

AGENDA
PUBLIC SAFETY & WELFARE COMMITTEE MEETING
Kenosha Municipal Building - Room 202
Monday, February 27, 2012 - 5:00 pm

Chairman:	Jesse L. Downing	Vice Chair:	Lawrence Green
Aldersperson:	Anthony Kennedy	Aldersperson:	Michael J. Orth
Aldersperson:	Rocco J. LaMacchia, Sr.		

Call to Order
Roll Call

A. APPROVAL OF MINUTES

A-1 Approval of the minutes of the meeting held on January 9, 2012.

C. REFERRED TO COMMISSION

C-1. Proposed Ordinance - To Repeal and Recreate Section 5.04 B. (*of the Code of General Ordinances*) for the City Regarding Temporary Closing of a City Street, to Clarify that a Street may be Closed for a Civic Event. (*Also referred to Public Works*)

C-2. Proposed Ordinance - To Repeal and Recreate Subsection 2.02 B.8 (*of the Zoning Ordinance*) for the City regarding Delinquent Special Assessments. (*CP-Ayes 7:Noes 0*)

C-3. Appointment of Mark Modory to the Kenosha City/County Joint Services Board of Directors, for a term to expire May 1, 2014.

C-4. Judging of the Harbor.

DISCUSSION ITEM:

1. Software Upgrade for Joint Services

CITIZEN COMMENTS/ALDERMEN COMMENTS/OTHER BUSINESS AS AUTHORIZED BY LAW

IF YOU ARE DISABLED AND NEED ASSISTANCE, PLEASE CALL 653-4050 BEFORE THIS MEETING

NOTICE IS HEREBY GIVEN THAT A MAJORITY OF THE MEMBERS OF THE COMMON COUNCIL MAY BE PRESENT AT THE MEETING, AND ALTHOUGH THIS MAY CONSTITUTE A QUORUM OF THE COMMON COUNCIL, THE COUNCIL WILL NOT TAKE ANY ACTION AT THIS MEETING.

PUBLIC SAFETY & WELFARE COMMITTEE
Minutes of Meeting held Monday, January 9, 2012

A meeting of the Public Safety & Welfare Committee was held on Monday, January 9, 2012 in Room 202 of the Kenosha Municipal Building. The meeting was called to order at 5:27 pm by Chairman Downing.

At roll call, the following members were present: Alderpersons Green, Orth, Kennedy, and LaMacchia. Staff members in attendance were Michael Lemens, Interim Public Works Director; Kevin Risch, Assistant City Engineer; and Rich Schroeder, Development Coordinator.

It was moved by Alderperson Green, seconded by Alderperson LaMacchia, to approve the minutes from the meeting held on Monday, December 12, 2011. Motion passed unanimously.

- C-1. Aldermanic Request to Replace NB/SB Stop Signs on 5th Avenue at 57th Street. *(District 2) (Staff recommends approval)*
Staff/Alderperson: Kevin spoke.
It was moved by Alderperson Green, seconded by Alderperson LaMacchia, to approve.
Motion passed unanimously.
- C-2 Aldermanic Request to designate one (1) on Street Handicapped Parking Space for the Church at 5900-7th Avenue. *(District 2) (Staff recommends approval for a 90-Day Trial)*
Staff/Alderperson: Kevin spoke.
It was moved by Alderperson Green, seconded by Alderperson LaMacchia, to approve.
Motion passed unanimously.
- C-3 Proposed Resolution for Adoption of Kenosha County Hazard Mitigation Plan Update: 2011 – 2015. *(Also referred to City Plan & Stormwater Utility)*
Staff/Alderperson: Michael & Kevin spoke.
It was moved by Alderperson Green, seconded by Alderperson LaMacchia, to approve.
Motion passed unanimously.

CITIZEN COMMENTS: Chief Morrissey spoke briefly regarding the update of the new Community Service Officer positions.

ALDERMAN COMMENTS: Alderperson Orth spoke on the Carthage Parking Lot by Petzke Park. Chairman Downing commented on Kevin Risch resigning from the City of Kenosha.

ADJOURNMENT - There being no further business to come before the Public Safety & Welfare Committee, it was moved, seconded and unanimously carried to adjourn at 5:43 pm.

ORDINANCE NO. _____

DRAFT 02/146/12

SPONSOR: ALDERPERSON THEODORE RUFFALO
CO-SPONSOR: ALDERPERSON TOD OHNSTAD

**TO REPEAL AND RECREATE SECTION 5.04 B. OF THE CODE
 OF GENERAL ORDINANCES FOR THE CITY OF KENOSHA
 REGARDING TEMPORARY CLOSING OF A CITY STREET, TO
 CLARIFY THAT A STREET MAY BE CLOSED FOR A CIVIC EVENT**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Section 5.04 B of the Code of General Ordinances for the City of

Kenosha, Wisconsin, is hereby repealed and recreated as follows:

B. Obstructions and Encroachments.

1. Permission Required. No person, firm or corporation shall encroach upon, close, or encumber any public street, highway or part thereof, unless expressly authorized to do so by the Director of Public Works or designee. Application for said permission shall be made in writing to the Department of Public Works and the type plans, etc. of said obstruction, closure, or encroachment shall be submitted to the Director of the Department of Community Development and Inspections, and the Fire and Police Departments for review and recommendation. The purposes for such encroachment, closure, or encumbrance include, but are not limited to, placing of a refuse receptacle or dumpster, private construction equipment, or building materials on a City street or right of way, providing maintenance to a City street or right of way, facilitating the passage of a wide or hazardous transportation load, addressing an emergency, facilitating fire-fighting training exercises, allowing for passage of a police escorted motorcade, or allowing for a civic event to which the general public is encouraged to attend. such as concerts, parades, festivals, athletic events, marches, ceremonies, tournaments, exhibitions, expositions, fairs, markets, or shows.

The Director of Public Works may also order the temporary closing of a City street or public thoroughfare in a residentially zoned district for the purpose of authorizing a street party to be held thereon, through the issuance of a "Street Party Permit". The request for such a permit must be in writing, signed by a majority of property owners fronting the street to be closed, filed at least ten (10) days in advance of the event desired to be held, accompanied by a fee to cover the cost of permit issuance and administration. The Common Council will, from time to time, by Resolution, establish the Permit Fee. Should any street party take place prior to the issuance of a permit, the fee shall increase to five (5) times the amount of the fee established by the Common Council by Resolution. There shall be a limit of two (2) permits per calendar year per street. The Department of Public Works shall inspect the street or public thoroughfare and obtain the recommendations of the Fire and Police Departments prior to permit issuance. The Department of Public Works shall provide barricades to close off the street which will be the subject of the street party. The Director of Public Works may decline to issue said permit for good cause, such as, but not limited to, his/her consideration that the street closing, if permitted, will, or will tend to cause unreasonable traffic congestion, result in a disturbance of the peace, or endanger the public health, safety and welfare. Should the permit be denied, the applicant may appeal the denial to the Committee on Public Works by filing a written notice of appeal with the Department of Public Works within five (5) business days following, but not including, the day of denial. The Director of Public Works, upon issuing a permit, shall send a copy of same to the Fire and Police Departments, notifying the departments of a closed street. The permit shall state the time for which the permit is valid and the Police

Department shall check the street during said permit hours to determine if the barricades have in fact been put in place. It shall be the responsibility of the applicant to put in place and maintain said barricades during the hours of the street closing specified on said permit. It shall be unlawful to hold a street party under circumstances where barricades do not completely block off vehicular traffic from the portion of the street being closed by authority of said permit. If the street is barricaded during hours which require vehicles to use their headlights, warning lights or reflectors must be clearly and visibly placed and maintained on said barricades by the permit applicant, and it shall be unlawful to neglect to have operating lights or reflectors on said barricades. Lights and reflectors shall be supplied by the Department of Public Works to the applicants upon request. It shall also be unlawful to place or maintain said barricades on a City street or public thoroughfare at any time or place not specified in said permit application. The applicant shall at all times be personally responsible for complying with this Ordinance and his/her duties are not delegable. It shall further be unlawful for any person to possess a City barricade or use the same for any purpose not authorized by the City.

Street Parties are defined as: A gathering of persons for ~~a civil, charitable, community or~~ neighborhood event held within a City street or other public thoroughfare which has been temporarily closed for the occasion. Street parties shall start no earlier than 10:00 A.M. Permits issued by the Director of Public Works shall state a starting time and termination time. Street parties shall terminate no later than 11:00 P.M., however, the Director of Public Works, upon the request of abutting property owners, may specify an earlier termination time. Prior to granting a permit, the Director of Public Works should confer with the Alderman of the District, if practicable. Amplified noise or music is prohibited unless specifically authorized. Amplified music is herein defined as music electrically or mechanically enhanced by an external source of power or amplifier and played or reproduced through a speaker or speaker system.

Street parties may be prematurely terminated by order of a police officer following an investigation which indicates that the street party has become loud, disorderly, is creating a public nuisance, disturbing the peace, endangering the public health, safety or welfare, or otherwise being contrary in its conduct to the terms of this Ordinance or other City or State ordinances, laws, rules or regulations, and it shall be unlawful for anyone to participate in a street party contrary to an above provided for order of a police officer or contrary to the terms of this Ordinance.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

Planning & Zoning Division 625 52 nd Street Kenosha, WI 53140 262.653.4030	Kenosha City Plan Commission FACT SHEET	February 23, 2012	Item #3
By the Mayor - To Repeal and Recreate Subsection 2.02 B.8 of the Zoning Ordinance for the City of Kenosha regarding Delinquent Special Assessments. PUBLIC HEARING			

LOCATION/SURROUNDINGS:

City - Wide

NOTIFICATIONS/PROCEDURES:

This Zoning Ordinance will also be reviewed by the Public Safety & Welfare Committee before final approval by the Common Council

ANALYSIS:

- Currently, the Zoning Ordinance requires that any past due real estate taxes be collected prior to the issuance of various City permits.
- At the end of each year, any outstanding real estate taxes are turned over to the County. The County then reimburses the City for the outstanding taxes and the County collects any money forwarded against those taxes.
- The City Attorney indicated that the City should not be collecting any outstanding taxes after they have been submitted to the County.
- However, the City should collect any delinquent Special Assessments, charges or Special Taxes before a Plan Review or Conditional Use Permit is issued.
- Additional information will be provided at the meeting from the City Attorney.

RECOMMENDATION:

For Commission review and recommendation.


 Rich Schroeder, Interim Deputy Director


 Jeffrey B. Labahn, Interim Director

ORDINANCE NO. _____

DRAFT 02/14/12

SPONSOR: THE MAYOR

TO REPEAL AND RECREATE SUBSECTION 2.02 B.8 OF THE ZONING ORDINANCE FOR THE CITY OF KENOSHA REGARDING DELINQUENT SPECIAL ASSESSMENTS

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 2.02 B.8. of the Zoning Ordinance for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows.

8. Certificate of No ~~Past Due Real Estate Taxes or Delinquent~~ Special Assessments, ~~Special Charges, or Special Taxes.~~ The issuance of ~~Building Permits,~~ Conditional Use Permits, ~~Occupancy Permits~~ and Site Plan Review approval shall be conditioned upon applicant filing with the review authority a true and accurate certificate that there are no ~~past due real estate taxes or delinquent~~ special assessments, ~~special charges, or special taxes~~ with respect to the land which is the subject of development or use.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

ORDINANCE NO. _____

SPONSOR: THE MAYOR

**TO REPEAL AND RECREATE SUBSECTION 2.02 B.8 OF
THE ZONING ORDINANCE FOR THE CITY OF KENOSHA
REGARDING DELINQUENT SPECIAL ASSESSMENTS**

The Common Council of the City of Kenosha, Wisconsin, do ordain as follows:

Section One: Subsection 2.02 B.8. of the Zoning Ordinance for the City of Kenosha, Wisconsin, is hereby repealed and recreated as follows.

8. Certificate of No Delinquent Special Assessments, Special Charges, or Special Taxes. The issuance of Conditional Use Permits, and Site Plan Review approval shall be conditioned upon applicant filing with the review authority a true and accurate certificate that there are no delinquent special assessments, special charges, or special taxes with respect to the land which is the subject of development or use.

Section Two: This Ordinance shall become effective upon passage and publication.

ATTEST: _____ City Clerk

APPROVED: _____ Mayor

Passed:

Published:

Drafted By:
EDWARD R. ANTARAMIAN
City Attorney

OFFICE OF THE CITY ATTORNEY
Municipal Building
625 - 52nd Street, Room 201
Kenosha, Wisconsin 53140
(262) 653-4170 Phone
(262) 653-4176 Fax



EDWARD R. ANTARAMIAN
CITY ATTORNEY

MATTHEW A. KNIGHT
DEPUTY CITY ATTORNEY

WILLIAM K. RICHARDSON
ASSISTANT CITY ATTORNEY

JONATHAN A. MULLIGAN
ASSISTANT CITY ATTORNEY

To: City Plan Commission

From: Edward R. Antaramian
City Attorney

Date: February 22, 2012

Re: Ordinance Amendment Repealing the Requirement to
Withhold Licenses for Delinquent Real Estate Taxes

Dear Commissioners:

On your agenda is a proposed ordinance eliminating the prerequisite of payment of real estate taxes in order to obtain various permits

There are legal and practical reasons that this amendment is being presented.

LEGAL BASIS

As real estate taxes are sold each year by the City to the County, and the City is made 100% whole, there is no basis in the law for the City to withhold licenses to building-permit applicants who are delinquent in the payment of their real estate taxes.

In the case of *Tavern League v. City of Madison*, 131 Wis2d 477, 389 N.W.2d 54 (Ct. App. 1986), the issue of withholding licenses for failure to pay various taxes was addressed by the Court of Appeals. In particular, the City of Madison was withholding the issuance of liquor licenses for failure of the applicants to have paid state and federal taxes.

In holding that the City of Madison's actions were illegal, the Court considered the authority of a municipality. In particular, the Court determined that when making legislation the municipality may consider only its own economic best interests. Collection of state taxes and federal taxes has no direct substantial benefit to the City's economic health so Madison could not withhold licenses for failure to pay those taxes. Conversely, the Court would allow withholding of permits for failure to pay "local" taxes.

ITEM # 3

As what constituted “local” taxes was not an issue in *Tavern League*, the term was not dissected by the Court in its decision. Its holding, however, makes the application of law clear. There are broadly speaking two types of taxes imposed annually at the city level: real estate taxes and personal property taxes. Although the rate is the same, the collection procedure is statutorily different, necessitating different treatment under the *Tavern League* analysis.

Every year there are delinquencies in both rolls. As the City, County, Gateway Technical College, the School districts, and the state all share pro-rata portions of the tax bills, there are statutory mechanisms to make each jurisdiction whole when a taxpayer fails to timely pay. The process involves the City buying all portions of the personal property tax roll from all of the other jurisdictions. Wis. Stats. §74.30 (1)(i). Conversely, the County buys the real estate roll every August 20 from the other jurisdictions (specifically including the City). Wis. Stats. §74.29. That is why the County is the only taxing body that can obtain tax deeds to real estate.

Stated another way, the County pays the City on behalf of all delinquent real estate taxpayers. After the settlement, real-estate taxpayers may be delinquent to the County, but on the City’s rolls, there are no delinquencies. So, there can be no economic self-interest reason for the City to use real estate delinquencies as a basis to hold up licenses.

Conversely, the City may withhold licenses for failure to pay special assessments,¹ special charges,² and special taxes.³ These “specials” are not sold to the County with the real estate tax roll.

The ordinance provided to you allows for withholding of licenses for failure to pay special assessments, special charges, and special taxes as these are properly collectible by the City and able to be tied to a real estate parcel that would be benefited by the license.

PRACTICAL BASIS

The existence of this ordinance has created unintended, practical problems which caused the focus on the legal aspects of the problem. The City was faced earlier this year with two instances where a water lateral burst to a residence. In each case, the water flow was obstructed to an innocent tenant. Real estate taxes for the property were delinquent to the County (no real estate taxes were delinquent to the City). Under the ordinance, a plumbing permit to fix the waterline could not be legally issued.

In a similar manner, Verizon obtained a right from WE Energies and the underlying property owner to place a cell-phone antenna on a WE Energy pole located on a utility easement. As the underlying property owner has delinquent real estate taxes, a permit is not being issued to Verizon. This is despite no taxes of any sort being delinquent by Verizon to the City.

¹ Wis. Stats. §66.0701(1). The city may provide that the cost of installing or constructing any public work or improvement be charged to the property benefited as a special assessment. An example is sidewalk installation.

² Wis. Stats. §66.0627(2). A city may impose a special charge against real property for current services rendered to the property served. “Service” includes items such as snow and ice removal, weed elimination, street sprinkling, oiling and tarring, repair of sidewalks or curb and gutter, garbage and refuse disposal, recycling, storm water management, including construction of storm water management facilities, and tree care.

³ Tax on a larger project that benefits a particular area of the City. *See, e.g.*, Wis. Stats. §62.18(16) (Cities shall have power impose a special tax within a sewerage district to construct systems of sewerage, including a sewage disposal plant and all other appurtenances thereto, to make additions, alterations and repairs to such systems and plants.)

Further, turning to foreseeable events, should a fire destroy the room of a house, the property could not be reconstructed if the real estate taxes were unpaid.

The same unfortunate situation would apply to a the building permit to replace important necessities such as a broken furnace or water heater where there was a delinquency of real estate taxes due to the County. The obstacle also applies to repairs responsive to City orders. Should the City encounter a fence disrepair and issue orders to replace appropriate sections of the fence, despite the presence of the orders, the property owner would be incapable of complying with the order if the property owner did not have the money to pay the delinquent real estate taxes.

Moreover, it is generally in the City's best interest for persons to improve their properties voluntarily. Improvements increase the value of the individual property and the values of the surrounding neighborhood. The same obstacle in the current ordinance applies to the less emergent, but important voluntary improvements such as window replacements, residing, or replacing a fence not subject to an order that is in disrepair. The same obstacle applies to tax-base-increasing improvements such as home additions. These latter items, although not emergencies, benefit the City by increasing home values and neighborhood values.

And the City will not be financially hurt with the provisions of the proposed ordinance. The proposed ordinance does allow for withholding of licenses for payment of special assessments, special charges, and special taxes.⁴

I am available should any of the commissioners have any questions.

CONCLUSION

For legal reasons, this ordinance should be adopted. For practical reasons, the ordinance makes good sense.

Respectfully submitted,



Edward R. Antaramian
City Attorney

cc: Mayor
City Administrator Frank Pacetti
Jeffrey Labahn, Director of Community Development and Inspections

⁴ Although even without the ordinance proposal, pursuant to statute, the City is near the front of the line on payments made to the County on delinquencies. Pursuant to Wis. Stats. §74.12(11)(a) when the county treasurer receives a payment from a taxpayer which is not sufficient to pay all amounts due, the treasurer shall apply the payment to the amounts due, including interest and penalties, in the following order: (1) Personal property taxes; (2) Delinquent utility charges; (3) Special charges; (4) Special assessments; (5) Special taxes; (6) Real property taxes.

KEITH G. BOSMAN
MAYOR



CITY OF KENOSHA
625 - 52nd Street
Kenosha, Wisconsin 53140
(262) 653-4000
Fax (262) 653-4010

February 15, 2012

The Honorable Common Council
CITY OF KENOSHA
Kenosha, WI 53140

Dear Ladies and Gentlemen:

I hereby appoint Mark Modory, 5238-38th Avenue, Kenosha to the Kenosha City/County Joint Services Board of Directors, for a term which will expire May 1, 2014.

Mr. Modory has served one term as a City of Kenosha Alderman and served seven terms on the Kenosha County Board of Supervisors. He served on the County Finance Committee, Highway and Parks Committee, Board of Health, and was a member on the Board of Directors of the Racine/Kenosha Community Action Agency. Currently he is Chairman of the Kenosha County Friends of the Dog Parks, member of the Shalom Center Board of Directors, and a citizen member on the Board of Health and Mental Health/AODA Committee.

With a working knowledge of both City and County government, I am confident that Mr. Modory will be a conscientious and hardworking member of the Joint Services Board.

Sincerely,
CITY OF KENOSHA

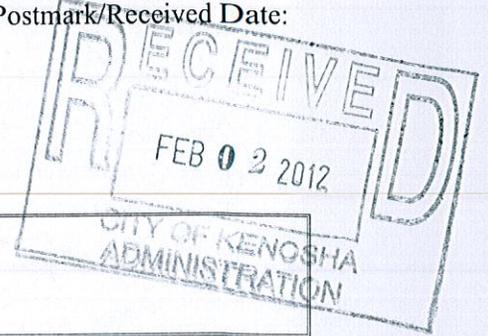
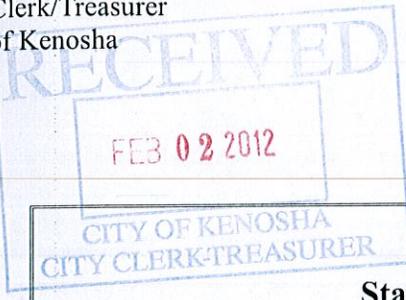
A handwritten signature in black ink, appearing to read 'KB', with a long horizontal flourish extending to the right.

Keith G. Bosman
Mayor

KGB:pml

This form must be filed with:
 City Clerk/Treasurer
 City of Kenosha

This space for office use:
 Postmark/Received Date:



CITY OF KENOSHA
Statement of Economic Interest

MODORY MARK S
 Last Name First Name Middle Initial
5238-38TH AVE. KENOSHA
 Primary Residence Address Municipality [City/Town/Village]

Position Held or Sought: JOINT SERVICES BOARD

General filing information:

- The information sought in this form is required by Chapter XXIX of the Code of General Ordinances.
- The information to be provided in this Statement of Economic Interest covers the period from January 1 of the preceding taxable year to the date this Statement of Economic Interest is filed with the City Clerk/Treasurer as required by Chapter XXIX of the Code of General Ordinances.

A copy of Chapter XXIX of the Code of General Ordinances, "Statement of Economic Interest by City Officers, Employees, Candidates and Nominees" is available at <http://www.kenosha.org>.

1. BUSINESS ACTIVITIES. List businesses, farms, rental, commercial, and income producing real estate, and business activities in the City of Kenosha which you, your spouse, cohabitant or domestic partner had a least a 10% or greater interest. If none, state none.

Name of Business	Address	Describe Nature of Business
<u>NONE</u>		

2. REAL ESTATE. List the specific location of real estate located in the City of Kenosha in which you, your spouse, cohabitant or domestic partner had an interest except your principal residence and real estate whose location you listed in Item 1. If none, state none.

LOCATION OF PROPERTY Street address or tax parcel no. if vacant land	TYPE OF PROPERTY (e.g., farm, apartment, condominium or second home)	NATURE OF INTEREST (e.g., own, lease, option, easement, land contract, partnership, limited liability company)
<u>NONE</u>		

3. EMPLOYER. List your and your spouse's, cohabitant's or domestic partner's employers. If self-employed list nature of business. If none, state none.

Name of Employer If City of Kenosha identify office or department	City	State	Nature of employer's business
<u>WHEATON FRANCISCAW HEALTH</u>	<u>KENOSHA</u>	<u>WI.</u>	<u>HEALTH CARE</u>
<u>K MART</u>	<u>KENOSHA</u>	<u>WI.</u>	<u>RETAIL</u>

