

PLAN COMMISSION MINUTES - 4/14/09

Plan Commission Offices
Manitowoc City Hall

Regular Meeting
Manitowoc City Plan Commission
Wednesday
April 14, 2009
5:00 P.M.

I. CALL TO ORDER

The meeting of the City Plan Commission was called to order by Acting Chairman Jim Brey at 5:00 P.M.

II. ROLL CALL

Members Present

Steve Alpert
Valerie Mellon
Jim Muenzenmeyer
David Diedrich
Dan Hornung
Kevin Crawford

Members Excused

Jim Brey
Maureen Stokes

Staff Present

David Less
Paul Braun
Michelle Yanda
Elizabeth Werdermann

Others Present

See Attached Sign In Sheet

III. APPROVAL OF MINUTES of the Regular March 11, 2009 Meeting.

Motion by: Mr. Diedrich
Moved that: the minutes be
approved as presented.

Seconded by: Mr. Alpert
Upon Vote: the motion was
approved unanimously.

IV. PUBLIC INFORMATIONAL HEARINGS

A. None.

V. REFERRALS FROM COMMON COUNCIL

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- A. PC1-2009: Aurora Medical Group, Inc.; Utility and Traffic Signal Easement to the City of Manitowoc and Manitowoc Public Utilities for .0157-Acres at Dewey Street

Mr. Less explained that this easement was part of the reconfiguration of the Dewey/"CR" intersection, and more specifically covered a portion of land on the north side of Dewey, at the south entrance into the Aurora-Wal-Mart complex.

Motion by: Mr. Hornung _____ Seconded by: Mr. Diedrich
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council acceptance of the above- approved unanimously.
referenced easement.

- B. PC1-2009: Notz; Quit Claim Deed to the City of Manitowoc for .49-Acres for So. 19th Street Purposes

Mr. Less explained that this deed was related to a public right-of-way ("R/W") dedication for So. 19th Street purposes, south of Viebahn Street.

Motion by: Mr. Hornung _____ Seconded by: Mr. Muenzenmeyer
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council acceptance of the above- approved unanimously.
referenced deed.

- C. PC19-2009: Notz; Development Agreement

Mr. Less explained that the development agreement was related to the property abutting the R/W dedication under V.B. above.

Motion by: Mr. Hornung _____ Seconded by: Mr. Diedrich
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council acceptance of the above- approved unanimously.
referenced development agreement.

VI. OLD BUSINESS

- A. PC5-2009: Burgarino; Discussion of Public R/W on So. 22nd Street

Mr. Less provided Commission members with a handout he had prepared in response to the City Attorney's April 9th legal opinion. Mr. Less noted that he hoped to

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clarify how to proceed in this matter, and then revisited the subject property and re-stated the existing problems related to it including: (i) the parking lot to the north of his building which was located in a residential zoning district and never authorized; and (ii) the unfinished, gravel parking lot to the west of his business that did not meet City code. Mr. Less reminded Commission members that these issues were identified at the last meeting, and needed to be dealt with by Mr. Bugarino one way or another. Mr. Less continued that if the City received a request for a zoning letter on the property because of a sale or refinancing, the City would have to indicate that the property was not in conformance with current City codes.

Mr. Less added that the other unresolved issue was the existing deck that was in place pursuant to 2 "Sidewalk Privilege Agreements" ("SPA") that were executed in the past, but that did not accomplish what they intended to do. Mr. Less noted that the existing deck extended approximately 11' into the public R/W, and added that he had hoped to see a boundary survey to identify the extent of the encroachment.

Tony Bugarino, 2204 Washington, provided Commission members with a boundary survey dated April 14, 2009 which identified the extent of the encroachment along the east side of his property at So. 22nd Street.

Mr. Less continued that the deck extended nearly 12' from the R/W line which appeared to match the east side of the Tony's Pizza building. Mr. Less noted that the question raised to the City Attorney that generated her legal opinion had to do with the preferred procedure to take to resolve Mr. Bugarino's encroachment problem in this matter. Mr. Less stated that the options were: (i) vacation of a portion of the So. 22nd Street R/W which would have been predicated upon the City Engineer making a determination that the R/W was no longer needed; or (ii) execution of a new SPA pursuant to §66.0425 Wis. Stats. that would wrap around the survey-verified encroachment area.

Mr. Less noted that the Commission had received a copy of the April 9th opinion of the City Attorney, and stated that she was not comfortable with the City's ability to vacate R/W, because there was no demonstration of non-necessity for the excess R/W. Mr. Less added that as they had not heard from the City Engineer on that topic, he did not know if that was the case or not. Mr. Less continued that the City Attorney felt that a new SPA was preferable, but one that limited the improvements to just the deck, and not walls, windows and a roof. Mr. Less asked Ms. Ruenzel if this was a fair assessment of her opinion?

Juliana Ruenzel, City Attorney, stated that Mr. Less was correct, and added that

in the matter of the R/W vacation, it could only be done if there was a public purpose with a direct benefit to the public in order to sell the property. Ms. Ruenzel continued that the case law she had cited in her opinion was long standing, and made reference to the public purpose and direct benefit requirements.

Mr. Less replied that the summary he had prepared was intended to identify points he felt were relevant to this discussion. Mr. Less continued that he felt the City could vacate a portion of the R/W, and that the issue of the public purpose doctrine was somewhat amorphous and not clearly etched in stone, but was best described as a thread drawn throughout the statutes. Mr. Less continued that there needed to be some public benefit in response to determining if a specific municipal action met the public purpose doctrine. Mr. Less added that the courts had generally sided with the actions and determinations of local Common Councils regarding whether or not an action was in alignment with the public purpose doctrine.

Ms. Ruenzel stated that she disagreed with that statement.

Mr. Less continued that he originally felt a new SPA was most appropriate for this matter, and still did, but noted that Mr. Burgarino had telephoned him today, and he was not interested in a new SPA because of the rights that would be granted to the City under the statute to take back the R/W without compensation to Mr. Burgarino. Mr. Less stated that we now had: (i) Mr. Burgarino not wanting to pursue a new SPA; and (ii) the City Attorney believing vacation was not an option, and that there was a difference between the deck, vs. the deck, plus walls, windows and roofs under an SPA.

Mr. Less stated that his summary narrative noted that the statute which authorized an SPA was silent on this distinction, and he felt this issue of the amount of improvement would be purely a home rule call. Mr. Less noted that what the statute was clear on was that the holder of the privilege was not entitled to damages. Mr. Less continued that while it might be more difficult down the line to legally remove a building vs. a deck, he hoped that this would be a moot discussion if this was all moving forward based upon an opinion of the City Engineer regarding the need for the R/W. Mr. Less noted that he did not know where to go with this matter, and re-stated that in his opinion there was nothing wrong with vacating public R/W as the City had a long record of vacating R/W. Mr. Less added that he did not know how to address the concerns of the City Attorney in this situation. Mr. Less stated that he did not know what the appetite of the Commission or the Council was in this matter, and added that after 2 months of discussion, he still did not know the position of the City Engineer on the question of the need for the entirety of the R/W. Mr. Less stated that someone needed to provide him with clarity regarding how they wanted to proceed.

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Ms. Mellon stated that she could share a synopsis of the conversation that the Engineering Department had on the So. 22nd Street R/W question. Ms. Mellon noted that the way the street was now (one-way), they were not using the R/W that Mr. Burgarino's deck was located on. Ms. Mellon continued that if the street remained one-way, they would never need additional R/W on the corner. Ms. Mellon noted that if the community wanted the street to go back to two-way, she could conceivably want to widen that radius on the corner, and might want to push the sidewalk back into the deck area and use that portion of the R/W. Ms. Mellon added that she was being asked whether or not the City should sell the R/W, as it was always useful for street purposes for such things as snow storage or better grades.

Mr. Less replied that he was asking her to make a decision because her decision determined whether or not there was merit to further discussing a street vacation. Mr. Less added that what he just heard from Ms. Mellon was a statement that the City might need the R/W in the future, which did not appear to be a clear mandate.

Ms. Mellon replied that if the street remained one-way in its current direction, the City would not need the R/W.

Mr. Less noted that the street suddenly became one-way, and questioned what would stop it from reverting back to two-way in the future?

Ms. Ruenzel asked Mr. Less if he had read the cases that she had cited?

Mr. Less stated that he had read the cases.

Ms. Ruenzel stated that in the Racine (Tilley) case, the Common Council's action was for the benefit of a private party, and again stated that she did not believe the City could vacate the R/W for the benefit of Mr. Burgarino. Ms. Ruenzel stated that if the City went forward with a vacation and it was challenged, she believed the outcome would be overturned, with the court saying that the Council abused their discretion by vacating for the benefit of a private interest. Ms. Ruenzel noted that in the Burgarino situation, there was no direct public benefit. Ms. Ruenzel added that if challenged, she felt the City would lose in court.

Mayor Crawford asked Ms. Ruenzel what the legal remedy in Tilley was?

Ms. Ruenzel replied that the court found the Council's decision unlawful, and the property reverted back to public ownership.

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Mr. Muenzenmeyer asked about a long term lease option?

Ms. Ruenzel replied that the problem with a lease was that it created more property interests to the benefit of Mr. Burgarino, which would make it more difficult to have him ultimately remove the structure, and would further entitle him to damages and possibly relocation fees. Ms. Ruenzel added that Mr. Burgarino would be able to argue an economic loss under that scenario.

Mr. Burgarino asked what was wrong with that situation?

Mr. Muenzenmeyer asked if a long term, say 99-year lease would make a difference, for a term longer than the life of the deck structure?

Ms. Ruenzel replied that Mr. Burgarino would get substantial property rights under a lease, and would put the City in a defensive position if at some time in the future the City wanted to reclaim the underlying R/W.

Mr. Hornung commented that this was the situation that existed with the Yacht Club.

Ms. Ruenzel concurred.

Mr. Less stated that for 2 months he had advocated for a new SPA, and it appeared that the Commission had now come full circle in this discussion, with the only difference being that Mr. Burgarino no longer wanted an SPA because it would enhance the City's rights and diminish his rights in this situation.

Mr. Burgarino stated that Mr. Less was correct, and that he did not want that risk. Mr. Burgarino continued that he wanted an answer to his question of whether this matter could be resolved or not?

Mayor Crawford stated that the Commission would get to that answer, but there was confusing information at the table. Mayor Crawford commented to Mr. Muenzenmeyer that his position was that he did not want the structure built under an SPA, and felt the R/W would have to be given up to make it work.

Mr. Muenzenmeyer replied that the statute allowed abandonment of a SPA with a 10-day notice without damages, and did not feel that Mr. Burgarino would want this arrangement.

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Mayor Crawford asked Mr. Muenzenmeyer if he had an opinion regarding the need for the R/W, as he felt it was not fair to place the burden of a decision upon the City Engineer?

Mr. Muenzenmeyer noted that while not a traffic engineer, and did not see a need for the R/W, and did not see So. 22nd Street being widened in the future. Mr. Muenzenmeyer did add that he did not have Ms. Mellon's traffic engineering background.

Mayor Crawford stated that Mr. Burgarino's restaurant would likely be in its current location for a long time.

Mr. Muenzenmeyer commented that he would not vote contrary to the City Attorney's opinion, and would have to take her advice on this matter.

Mr. Diedrich stated that he agreed with Mr. Muenzenmeyer's comments.

Mr. Alpert commented that he would like to find a way to accommodate Mr. Burgarino, as he was an excellent businessman, and was moving his business in an opposite direction to the recession. Mr. Alpert stated that he felt the lease might make the most sense.

Ms. Mellon stated that she agreed with Mr. Alpert regarding the appropriateness of the lease. Ms. Mellon added that there were other areas of the City that could utilize this vehicle as well.

Mayor Crawford asked if there was a methodology to creating the lease?

Ms. Ruenzel stated that the City could pursue a lease, but added that she did not like a 99-year term. Ms. Ruenzel added that she could draft a lease, which would have to contain language to provide a longer advance notice to Mr. Burgarino to reclaim the R/W in return for no damages to be paid to Mr. Burgarino. Ms. Ruenzel stated that if the City provided such notice, Mr. Burgarino would be responsible to remove the improvements within an allotted time frame. Ms. Ruenzel added that if the City required relocation of the improvements during the term of the lease, the City would have to pay these fees to the owner to get out of the lease and relocate the structure. Ms. Ruenzel concluded by saying she could draft such a document, but didn't know if Mr. Burgarino would be in agreement.

Mayor Crawford noted that this would be an extraordinary circumstance that

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would cause the City to need the impacted R/W in the future.

Mr. Less commented that he felt the discussion was going in circles, as the problem was that Mr. Burgarino did not want to take on the liability, or to take the chance that the City would want to take back the R/W underlying his improvements at some time in the future.

Mr. Burgarino commented that he would want the lease arrangement to include a period of time commensurate with the term of his bank note, and added that he would be okay with that arrangement, but if the City wanted the R/W back before his note was paid in full, that he would want to be compensated for damages.

Mayor Crawford asked if there would be an upgrade to the deck space?

Mr. Burgarino stated “yes”, and that it would be enclosed, with garage doors (a 3-season room). Mr. Burgarino noted that they would build upon the existing deck.

Mr. Muenzenmeyer commented that the deck would need new footings and foundations.

Mr. Hornung stated that for all practicality, Mr. Burgarino would be adding on to the improvements in the R/W.

Mr. Less stated that the encroachment was already in the R/W, and noted that even though the previously issued SPA’s did not do what they intended, there was clear intention on the part of the City to authorize the improvements in the R/W. Mr. Less asked why the City would want to take on this financial liability or play the role of financial guarantor, when the problems had been created by Mr. Burgarino? Mr. Less stated that this did not make any sense to him.

Mr. Alpert stated that the Commission needed to make a decision regarding whether the R/W would be needed by the City over the next 20 years. Mr. Alpert noted that this was an 80' wide R/W.

Ms. Mellon noted that this intersection could not be signalized because of its proximity to an existing traffic light, and that the City would not add a center turn lane to dramatically widen So. 22nd Street. Ms. Mellon added that if the character of So. 22nd Street remained the same as it was at present, the City would not need to re-claim the R/W.

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Mayor Crawford commented that he felt the success of Mr. Bugarino's business warranted the current action, and that the previous actions of the City of issuing SPA's were done so in good faith to make the deck happen as it existed today.

Mayor Crawford commented that he felt a recommendation to the Council to authorize the preparation of a lease was appropriate.

Additional discussion was held regarding the issue of the parking lot and current zoning to the north of the building. Mr. Less explained the procedure under the municipal code to create a parking lot in a residential zoning district adjacent to a business. Discussion was also held regarding rezoning of the entirety of the Bugarino property to "B-3".

Mr. Bugarino commented that he thought the parking lot area to the north had already been rezoned, and explained that he had removed a poultry barn from the area. Mr. Bugarino noted that he was shocked to learn that the property was not zoned correctly for the current parking lot.

Mr. Less commented that these other processes were separate and distinct from the discussion of the R/W above. Mr. Less added that these other corrective measures should be handled sooner instead of later.

Mayor Crawford asked about the gravel parking lot to the west of Tony's Pizza?

Mr. Muenzenmeyer commented that Mr. Bugarino was still within a year period to improve the parking lot to meet code, and was confident that this would occur within the time frames allotted. Mr. Muenzenmeyer noted that they were working with Mr. Bugarino on the issue of parking lot construction.

Mr. Less asked Ms. Ruenzel if she believed the City had legal authority to lease the surface of a dedicated, public R/W?

Ms. Ruenzel replied "yes", and added that the problem with the vacation proposal, was vacating the R/W for the benefit of a private party. Ms. Ruenzel added that if the R/W was being leased, the City still maintained ownership and control over the public property.

Mr. Muenzenmeyer asked Ms. Ruenzel if she felt confident that an equitable lease could be worked out that would be satisfactory and protect the rights of both Mr. Bugarino and the City?

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Ms. Ruenzel replied that she felt a lease could be worked out with Mr. Bugarino.

Ms. Mellon stated that a successful lease in this situation would be helpful in dealing with similar redevelopment situations in the downtown.

Ms. Ruenzel commented that redevelopment was recognized as a public purpose, and the downtown situation would be different than the Bugarino discussion.

Mr. Bugarino asked if his situation qualified as redevelopment?

Ms. Ruenzel stated that Mr. Bugarino's situation was not redevelopment.

Mr. Less noted that the creation of jobs was deemed to be consistent with the public purpose doctrine.

Ms. Ruenzel agreed.

Mr. Less noted that the discussion of the public purpose doctrine was less a law, and more a paradigm that ran through the statutes. Mr. Less added that expenditures deemed consistent with the public purpose doctrine were those in which there was public benefit in return for public expenditure, and in the event no public benefit could be demonstrated for a public action, the nexus would not be present and should not go forward. Mr. Less stated that regarding Mr. Bugarino's project, the question was whether or not there was a public benefit in the form of tax base growth, new jobs, etc.? Mr. Less stated that in his opinion, Mr. Bugarino's project would be consistent with the public purpose doctrine.

Mr. Bugarino stated "yes", and noted that there would be new jobs created.

Ms. Ruenzel commented that she did not see how new jobs would be created in this situation as the deck was not expanding?

Mr. Bugarino noted that the area would be open for business for an additional 9 months/year, and added that historically, he had to lay off 10 every year, and subsequently hired 10 new hires every summer.

2. Vandewalle Update - Review Draft of Expo Grounds Market Study and Concepts (Note that this portion of the meeting described under B.2. below, occurred at 5:00 P.M. in the Common Council Chambers as noted on the meeting agenda).

Mayor Crawford made some introductory comments regarding the importance of the comprehensive planning process, and for the people present to provide input into the document and process.

Jolena Presti from Vandewalle & Associates presented the highlights of a draft of the "County Expo Grounds Master Plan Study". Ms. Presti advised that she was looking for input into the draft document, and explained how they came into the plan and concepts, and how they came to create a long term vision for the area. Ms. Presti continued that even though the property was not owned by the City, the City recognized the Expo Grounds as a key part of a critical I-43 interchange, where things were likely to happen in the future. The following key points (alphabetized below ie. "A", "B" etc.) were made by Ms. Presti during the presentation:

- A. A site analysis and 11 interviews were conducted in March, 2009. These sessions helped to form the recommendations contained in the draft document.
- B. The Manitowoc County Fair was essentially a financial break even proposition for the County. The City and County needed to consider the opportunity costs that were not being realized by the current land usage.

Jeff Beyer, Public Works Director for Manitowoc County, 1110 So. 9th, commented on the economic multipliers or average spending per visitor estimates of \$3 and \$8 per person referenced in the study, and asked how these numbers were derived?

Ms. Presti commented that these were conservative estimates.

Mr. Beyer noted that regarding expo-type facilities, the State of Wisconsin used a per trip multiplier at such facilities of between \$42-45/person for local residents, and \$100/person for lodging for non-locals. Mr. Beyer added that if these numbers were factored into the draft, the overall economic impact of Expo would be much larger.

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- D. Regional and national trends were changing the landscape during this economic downturn. Retail formats were shifting, and there was a movement towards smaller boxes being “right sized” to match market sizes.
- E. Regarding a retail gap analysis, I-43 was an economic driver, and its impact offset the lack of market to the east created by Lake Michigan. In terms of specific business uses, building materials, garden equipment and grocery stores were adequately represented in the market, whereas there were deficiencies in the categories of furniture/home furnishings, health and personal products, general merchandise, and restaurants. The new retail in the area principally from Harbor Town, did not alter the study recommendations for business targets.
- F. Other market opportunities for the Expo Grounds included an exposition center or expo hall, additional retail, a multiplex theater, lodging establishment, and other mixed uses. A facility suitable for larger corporate events would be a desirable target for Expo.

Mr. Beyer commented that there were some groups currently looking at the exposition center concept at Expo, and noted that they had already raised around \$100,000 in capital.

- G. Vandewalle looked at comparable exposition facilities. The main market weakness was centered on the overall economic malaise.
- H. A new state-of-the-art multiplex theater at Expo would probably have a negative impact on existing movie theater venues in the City.
- I. Consideration of a hotel/motel at Expo in the future would only be a response to a larger demand-generating development taking place on the property. In the absence of this larger development, it did not appear that there was a demand for additional lodging units at present.

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- J. Regarding overall market conclusions, the Expo site offered: (i) an excellent location; (ii) was well used; and (iii) produced a significant economic impact upon the community. Additionally, Expo provided an opportunity wherein its redevelopment could help to address surplus demand for a number of retail categories, and could provide for a multiplex theater and additional lodging facilities, with the latter being predicated upon establishing a larger facility at Expo.

Mr. Graunke commented that regarding the multiplex theater concept, the existing theaters in Manitowoc were secondary market facilities for 1st run films. Mr. Graunke added that having an exposition center was a good idea, because of existing lodging, restaurants etc. already in place to support the development. Mr. Graunke added that he felt consideration should be given in the plan to expanding the ice center to an Olympic-sized facility.

Ms. Presti stated that the Expo concept was just a vision, with the hope to plant seeds for the future. Ms. Presti then reviewed 3 concept drawings for the Expo property, and noted the following: (i) the southern end of the property closest to Calumet Avenue/USH151 was probably the most valuable and likely to develop first; (ii) the plan for Expo should be designed to connect it with Harbor Town to the east; and (iii) the existing dirt track was not depicted on the concepts, as it was determined to be the single most portion of Expo that could be utilized for development. Ms. Presti added that a second concept included the removal of the Expo Hall and reservation of that area in the future for parking, and a third concept featured a corporate office facility abutting I-43.

Ms. Presti stated that she was hoping for input, feedback and direction on the draft, and noted that the next step would be to prepare a final draft of the Expo special study for display at a planned open house in conjunction with displaying the draft of the overall comprehensive plan.

Mr. Braun requested that any comments on the draft should be provided to him by the end of April.

Christopher Allie, 100 Maritime Drive, asked what the timetable for implementing the changes at Expo would be?

Ms. Presti replied that this plan and the associated concepts were visionary, and

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would likely take between 10-15 years to accomplish.

Mayor Crawford noted that there appeared to be a lot of data missing from the study from Manitowoc County, and added that it would be incumbent upon the County to share this information, so that all parties knew what the current status of Expo was.

Mr. Beyer replied that the actual budget numbers in the draft were correct, and noted that the information to be provided by Mr. Hansen covered the previous 8 years. Mr. Beyer continued that 2007 and 2008 were tough years at the County Fair, particularly the former because of extensive rains in 2007. Mr. Beyer noted that 2008 was a period when there were some sizeable capital expenditures made at Expo. Mr. Beyer added that prior to that time, a nonprofit organization ran the Expo, and noted that the County did not have a lot of good information on the area prior to 2006. Mr. Beyer noted that he would provide comments on the draft back to Mr. Braun.

Cindy Vana, 3308 CTH "B", commented that she was one of the organizers for the dog show, and noted that the show was so big that it could not all be held at the Expo, and that part was held at the Kennel Club. Ms. Vana added that there were probably other opportunities at Expo, and noted that the airport had extra land, and questioned if that area could be utilized as a future home of Expo?

Bill Fessler, 5629 Calumet Avenue/USH151, commented that there were height limit issues at the airport that would be problematic.

Mr. Hansen asked if there had been a feasibility study done for an exposition center, and noted his concern about the cost of a project of this magnitude, and whether such a facility would be used enough over the course of a year to make financial sense.

Mr. Fessler suggested that Silver Lake College should be brought into this discussion as their future plans included an athletic center.

Mr. Hansen noted that Silver Lake College would probably not build a regional facility, and again stated that his concern was getting excited about an exposition center only to see it sit empty for part of the year.

Ms. Vana stated that there was a need for bringing in larger venues to Expo that would be in the 600-1,000 person range, and wanted to make sure that whatever facility might be considered would not duplicate existing facilities at Expo.

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Mr. Hornung commented that all 3 concept drawings displaced the dirt track, and questioned what the County's thought was on that component of the plan?

Mr. Hansen noted that he did not feel any emotion regarding the displacement of the track.

Mr. Beyer noted that this element was a consideration in the long range plan for Expo, and added that racing had historically been an unsuccessful venture. Mr. Beyer continued that there was now a consistent program operator for the track over the past 5-6 years, and added that any long range vision to remove the track was simply a plan. Mr. Beyer continued that there would have to be support to relocate the track.

Mr. Hornung commented that the existing business uses along the north side of Calumet/USH151 also appeared to be displaced in the concepts.

Ms. Presti stated that this was correct, and added that this would be the highest and best use for the larger area.

Mr. Braun commented that in the big picture, it was best to envision development of Expo in a unified, comprehensive manner vs. an in-fill, piecemeal approach. Mr. Braun added that in terms of a potential site for commercial and corporate office development, the Expo was more conducive than the Waldo Boulevard/CTH "JJ" interchange.

Mr. Fessler asked if the County wanted to redevelop Expo?

Mayor Crawford commented that this plan was a starting point to discuss this issue, and that once the concept was part of the City's comprehensive plan, it would begin to get exposure in the community. Mayor Crawford added that it was important to think long term towards the future.

Mr. Fessler noted that when the original Expo Committee was established by the County, the feeling was that the land was free, and that was a large driver for the ultimate siting of the Expo grounds. Mr. Fessler added that Valders was originally

thought of as a location for Expo. Mr. Fessler noted that the current entrance into Expo was at least a mile from the I-43 interchange at Calumet/USH151, and required passing through 3 stop lights and 3 left turns to get into the Expo grounds.

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Mr. Beyer asked if there was a next meeting date scheduled to further discuss Expo and the market study?

Mr. Graunke commented on behalf of one of the property owners north of Calumet Avenue/USH151 and west of Rapids Road, that the property and home they had purchased 3 years ago was their dream home.

Mr. Braun noted that several of the property owners in this area had recently visited him to discuss the Expo concept plans. Mr. Braun added that these owners had been invited to today's meeting.

Mr. Hansen commented on his desire to see a trail system integrated into the overall concept.

Ms. Presti commented that she had spoke about this matter with the Bay-Lake Regional Planning Commission regarding connecting the area to the Ice Age Trail.

Mr. Graunke noted that there was also a snowmobile trail through the area that had an imputed right of access.

No action was taken.

C. PC6-2009: Reinertson; House Moving Application Under Section 15.37(3)

_____No discussion was held. No action was taken.

VII. NEW BUSINESS

C. PC16-2009: LaCrosse Sign Co./Kwik Trip; Proposed Animated Sign at 401 N. 8th Street Pursuant to Section 15.45(18) of Manitowoc Municipal Code

Mr. Less noted that he had e-mailed his recommendation on this animated sign earlier in the day to Commission members, and recommended that the Commission

approve the issuance of a special permit for the animated sign as depicted, and that the Director of Building Inspection be authorized to issue a sign permit, subject to conditions specified herein, as well as compliance with all relevant sections of 15.45.

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Ms. Mellon noted that Engineering had no concern with the proposed animated sign.

Mr. Muenzenmeyer concurred, and noted that he felt this sign should be a northbound read only.

Motion by: Mr. Hornung _____ Seconded by: Mr. Alpert
Moved that: the Commission approve the _____ Upon Vote: the motion was
animated sign special permit as recom- approved unanimously.
mended above and on file in the City
Planner's office, with northbound read only.

D. PC17-2009: LaCrosse Sign Co./Kwik Trip; Proposed Animated Sign at 2819 Meadow Lane Street Pursuant to Section 15.45(18) of Manitowoc Municipal Code

Mr. Less noted that he had e-mailed his recommendation on this animated sign earlier in the day to Commission members, and recommended that the Commission approve the issuance of a special permit for the animated sign as depicted, waive the 100' separation requirement in 15.45(18)(g)9. from the existing intersection, finds and determines that the proposed sign would not promote visual clutter, and finally that the Director of Building Inspection be authorized to issue a sign permit, subject to conditions specified herein, as well as compliance with all relevant sections of 15.45.

Ms. Mellon noted that Engineering had no concern with the proposed animated sign.

Mr. Muenzenmeyer concurred.

Motion by: Mr. Hornung _____ Seconded by: Mr. Alpert
Moved that: the Commission approve the _____ Upon Vote: the motion was
animated sign special permit as recom- approved unanimously.
mended above and on file in the City
Planner's office.

E. PC18-2009: LaCrosse Sign Co./Kwik Trip; Proposed Animated Sign at 910 Hamilton/1137 So. 10th Street Pursuant to Section 15.45(18) of Manitowoc Municipal Code

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Mr. Less noted that he had e-mailed his recommendation on this animated sign earlier in the day to Commission members, and recommended that the Commission approve the issuance of a special permit for the animated sign as depicted, and that the Director of Building Inspection be authorized to issue a sign permit, subject to conditions specified herein, as well as compliance with all relevant sections of 15.45.

Ms. Mellon noted that Engineering had no concern with the proposed animated sign.

Mr. Muenzenmeyer concurred.

Motion by: Mr. Hornung _____ Seconded by: Mr. Alpert
Moved that: the Commission approve the _____ Upon Vote: the motion was
animated sign special permit as recom- approved unanimously.
mended above and on file in the City
Planner's office.

F. PC14-2009: Jinks; Annexation Discussion for Territory on the North Side of West Custer Street, East of Woodview Drive

Mr. Braun explained the circumstances regarding the property of Michael and Susan Jinks, 5100 West Custer. Mr. Braun explained that the property measured 100' of frontage on West Custer x 395' in depth, and that about 3 weeks ago, the owner had received a notice of violation from Manitowoc County regarding their failing private sewage system. Mr. Braun noted that the Jinks' had until March 31, 2010 to either install a new private sewage system, or to annex into the City and hook up to City sewer and water.

Mr. Braun explained the annexation and subsequent detachment of 3 properties on the south side of West Custer in 2004. Mr. Braun noted that the property owners that requested detachment at that time (in order to escape West Custer Street improvement assessments) had promised to request annexation into the City, but never did. Mr. Braun stated that the issue for consideration was whether or not to have the Jinks' discuss annexation with the property owners that were involved in the detachment. Mr. Braun explained that the City could not actively solicit or direct the participants in the annexation process.

Regarding the Jinks property, Mr. Braun noted that there was a well located on their land that provided water service to an adjacent property outside of the City.

Mr. Hornung asked who the property owner to the east of the Jinks was?

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Mr. Braun noted that the adjacent property owner was Roger Paul.

Mr. Braun stated that he estimated approximately \$7,500 in outstanding City and MPU assessments that would be payable related to this property.

Mr. Hornung asked if there was a lateral at the Jinks property?

Mr. Braun stated "yes".

Mr. Muenzenmeyer asked what the out buildings on the Jinks lot were being used for?

Michael Jinks, 5100 West Custer, stated that Krueger's greenhouse had been located on the property, and noted that all he wanted was to hook up to the City sewer line. Mr. Jinks complained that the City was making the resolution of his problem more complicated.

Mayor Crawford explained that the City was not trying to be difficult, but did have rules that needed to be followed.

Mr. Jinks explained that Manitowoc County was prohibiting him from fixing his sewage system problem. Mr. Jinks added that he was paying \$70/week to have his septic tank emptied. Mr. Jinks noted that it appeared that everyone was sitting on their hands in this matter. Mr. Jinks stated that he did not feel he could talk with his neighbors regarding annexation as they had an expressed hatred of the City. Mr. Jinks added that he was from Chicago, and now understood why his neighbors didn't like the City.

Mayor Crawford asked how long the Jinks' had been held out of the City?

Mr. Braun replied that the Jinks' received the notice from Manitowoc County on March 18, 2009.

Susan Jinks, 5100 West Custer, noted that they had been waiting for something to happen for 3 weeks, and added that they had to have B&M Waste Service pump out their septic tank weekly so that it didn't overflow, which would make their neighbors angry. Mrs. Jinks continued that this was a big inconvenience, and noted that they supplied water from their well to a neighbor. Mrs. Jinks asked what would happen to this well if they were required to hook into City water?

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Mr. Braun commented that he had talked with the Plumbing Inspector and noted that they could continue to serve their neighbor outside the City from their well, even if their property was located in the City. Mr. Braun added that they would need a private well permit, the cost of which he did not know.

Mrs. Jinks commented that she talked with this neighbor the other day, and commented that she would not shut down her well, as her neighbor needed water.

Mayor Crawford commented that now Mrs. Jinks understood how it worked.

Mr. Hornung asked how long a direct annexation would take to complete?

Mr. Less replied 45 days largely because of the Wisconsin Department of Administration review of annexations pursuant to statute. Mr. Less noted that the State had a 20 day period for review of pending annexations to determine if they were in the public interest.

Mayor Crawford commented that this might be an emergency situation.

Mr. Less advised that if someone was going to authorize an emergency hook up, and should the Commission go on record supporting a Petition for Direct Annexation for only the Jinks property, that the annexation petition be filed first by the Jinks' with the Clerk's office. Mr. Less noted that regarding the filing of an annexation petition, it could not be withdrawn after it had been filed with the City Clerk.

Mr. Braun also commented that the collection of outstanding assessments should also not be forgotten in this matter.

Commission members concurred that they would support the annexation request for the Jinks property alone.

Motion by: Mr. Hornung _____ Seconded by: Mr. Diedrich
Moved that: the Commission go on record Upon Vote: the motion was
supporting the filing of a Petition for Direct approved unanimously.
Annexation by the owner's of the Jinks

property as described above.

G. PC1-2009: City of Manitowoc; Quit Claim Deed to the City of Manitowoc for .457-Acres for So. 42nd Street Purposes

Mr. Braun explained that this deed was regarding the creation of the future development parcel at Dewey and So. 42nd Street, that was related to the re-alignment of this intersection, and the more recent vacation of R/W in the area.

Motion by: Mr. Diedrich _____ Seconded by: Mr. Alpert
Moved that: the Commission recommend _____ Upon Vote: the motion was
Council acceptance of the above- approved unanimously.
referenced deed.

VIII. MISCELLANEOUS

A. Manitowoc County Activities:

1. None

B. Certified Survey Maps (CSM):

1. Schmatz; Proposed CSM in NW¹/₄ of SE¹/₄, Sec.11, T.18 N., R23.E, Town of Newton

Mr. Braun explained a proposed CSM for property located west of I-43 and north of Clover Road. Mr. Braun noted that the property was originally split by the creation and establishment of I-43, and identified a north-south running access way into the property along the west side of I-43. Mr. Braun noted that this access area was acquired by the federal government, and ultimately became part of the current Schmatz property. Mr. Braun continued that the owner wanted to split a 2-acre parcel of land from his larger holdings for sale to his son. Mr. Braun advised that the County did not have any concerns with the proposal, and added that he had no problem with the

proposal as well. Mr. Braun continued that he would require a formal easement document be put into place and recorded along the access way to create a permanent public access easement in the area. Mr. Braun suggested that the document detail the various rights that would be inherent in the grant of easement rights.

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Respectfully Submitted,

David Less
Secretary