street than the Zoning Code normally requires if they are located next to other homes that are set back further from the street than required.

**A motion was made by Council President E. Payne, seconded by Ald. Pieper, that the Public Hearing be Opened on the Zoning Code Modification. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

**ID#14-1273** Close Public Hearing

**A motion was made by Council President E. Payne, seconded by Ald. Pieper, that the Public Hearing be Closed. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

**A. ID#14-0889** Zoning Code Modification – Amend Section 22.56(2), ‘Setback Averaging,’ so it no longer mandates that residential homes must be set back further from the street than the Zoning Code normally requires if they are located next to other homes that are set back further from the street than required.

**A motion was made by Ald. Francoeur, seconded by Council President E. Payne, approving that Zoning Code Modification – Amend Section 22.56(2), ‘Setback Averaging,’ so it no longer mandates that residential homes must be set back further from the street than the Zoning Code normally requires if they are located next to other homes that are set back further from the street than required. The motion carried by the following vote:**

**Aye:** 11 - Pieper, Bartels, Skinner, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme and Hernandez

**Nay:** 2 - Cummings and Jankowski

**Absent:** 2 - C. Payne and Johnson

**B. ID#14-1082** Public Hearing - Fall 2014 Street Tree Planting Program

*Dale Zeisberger, 2215 Saratoga Rd. spoke at the Public Hearing.*

**A motion was made by Council President E. Payne, seconded by Ald. Cummings, to Open the Public Hearing on the Fall 2014 Street Tree Planting Program. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

**ID#14-1274** Close Public Hearing

**A motion was made by Ald. Reiland, seconded by Ald. Cummings, that this Resolution be Closed the Public Hearing. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

**B. ID#14-1082** Public Hearing - Fall 2014 Street Tree Planting Program

**A motion was made by Ald. Thieme, seconded by Council President E. Payne, that the Fall 2014 Street Tree Planting Program be approved. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 2 - C. Payne and Johnson

## 7. New Business

**Ald. C. Payne arrived at 7:12 p.m.**

**A. ID#14-1239** Determination of whether to schedule a Committee of the Whole meeting to discuss the future of the Cemetery, to determine the date of the meeting, and to determine who will be invited to participate in the meeting.

**The motion made by Ald. Jankowski to schedule a Committee of the Whole meeting to discuss the future of the Cemetery for March 10, 2015, failed after the friendly amendment to move up the date was not accepted, and second by Ald. C. Payne was withdrawn.**

**ID#14-1275** Call the Question

**Ald. Skinner Called the Question with voting in favor by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Nay:** 1 - Cummings

**Absent:** 1 - Johnson

- A. ID#14-1239** Determination of whether to schedule a Committee of the Whole meeting to discuss the future of the Cemetery, to determine the date of the meeting, and to determine who will be invited to participate in the meeting.

**A motion was made by Council President E. Payne, seconded by Ald. Jankowski, that scheduling a Committee of the Whole meeting be approved to discuss the future of the Cemetery at a date to be set. The motion failed by the following vote:**

**Aye:** 5 - Cummings, C. Payne, Manion, E. Payne and Jankowski

**Nay:** 9 - Pieper, Bartels, Skinner, Patton, Perry, Francoeur, Reiland, Thieme and Hernandez

**Absent:** 1 - Johnson

### **Consent Agenda**

**A motion was made by Council President E. Payne, seconded by Ald. Reiland, that the Consent Agenda be approved. The motion carried by the following vote:**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

### **1. Other Boards and Commissions**

#### **2. Plan Commission - Jennifer Andrews**

- A. PC14 -0116** Oberlin Filter - 827 Silvernail Road - Certified Survey Map

### **3. Standing Committees**

#### **A. Finance Committee - Ald. Pieper**

- 1. ID#14-1161** Review and act on a request to recommend the Common Council approve retaining a special prosecutor for a conflict of interest case involving a City employee.
- 2. ID#14-1202** Review and act on a request to recommend the Common Council approve retaining a special prosecutor for a conflict of interest case involving a City employee.
- 3. ID#14-1168** Review and act on a request to recommend the Common Council to renew the Haz-Mat contract with Waukesha County.

**B. Building & Grounds Committee - Ald. E. Payne**

1. ID#14-0809 Install a "No Outlet" sign at the intersection of Griffith Ct. and Prairie Song Dr.
2. ID#14-0887 Establish a two way stop sign and crosswalk on Rempe Drive at Wildberry Ct.

**C. Ordinance & License Committee - Ald. Johnson**

## 1. Licenses

- a. ID#14-1172 INVITED Bartenders Applications
- b. ID#14-1163 Bartender Applications
- c. ID#14-1164 Eagles Club request for Extension of Premise for Oktoberfest
- d. ID#14-1165 Montessori School of Waukesha, request for Temporary "Class B" Retailer's License for MSOW's 50th Anniversary Gala to be held on October 4th, 2014 at the school.

## 2. Ordinances

**D. Human Resources - Ald. Francoeur**

1. ID#14-0881 Request for vacation accrual adjustment from Asst. City Attorney Gay.

**End of Consent****Reports**

- A. Transit Commission Report - Dr. Fred Abadi
- B. Water Utility Commission - Ald. Thieme
- C. Information Technology Board Report - Ald. Jankowski/Ald. Manion
- D. Landmarks Commission Report - Ald. Francoeur
- E. Redevelopment Authority Report - Jennifer Andrews
- F. Parks, Recreation & Forestry Board Report - Ald. Johnson
- G. Library Board Report - Ald. Reiland

H. Cemetery Commission Report - Ald. Jankowski

I. Waukesha Housing Authority Report - Ald. Hernandez

J. Community Development Block Grant Committee Report - Jennifer Andrews

K. Public Art Committee Report - Ald. Cummings

9. Plan Commission - Jennifer Andrews

10. Standing Committees

A. Finance Committee Report - Ald. Pieper

1. **ID#14-1169** Review and act on a request to recommend the Common Council approve an agreement between the City of Waukesha and the City of New Berlin to provide fire and EMS services to a portion of the City of New Berlin adjacent to Waukesha.

**A motion was made by Ald. Pieper, seconded by Ald. Manion, that an agreement between the City of Waukesha and the City of New Berlin to provide fire and EMS services to a portion of the City of New Berlin adjacent to Waukesha be approved. The motion failed by the following vote:**

**Aye:** 5 - Pieper, Cummings, Patton, Francoeur and Manion

**Nay:** 9 - Bartels, Skinner, Perry, C. Payne, Reiland, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

B. Building & Grounds Committee Report - Ald. E. Payne

C. Ordinance & License Committee Report - Ald. Johnson

- a. **ID#14-0741** Amended code sections 2.01, 3.06, and 3.08 regarding the appointing authority of Directors and Managers from the Mayor to the City Administrator  
First Reading 10-21-14  
Second Reading 11-06-14  
Third Reading 11-18-14

**A motion was made by Ald. Francoeur, seconded by Council President E. Payne, to hold this item until the draft is available for review. The motion carried by the following vote:**

**Aye:** 13 - Pieper, Bartels, Skinner, Cummings, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Nay:** 1 - Patton

**Absent:** 1 - Johnson

## D. Human Resources Committee Report - Ald. Francoeur

1. **ID#14-0877** Amendments to HR Policy B-17 - Employment of Limited Term Personnel - to limit the term of limited term employment to six (6) months unless approved by the City Administrator with pay rates to be approved by City Administrator.

**A motion was made by Ald. Francoeur, seconded by Ald. Thieme, to approve the Amendments to HR Policy B-17 - Employment of Limited Term Personnel - to limit the term of limited term employment to six (6) months unless approved by the City Administrator with pay rates to be approved by City Administrator. The motion carried by the following vote:**

**Aye:** 9 - Pieper, Bartels, Skinner, Patton, Francoeur, Reiland, Manion, Thieme and Hernandez

**Nay:** 5 - Cummings, Perry, C. Payne, E. Payne and Jankowski

**Absent:** 1 - Johnson

2. **ID#14-0878** HR Policy B-11 - Amendment to Policy B-11 to require approval of pay rates for Cooperative students by the City Administrator. If amendment to HR Policy B-11 is not approved, request to increase pay rate for Engineering Co-op students from \$11.00 to \$12.50 per hour with \$1.00 per hour increase per work session.

**A motion was made by Ald. Francoeur, seconded by Ald. Thieme, that Amendments to Policy B-11 to require approval of pay rates for Cooperative students by the City Administrator be approved. The motion carried by the following vote:**

**Aye:** 9 - Pieper, Bartels, Skinner, Patton, Francoeur, Reiland, Manion, Thieme and Hernandez

**Nay:** 5 - Cummings, Perry, C. Payne, E. Payne and Jankowski

**Absent:** 1 - Johnson

## 11. Board of Public Works Report - Dr. Fred Abadi

- A. **ID#14-1098** Disposition of the vault beneath public sidewalks at 802 N. Grand Ave. St. associated with future downtown street reconstruction projects.

a. Rescind the order by the Board of Public Works given at the July 17, 2014 meeting to retain the existing vault with a design plan approved by the Engineering Staff. Design and construction completed and paid for by the owner prior to October 2016. . It has been field verified that the vault does not extend into the City Right-of-Way.

**A motion was made by Ald. Pieper, seconded by Council President E. Payne, to approve the disposition of the vault beneath public sidewalks at 802 N. Grand Ave. St. associated with future downtown street reconstruction projects.**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

- B. ID#14-1160** Bids Received: Thursday, September 11, 2014 at 10:00 a.m. by Waukesha Water Utility
- a. S. East Ave. Water Main Replacement - STH 164 to Rivera Dr. Board recommends the Common Council concur with the Waukesha Water Utility Commission's award to Advance Construction on their low bid.

**A motion was made by Council President E. Payne, seconded by Ald. Thieme, that the bid award regarding the S. East Ave. Water Main Replacement - STH 164 to Rivera Dr. to Advance Construction be approved. The motion carried by the following vote:**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

12. Director of Public Works Report

13. City Attorney's Report

14. City Administrator's Report

**A. ID#14-1236** City Administrator's Report

15. Mayor's Report & Referrals

**A. ID#14-1235** Mayor's Summary of Meetings and/or Events

16. Referrals

*Ald. Patton to B & G that two parking places on the South Side of South Street in front of 233 & 237 be changed to 30 min. parking because of the new Army-Navy donation store which supports veteran causes.*

*Ald. Patton to Public Works that the cost of the bump outs and crosswalks on East Ave at South Street be added to the street improvement fund 410 budget for 2015.*

*Ald. Eric Payne to B & G to please install a handicap parking sign in front of 327 Morey Street.*

*Ald. Eric Payne to the Mayor to please place on the agenda for the last Common Council meeting in November to review the Common Council start time.*

*Ald. Eric Payne to B & G*

*to place no parking on the south side of Dopp St. 70'e and 70'w of the corner of Dopp and Greenwood.*



## 17. Closed Session

*Meeting went into Recess*

**A motion was made by Ald. Pieper, seconded by Council President E. Payne, that the meeting to into closed session:**

**1) Pursuant to Wis. Stats. §19.85(1)(g) to confer with the City Attorney to discuss the status and possible settlement of the worker compensation case titled Alan B. Schulthess v. City of Waukesha, WC claim number 2011008834, 2) pursuant to Wis. Stats. §19.85(1)(g) to confer with the City Attorney regarding a settlement proposal received in the lawsuit captioned City of Waukesha v. The Fifield Group, LLC, et al., Waukesha County Circuit Court case number 14 CV 1415, and 3) pursuant to Wis. Stats 19.85 (1)(g) to confer with the City Attorney to discuss the legal issues relating to the disbursement of BID funds.**

**The motion carried by the following vote:**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

18. Reconvene into open session pursuant to Wis. Stats. 19.85(2) for possible additional discussion and/or action concerning any of the issues discussed in closed session.

**A motion was made by Ald. Pieper, seconded by Council President E. Payne, that the meeting reconvene into open session pursuant to Wis. Stats. 19.85(2) for possible additional discussion and/or action concerning any of the issues discussed in closed session. The motion carried by the following vote:**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

- A. ID#14-1256** A motion will be made pursuant to Wis. Stats. §19.85(1)(g) to go into closed session to confer with the City Attorney to discuss the status and possible settlement of the worker compensation case titled Alan B. Schulthess v. City of Waukesha, WC claim number 2011008834.

**ID#14-1256. A motion was made by Ad Pieper, seconded by Council President E. Payne to approve the action of the City Attorney as discussed in closed session and proceed with the agreement and stipulation. Item passed by unanimous vote.**

- B. ID#14-1257** A motion will be made pursuant to Wis. Stats. §19.85(1)(g) to go into closed session to confer with the City Attorney regarding a settlement proposal received in the lawsuit captioned City of Waukesha v. The Fifield Group, LLC, et al., Waukesha County Circuit Court case number 14 CV 1415. Upon conclusion of closed sessions, a motion will be made to reconvene in open session, and action may be taken upon matters discussed in closed session.

**ID #14-1257. A motion was made by Ad Pieper, seconded by Council President E. Payne to accept the recommendations discussed by the City Attorney in closed session. Item passed by unanimous vote.**

- C. ID#14-1258** A motion will be made pursuant to Wis. Stats 19.85 (1)(g) to go into closed session to confer with the City Attorney to discuss the legal issues relating to the disbursement of BID funds.

**No action taken.**

## 19. Adjournment

**A motion was made by Council President E. Payne, seconded by Ald. C. Payne, that meeting be adjourned. The motion carried by the following vote:**

**Aye:** 14 - Pieper, Bartels, Skinner, Cummings, Patton, Perry, Francoeur, C. Payne, Reiland, Manion, E. Payne, Thieme, Hernandez and Jankowski

**Absent:** 1 - Johnson

Shawn Reilly, Mayor  
City of Waukesha

NOTICE: Any person who has a qualifying disability under the Americans with Disabilities Act that requires that the meeting be accessible or that materials at the meeting be in an accessible format, please contact Fred Abadi, 48 hours prior to the meeting at 524-3600, FAX 524-3898, or by the Wisconsin Telecommunications Relay System so that arrangements may be made to accommodate the request.